AGENDA B-1
DECEMBER 2012

Executive Director's Report

Dan Goodman – Farewell

Sadly, Dr. Dan Goodman, whom many of us knew well, passed away on November 14. A copy of his obituary is under Item B-1(a). Dan was well known in scientific circles nationally and internationally, and was involved in a number of scientific reviews associated with the North Pacific fisheries, including our own commissioned reviews of the 2000 SSL Biological Opinion, the 2002 'F40' review of our groundfish harvest strategies, and the 2001 National Academy of Science review of SSL science. I wish to extend warmest condolences to his family and close friends.

Visitors

We have a number of visitors at our meeting this week who I would like to introduce, and encourage members of the Council family to meet. Mr. Don Wells is a consultant for the Fisheries Sustainability and Leadership Forum who has been asked to develop a leadership curriculum for the Forum. As part of his task Don will be observing meetings of a few fishery management Councils, including our own here this week. I have had the pleasure of attending one of Don's presentations at the fall 2011 West Coast Forum and was extremely impressed. I hope some of you are able to meet Don and talk with him this week about our Council process.

By way of the University of Rhode Island, where he is a visiting scholar, Mr. Ousmane Ndiaye works with the Ministry of Fisheries and Marine Affairs in Senegal. As part of his stint with URI he is here until Thursday observing our Council process.

And from the European Union (EU) MYFISH project (see Item B-1(b)) for more details), Chris Hopkins and Maria Hadjimichael have identified the BSAI pollock fishery as one of their worldwide 'case studies' for good governance. They are here this week, through Friday, to observe our process relative to their MYFISH project (Maximizing Yield of Fisheries while balancing ecosystem, economic, and social concerns).

Agency Plan Team and SSC Nominations

Item B-1(c) is a letter from Dr. Bruce Leaman (IPHC) nominating Dr. Ian Stewart to the GOA Groundfish Plan Team to replace Dr. Steven Hare. Ian's CV is attached. This letter also nominates Dr. Steve Martell to our Scientific and Statistical Committee to replace Dr. Ray Webster as the IPHC's agency seat on the SSC. Steve's resume is also attached. Unfortunately, we will lose Steve on our Crab Plan Team with this appointment, but I suspect we will find someone soon to augment our Crab Plan Team (see below!).

Regarding the Crab Plan Team, Item B-1(d) is a letter from Dr. Doug DeMaster announcing some changes at the Alaska Fisheries Science Center in terms of crab stock assessments. Dr. William 'Buck' Stockhausen will be taking the lead for the Tanner crab assessment and they are nominating him to replace Dr. Lou Rugolo on the Team. This letter also nominates Dr. Martin Dorn as an additional member to the Team with stock assessment/modeling expertise. Both CVs are attached and will be reviewed by our SSC this week, along with Dr. Stewart's.

AP and other SSC Nominations

During Executive Session this week the Council will be reviewing Advisory Panel nominations for upcoming vacancies, as well as two additional SSC nominations for 2013. Copies of these have been provided to Council members and are available upon request.

Alaska SeaLife Center presentation

Dr. Tara Riemer Jones, President and CEO of the Alaska Sea Life Center has requested time for a brief overview of the SeaLife Center mission and how it relates to Alaska's fisheries through research, education, and exhibits. She is here today to provide that overview to the Council, as well as our AP and SSC. Additionally, on Wednesday evening, December 5, at around 5:30 pm here in the Council meeting room, Dr. Russ Andrews and Mr. John Maniscalco will be making presentations on some of the current research taking place at the SeaLife Center relevant to fisheries management for all interested attendees.

AYK Chinook Salmon Workshop

Item B-1(e) is an agenda and background material for the AYK Sustainable Salmon Initiative workshop to be held December 10-11 at the Anchorage Sheraton Hotel. Drs. Diana Stram and Jim Ianelli will be participating and speaking to the issue of how bycatch of Chinook salmon may be contributing to the recent declines in AYK stocks.

Managing Our Nation's Fisheries 3

A reminder that our MONF3 conference is coming up quickly - May 7-9, 2013 at the Renaissance Mayflower Hotel in Washington, D.C.. Item B-1(f) is a 'save the date' flyer and includes printouts of the MONF3 home page (www.managingfisheries.org), conference overview, and draft program. Lots of work has gone into planning this conference, with Dr. Don McIsaac and other Pacific Fishery Management Council staff taking the lead. Primary session planner/Chairs are David Witherell, John Henderschedt, and Mark Holliday. Our annual Council Coordination Committee (CCC), hosted in 2013 by the PFMC, will be held in Washington D.C. adjacent to MONF3. I will be contacting Council, SSC, and AP members soon regarding registration, logistics, and travel arrangements for the conference.

February Council meeting at Benson Hotel, Portland, Oregon

Important to call by January 12, 2013 and identify yourself at NPFMC group to get Council rate of $144.00. Gail will be sending the reservation list out after this meeting, but you still need to call and confirm your reservation and specific room nights.

Call 888-523-6766 or 503-228-2000, or email your reservation to: reservations@bensonhotel.com.

Pending Retirements

As most of you know by now, we are about to lose three long-time NOAA Fisheries employees to retirement.

Jessica Gharrett: Jesse Gharrett, RAM Division leader extraordinaire, will be retiring at the end of this month. While she is not able to attend our meeting this week, we could not let this go by without some recognition. Jesse started her career in Alaska out of Oregon State University by working as a temporary BioTechnician at the Auke Bay Lab starting in 1975. She did miscellaneous field work before moving to 'wet lab' research under Jeep Rice, where she obtained permanent status and a Master's degree along the way. She started working at the Regional Office in 1987, first as an in-season manager through 1992,

then for two years under Jay Ginter as a Plan Coordinator/reg writer. In 1994, along with Phil Smith, she was a key player in the development of the Restricted Access Management (RAM) Division where she was Operations Manager, and then Program Administrator after Phil's retirement. The RAM Division is of course critical to the management of so many of our fisheries, and Jesse's leadership has been outstanding. Jesse has also been on many national agency Committees and is looked to nationally and internationally as an expert in limited access programs. I have included here a quote from Jesse reflecting on her pending retirement:

> *"As is often the case for biologists, I would say my early field work was the most fun: I worked hard, was poor but relatively carefree, and I slept better. But, in addition to the security of a permanent job, I stayed because I really liked helping a great set of constituents and you can't find a better group of professional colleagues; and because I believe that resource stewardship is a necessary and righteous cause. For a New York girl, this past 35 years has been a real eye-opener about many things, not the least of which includes many lessons and surprises about human nature. And Alaska has been home ever since I stepped off the airplane. I know my work will be in great hands, but would like to think I'll be missed on rare occasions, perhaps at a meeting that seems oddly quiet."*

Sherrie Tinsley-Myers: SAC Sherrie Tinsley-Myers has dedicated over 27 years of her federal law enforcement career to a specialization in natural resource enforcement, with service that includes the National Park Service, United States Park Police, and US Forest Service. In November 2001, Sherrie joined the NOAA Office of Law Enforcement as a Special Agent. She served in the Juneau, Alaska office, working on complex domestic and international cases in addition to routine case work until she was promoted to Assistant Special Agent in Charge in the Pacific Islands Division in 2006. This tenure involved supervising 9 personnel in 4 different time zones in the Hawaiian Islands, American Samoa, Guam, and Honiara, in addition to dealing with a number of challenging changes in the Division, requiring frequent assumption of multiple management roles. After two years in the Pacific, Sherrie returned to Alaska as a Deputy Special Agent in Charge in 2008. She was promoted to Special Agent in Charge (SAC) of the Alaska Division in August, 2009.

In addition to managing the administration, personnel, and operations of the Alaska Enforcement Division, and participating in national leadership of the Office of Law Enforcement, SAC Myers has been actively engaged in international fisheries management organizations, including the North Pacific Anadromous Fish Commission, Intergovernmental Consultative Committee, International Pacific Halibut Commission, and the developing North Pacific Fisheries Commission.

Kenneth Hansen: Ken Hansen graduated from Humboldt State University with a degree in Natural Resource Planning, spent two seasons as a foreign fisheries observer on Japanese and Soviet vessels in the Bering Sea, three years as a seasonal employee with the California Department of Fish and Game on the Klamath River, three years with the Oregon Department of Fish and Wildlife involved in salmon management, and a year salmon trolling off Oregon before coming to Kodiak in 1987 as NMFS Special Agent (promoted to Assistant Special Agent in 1995) and the rest is history, indeed bona-fide North Pacific history. Ken's rapport with the fishing industry is legendary, and it's probably not all that common that an Enforcement Agent will be so sorely missed by the fishing industry! Ken's long-time and close involvement with the Council process is actually not part of his specific job duties, but it has been an area of keen interest to him, and of tremendous benefit to us. We sincerely hope that Ken is able to continue in some capacity and maintain a relationship with the North Pacific fishing industry and with this Council process. Ken's contributions to the Council and to fisheries management and enforcement overall deserve extra special recognition, and for that reason, the Council is honoring Ken with its highest praise – the Bob Mace Distinguished Service Award.

Daniel Goodman
1945 – 2012
"Ever the teacher at heart"

Our world and lives are substantially diminished by the loss of a unique intellect and old soul with the untimely passing of our beloved husband, father, brother, friend and colleague. Daniel passed away on November 14th due to unexpected complications during and after surgery on 10/29 at MD Anderson Hospital in Houston, TX.

Daniel was born May 20, 1945 to Bernice and Joseph Goodman in Cincinnati, Ohio. After his father's premature death when Daniel was a preteen, the family moved to Jerusalem, Israel where Daniel attended high school. He returned to the USA to complete his BS and Ph.D. in Biology at Ohio State University. Subsequently he completed postdoctoral studies at Cornell University in Ithaca, NY, and then in 1975, accepted the first of his professional academic appointments at Scripps Oceanic Institute in La Jolla, California.

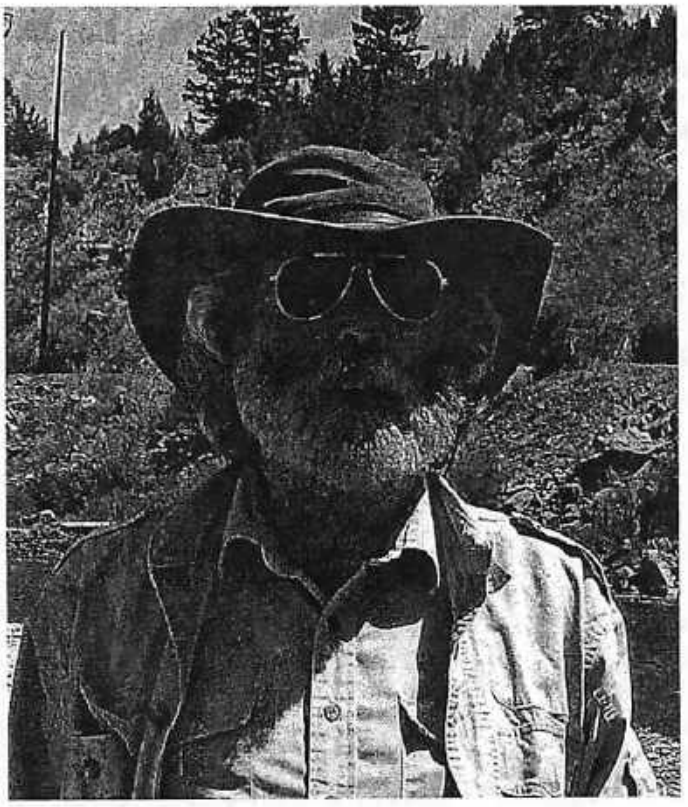
Daniel made numerous personal and professional friends with whom he maintained lifelong relationships. Those who knew him recognized his rare intellect, unparalleled integrity and unwavering dedication to maintaining his preferred lifestyle. One of his greatest joys was communing with nature. He reminisced fondly of his childhood and early adult outdoor adventures including the months of research on Alaska glaciers and in the Galapagos Islands. By 1980, that deep and abiding love and respect for the natural world compelled him to jump at the opportunity to live his dream, and he accepted an academic position in the Biology (now Ecology) Department at Montana State University where he cultivated satisfying professional and mentor relationships with numerous colleagues and graduate students over the 31 years of his tenure while spending his free time in the great outdoors; hiking, canoeing, hunting, and fishing. During his long career, he also served as a consultant and advisor to numerous governmental and private agencies including NOAA, the Marine Mammal Commission, EPA, the Northwest Power Planning Council, the National Marine Fisheries Service, The National Academy of Sciences, and many others. He dedicated much of his research career and studies to mathematical modeling and statistical analyses of endangered species.

In 1981 he met Diane Brawner in Bozeman. They married in 1986, and in 1993 their beloved daughter Rollie was born. She added a wondrous new adventure to his life, and became his mini-me and most ardent admirer. Like all of us, she remains astounded at the depth and breadth of his knowledge and abilities. Few are the dauntless who could compete with his boundless intellect, but Rollie was one of them. The admiration was mutual, and he marveled as she grew into a beautiful and talented woman. She, in turn, looked to him for guidance, intellectual challenge and approval.

Dan is survived by his wife, Diane (Brawner) of Bozeman, his daughter Rollie Goodman of Portland OR, his sister Miriam Goodman of Jerusalem, numerous aunts and cousins both in the USA and Israel, and a cadre of dear friends and professional colleagues throughout the world. He left a huge footprint professionally, but his uniqueness, his unwavering consistency and self-assurance, his intellectual prowess; as well as his warmth, loyalty, wit, and quiet, profound nature will leave a hole in our hearts and lives. We cannot imagine life without him.

At the request of Daniel's family, in lieu of flowers, friends and family are asked to make a donation in his memory to their favorite charitable organization.

A memorial for Daniel will take place on December 1, 2012 at 11:00 AM in the Procastinator Theater in the Student Union Building on the Montana State University campus.



FISHERIES GOVERNANCE –BEST PRACTICES AND LESSONS LEARNED: BSAI POLLOCK FISHERY CASE STUDY

As part of the European Union (EU) funded MYFISH (*'Maximizing yield of fisheries while balancing ecosystem, economic and social concerns'*) project (see below for further details) we have selected a limited number of fisheries from around the world to investigate as 'case studies' which illustrate various aspects of good governance in achieving biological, social and economic objectives.

In the U.S.A, we have selected the Bering Sea – Aleutian Islands (BSAI) pollock fishery, conducted under the auspices of the North Pacific Fisheries Management Council (NPFMC), as the focus of our governance study. We wish to discover best practices and lessons learned with respect to objective setting and implementation processes, including strengths and weaknesses, concerning the overall governance system for the pollock fishery. In order to gain the above-mentioned knowledge, we wish to ascertain the views of a wide range of stakeholders. Thus we would like to interview knowledgeable persons spanning the fishing industry at sea and ashore, pollock cooperatives and CDQs, environmental NGOs, and fishery managers and scientists. The knowledge gained from this study will be fed back into the MYFISH project.

Please assist us in our study by letting us know of your willingness to be interviewed. Each interview is expected to take about 30 minutes of your time. The identity of interview respondents will be kept anonymous.

Kind regards,

Chris Hopkins
AquaMarine Advisers
Sweden

Maria Hadjimichael
Innovative Fisheries Management
Aalborg University, Denmark

The MYFISH project is a flagship research initiative funded by the EU. MYFISH aims at developing new Maximum Sustainable Yield (MSY) indicators that can ensure high levels of fishery yield while respecting ecological, economic and social sustainability, thereby contributing to achieve Good Environmental Status (GES) as foreseen in the EU's Marine Strategy Framework Directive (MSFD). Further information on the MYFISH project is found at: http://www.myfishproject.eu/

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INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA

AND THE UNITED STATES OF AMERICA

DIRECTOR
BRUCE M. LEAMAN

AGENDA B-1(c)
DECEMBER 2012

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October 10, 2012

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, AK 99501-2252

VIA EMAIL

Dear Eric:
The Commission has recently had some staff changes and to accommodate new responsibilities I would like to propose two changes to the staff participation in the Council's advisory bodies.

1. Groundfish Plan Team. Dr. Steven Hare was a Commission representative on this body for the past half-decade but has recently left the Commission. Dr. Ian Stewart has taken over the stock assessment duties for the Commission staff and I would like to recommend that he assume the role on the Plan Team previously filled by Dr. Hare. He is well experienced in assessment activities and has been involved with assessments in the Pacific Fishery Management Council and the new international Hake Agreement. I attach his CV for your consideration.

2. Scientific and Statistical Committee. Dr. Raymond Webster from our staff has been sitting on the SSC for the past four years. We are now asking Ray to fill a similar role on the Pacific Fishery Management Council's SSC and, with your concurrence, propose that Dr. Steve Martell from our staff replace Ray on the NPFMC SSC. Steve is very experienced and will probably be familiar to you as a participant in the Crab Plan Team. We will ask that Steve withdraw from the Crab Plan Team, in light of this request that he sit on the SSC and his other duties. I attach his CV for your consideration.

Eric, I hope these suggestions meet with the Council's approval and thank you for your willingness to include Commission staff in the Council process.

Sincerely,

Bruce M. Leaman, Ph.D.
Executive Director

cc: IPHC Commissioners, Dr. Martell, Dr. Stewart

Curriculum Vitae

Ian J. Stewart
National Marine Fisheries Service - Northwest Fisheries Science Center
2725 Montlake Blvd. East, Seattle, WA 98112
(206) 302-2447; e-mail: Ian.Stewart@noaa.gov

Education:

- Doctor of Philosophy, School of Aquatic and Fishery Sciences, University of Washington, Seattle, WA, 2006 (Graduate Advisor: Dr. Ray Hilborn)
- Master of Science, School of Aquatic and Fishery Sciences, University of Washington, Seattle, WA, 2001
- Bachelor of Arts, Dartmouth College, Hanover, NH, 1996

Educational Awards:

- National Sea Grant/National Marine Fisheries Service Joint Graduate Fellowship in Population Dynamics, 2001-2004
- M.S. Faculty Merit Award and Scholarship, School of Aquatic and Fishery Sciences, 2001

Experience:

- Research Fisheries Biologist, Fishery Resource Analysis and Monitoring Division, National Marine Fisheries Service, Northwest Fisheries Science Center, 2004-present
- Deck Biologist, National Marine Fisheries Service, Northwest Fisheries Science Center Hook-and-line rockfish survey and Slope/shelf bottom trawl survey, 2003, 2004, 2006, 2008-2011
- Teaching Assistant, University of Washington, 2001-2003
- Field Research Technician, Alaska Salmon Program, School of Aquatic and Fishery Sciences, University of Washington, 1999-2001
- Biologist, Simpson Timber Company, Shelton, WA, 1996-1999

Awards:

- 2009 Employee of the year (Scientific); NOAA Fisheries, Northwest Fisheries Science Center

Publications:

- Thorson, J.T., I.J. Stewart, and A.E. Punt. 2012. Development and application of an agent-based model to evaluate methods for estimating stock abundance for shoaling fishes such as Pacific rockfish (*Sebastes* spp.). ICES Journal of Marine Science. 69(4): 635-647.
- Hilborn, R., I.J. Stewart, T.A. Branch, and O.P. Jensen. 2011. Conservation of diversity and food security in the California Current bottom trawl fishery. Conservation Biology. 26: 257-266.
- Keller, A. A., J. R. Wallace, B.H. Horness, O. S. Hamel, I. J. Stewart. 2012. Variations in Eastern North Pacific demersal fish biomass based on the U.S. West Coast groundfish bottom trawl survey (2003–2010). Fishery Bulletin. 110: 205-222.
- Getsiv-Clemons, J.E.R. W.W. Wakefield, C.E. Whitmire, I.J. Stewart. 2012. Identifying potential habitats from multibeam echosounder imagery to estimate abundance of groundfish: a case study at Heceta Bank, OR, USA. *In* P.T. Harris and E.K. Baker, Seafloor Geomorphology as Benthic Habitat: GeoHAB Atlas of Seafloor Geomorphic Features and Benthic Habitats, Elsevier Inc., p. 570-586.
- Thorson, J.T., I.J. Stewart, and A.E. Punt. 2011. Accounting for fish shoals in single- and multi-species survey data using mixture distribution models. Canadian Journal of Fisheries and Aquatic Sciences 68: 1681-1693.
- Harms, J.H., J.R. Wallace, and I.J. Stewart. 2010. A fishery-independent estimate of recent population trend for an overfished U.S. west coast groundfish species, Bocaccio rockfish (*Sebastes paucispinis*). Fisheries Research 106: 298-309.

- Stewart, I.J., A. Keller, E.L. Fruh, V. Simon, and B.H. Horness. 2010. Throwing In The Towel: When Do Adverse Conditions Dictate A Weather Day During A Bottom Trawl Survey? Fisheries Research 102(1-2):130-140.
- Stewart, I.J., and K.R. Piner. 2007. Simulation of the estimation of ageing bias inside an integrated assessment of canary rockfish using age estimates from a bomb radiocarbon study. Marine and Freshwater Research 58:905-913.
- Stewart, I.J. 2007. Defining plausible migration rates based on historical tagging data: a Bayesian mark-recapture model applied to English sole (Parophrys vetulus). Fishery Bulletin 105:470-484.
- Helser, T.E., I.J. Stewart and H.-L. Lai. 2007. A Bayesian hierarchical meta-analysis of the genus *Sebastes* in the eastern Pacific ocean. Canadian Journal of Fisheries and Aquatic Science 64: 470-485.
- Quinn, T.P., I.J. Stewart and C.P. Boatright. 2006. Experimental evidence of homing to site of incubation by mature sockeye salmon (*Oncorhynchus nerka*). Animal Behaviour 72: 941-949.
- Minte-Vera, C.V., T.A. Branch, I.J. Stewart, and M.W. Dorn. 2005. Practical application of meta-analysis results: avoiding the double use of data. Canadian Journal of Fisheries and Aquatic Sciences 62:925-929.
- Stewart, I.J., S.M. Carlson, C.P. Boatright, G.B. Buck, and T.P. Quinn. 2004. Site fidelity of spawning sockeye salmon (*Oncorhynchus nerka* W.) in the presence and absence of olfactory cues. Ecology of Freshwater Fish 13:104-110.
- Stewart, I.J., T.P. Quinn, and P. Bentzen. 2003. Evidence for fine-scale natal homing among island beach spawning sockeye salmon, *Oncorhynchus nerka*. Environmental Biology of Fishes 67:77-85.
- Stewart, I.J., R. Hilborn, and T.P. Quinn. 2003. Coherence of observed adult sockeye salmon abundance within and among spawning habitats in the Kvichak River watershed. Alaska Fishery Research Bulletin 10(1):28-41.

Documents:

- Stewart, I.J., R.E. Forrest, N. Taylor, C. Grandin, A.C. Hicks, and S.J.D. Martell. 2012. Status of the Pacific hake (whiting) stock in U.S. and Canadian Waters in 2012. Document submitted to the Joint U.S.-Canada treaty for Pacific hake/whiting process. 194 p.
- Stewart, I.J., J.T. Thorson, and C. Wetzel. 2011. Status of the U.S. sablefish resource in 2011. *In* Status of the Pacific Coast Groundfish Fishery through 2011, Stock Assessment and Fishery Evaluation: Stock Assessments, STAR Panel Reports, and Rebuilding Analyses. Pacific Fishery Management Council, Portland, Oregon. 442 p.
- Stewart, I.J., R.E. Forrest, C. Grandin, O.S. Hamel, A.C. Hicks, S.J.D. Martell, and T.G. Taylor. 2011. Status of the Pacific hake (whiting) stock in U.S. and Canadian Waters in 2011. *In* Status of the Pacific Coast Groundfish Fishery through 2011, Stock Assessment and Fishery Evaluation: Stock Assessments, STAR Panel Reports, and Rebuilding Analyses. Pacific Fishery Management Council, Portland, Oregon. 217 p.
- Stewart, I.J. and O.S. Hamel. 2010. Stock Assessment of Pacific Hake, *Merluccius productus*, (a.k.a. Whiting) in U.S. and Canadian Waters in 2010. Pacific Fishery Management Council. Portland, Oregon. 290 p.
- Stewart, I.J., J.R. Wallace, and C. McGilliard. 2009. Status of the U.S. yelloweye rockfish resource in 2009. *In* Status of the Pacific Coast Groundfish Fishery through 2009, Stock Assessment and Fishery Evaluation: Stock Assessments, STAR Panel Reports, and Rebuilding Analyses. Pacific Fishery Management Council, Portland, Oregon, 435 p.
- Stewart, I.J. 2009. Status of the U.S. canary rockfish resource in 2009 (Update of 2007 assessment model). *In* Status of the Pacific Coast Groundfish Fishery through 2009, Stock Assessment and Fishery Evaluation: Stock Assessments, STAR Panel Reports, and Rebuilding Analyses. Pacific Fishery Management Council, Portland, Oregon, 115 p. + Appendices.

- Stewart, I.J. 2009. Rebuilding analysis for yelloweye rockfish based on the 2009 stock Assessment. *In* Status of the Pacific Coast Groundfish Fishery through 2009, Stock Assessment and Fishery Evaluation: Stock Assessments, STAR Panel Reports, and Rebuilding Analyses. Pacific Fishery Management Council, Portland, Oregon, 96 p.
- Stewart, I.J. 2009. Rebuilding Analysis for Canary Rockfish Based on the 2009 Updated Stock Assessment. *In* Status of the Pacific Coast Groundfish Fishery through 2009, Stock Assessment and Fishery Evaluation: Stock Assessments, STAR Panel Reports, and Rebuilding Analyses. Pacific Fishery Management Council, Portland, Oregon, 53 p.
- Hastie, J., Stewart, I.J. and O.S. Hamel. 2009. Distribution of Pacific hake (Merluccius productus) relative to the Tribal Usual and Accustomed fishing grounds off the State of Washington. Background document for the NOAA-NWR. 31 p.
- Hamel, O.S. and I.J. Stewart. 2009. Stock Assessment of Pacific Hake, *Merluccius productus*, (a.k.a. Whiting) in U.S. and Canadian Waters in 2009. *In* Status of the Pacific Coast Groundfish Fishery through 2009, Stock Assessment and Fishery Evaluation: Stock Assessments, STAR Panel Reports, and Rebuilding Analyses. Pacific Fishery Management Council, Portland, Oregon, 246 p.
- Helser, T.E., I.J. Stewart, and O.S. Hamel. 2008. Stock Assessment of Pacific Hake (Whiting) in U.S. and Canadian Waters in 2008. *In* Status of the Pacific Coast Groundfish Fishery through 2008; Stock Assessment and Fishery Evaluation. Pacific Fisheries Management Council. Portland, Oregon, 128 p.
- Helser, T.E., I.J. Stewart, C.E. Whitmire, and B.H. Horness. 2007. Model-based estimates of abundance for 11 species from the NMFS slope surveys. U.S. Dept. Commer., NOAA Tech. Memo. NMFS-NWFSC-82.
- Stewart, I.J. 2007. Rebuilding analysis for canary rockfish based on the 2007 stock assessment. *In* Status of the Pacific Coast Groundfish Fishery through 2007; Stock Assessment and Fishery Evaluation. Pacific Fisheries Management Council. Portland, Oregon, 47 p.
- Stewart, I.J. 2007. Status of the canary rockfish resource in 2007. *In* Status of the Pacific Coast Groundfish Fishery through 2007; Stock Assessment and Fishery Evaluation. Pacific Fisheries Management Council. Portland, Oregon, 362 p.
- Stewart, I.J. 2007. Updated U.S. English sole stock assessment: status of the resource in 2007. *In* Status of the Pacific Coast Groundfish Fishery through 2007; Stock Assessment and Fishery Evaluation. Pacific Fisheries Management Council. Portland, Oregon, 213 p.
- Helser, T., I.J. Stewart, G. Fleischer, and S. Martell. 2006. Stock Assessment of Pacific Hake (Whiting) in U.S. and Canadian Waters in 2006. *In* Volume 7: Status of the Pacific Coast Groundfish Fishery Through 2005, Stock Assessment and Fishery Evaluation Portland, OR: Pacific Fishery Management Council.
- Methot, R. and I.J. Stewart. 2006. Status of the U.S. canary rockfish resource in 2005. *In* Volume 6: Status of the Pacific Coast Groundfish Fishery Through 2005, Stock Assessment and Fishery Evaluation: Stock Assessments and Rebuilding Analyses Portland, OR: Pacific Fishery Management Council.
- Stewart, I.J. 2006. Stock assessment with an evaluation of structural uncertainty, and model performance applied to English sole. Ph.D. Dissertation, University of Washington, School of Aquatic and Fishery Sciences. 284 p.
- Stewart, I.J. 2005. Status of the U.S. English sole resource in 2005. Pacific Fishery Management Council, 2005 Stock assessment and STAR panel reports. 221 p.
- Helser, T.E., H.-L. Lai and I.J. Stewart. 2004. A Bayesian hierarchical meta-analysis of growth for the genus *Sebastes* in the eastern Pacific ocean. ICES CM 2004/K:21 Conference Proceedings.
- Hamel, O.S., I.J. Stewart and A.E. Punt. 2003. Status and future prospects for the Pacific ocean perch resource in waters off Washington and Oregon as assessed in 2003. *In* Volume I: Status of the

Pacific Coast Groundfish Fishery through 2003; Stock Assessment and Fishery Evaluation. Pacific Fisheries Management Council. Portland, Oregon. 124 p.

- Punt, A.E., O.S. Hamel and I.J. Stewart. 2003. Rebuilding analysis for Pacific ocean perch for 2003. *In* Volume I: Status of the Pacific Coast Groundfish Fishery through 2003; Stock Assessment and Fishery Evaluation. Pacific Fisheries Management Council. Portland, Oregon. 27 p.
- Stewart, I.J. 2001. Population structure and patterns of historical abundance of sockeye salmon in the Kvichak River system, Bristol Bay, Alaska. M.S. Thesis. University of Washington. 56 p.

Manuscripts currently in review:

- Stewart, I.J., A. Hicks, I. Taylor, J.T. Thorson, C. Wetzel and S. Kupschus. A comparison of stock assessment uncertainty estimates using maximum likelihood and Bayesian methods implemented with the same model framework. *Fisheries Research.*
- Doherty, D.T., R. Hilborn, A.E. Punt and I.J. Stewart. Modeling co-occurring groundfish species: a simulation study on the effects of the spatial scale for setting management targets. *Canadian Journal of Fisheries and Aquatic Sciences.*
- Thorson, J.T., M. E. Clarke, I.J. Stewart and A.E. Punt. The implications of spatially varying catchability on bottom trawl surveys of fish abundance, and a proposed solution involving *in situ* underwater vehicles. *Canadian Journal of Fisheries and Aquatic Sciences.*

Software:

- Developed open-source plotting and diagnostic software for Stock Synthesis-based assessment modeling: r4ss (http://code.google.com/p/r4ss/).
- Extensive testing and development support for Stock Synthesis (Richard Methot, NWFSC), 2004-present.
- ScapeMCMC. R package for analysis of Bayesian model diagnostics. http://cran.r-project.org/

Workshops and Reviews:

- *Pending*: Review panel member. 2012 Hoki (*Macruronus magellanicus*) stock assessment review. 4-8 June, Viña del Mar, Chile.
- 2012. NOAA Workshop on Application of Non-Linear Time Series Analysis. 17-19 April, La Jolla, California.
- 2011. Assessing vulnerability of west coast fisheries to a changing climate. 25-26 May, Seattle, Washington.
- 2011. Comparative Assessment of Visual Survey Tools Workshop, 22-23 February, Moss Landing, California.
- 2010. Review panel member. Review of yelloweye rockfish stock assessment for inside waters. Center for Science Advice Pacific, Groundfish Standing Committee, Fisheries and Oceans Canada. Pacific Regional Advisory Meeting.
- 2008. Review panel member. PSARC Recovery Potential Assessment, Fisheries and Oceans Canada. Bocaccio rockfish stock assessment review.
- 2008. Prepared and presented an introductory 4-day stock assessment workshop for the NOAA NEFSC (Woods Hole, MA) focusing on: conversion of existing models (ASAP, VPA) to SS2 modeling software, R code for plotting, output and model diagnostics, as well as many stock assessment related topics. Included a 1-hour seminar for general audience on preliminary results of an analysis of the effects of adverse weather conditions on bottom trawl survey catches.
- 2007. Prepared and presented a comprehensive 5-day stock assessment workshop for CSIRO (Australian Fisheries, Hobart, Tasmania) showcasing NWFSC research products including: SS2 modeling software, National Fisheries Toolbox user interface, R code for plotting, output and model diagnostics, as well as many other stock assessment related topics.
- 2005. Review panel member, Southeast Data, Assessment and Review (SEDAR) 8.
- 2005. ICES Study Group on Age-Length Structured Models. March 14-16, Copenhagen, Denmark.

Academic service:

- Affiliate faculty appointment, 2012, University of Washington, School of Aquatic and Fishery Sciences.

Current student committees:

- Chantell Wetzel (PhD), University of Washington, 2011-present.

Completed student committees:

- James Thorson (PhD, 2011), University of Washington. Also served as NOAA mentor for the NOAA/National Sea Grant Fellowship in Population Dynamics.
- Chantell Wetzel (MS, 2011), University of Washington.
- Dawn Dougherty (MS, 2009), University of Washington.

Professional service:

- NOAA National Assessment Methods Working Group, 2007-present.
- Steering Committee member, 2012 Western Groundfish Conference.
- Steering Committee member, NOAA-NMFS National Stock Assessment Workshop 11, 2010.
- Five-Year Performance Review for Professor David Armstrong, Director of the School of Aquatic & Fishery Sciences. Prepared for: Dean Arthur Nowell, College of Ocean and Fishery Sciences, University of Washington. 2004.

Collaborative research:

- Makah Tribe. Longline Bycatch Reduction Through the Use of Traditional Makah Halibut Hooks (Chiboods). Ian Stewart and Jon Scordino. Funding: 2012 NOAA Preserve America Initiative and NOAA Cooperative research program.
- NOAA Southeast Fisheries Science Center, Stanford University, and Monterey Bay Aquarium Research Institute. Humboldt squid as an agent of climate-driven ecosystem interactions in the California Current. Funding: 2012 NOAA Fisheries And The Environment (FATE) program.
- University of Washington and NOAA Southeast Fisheries Science Center. Projecting U.S. west coast sablefish recruitment under global climate change. Melissa Haltuch, Nicholas Bond, Ian Stewart and Michael Schirippa. Funding: 2012 NOAA Fisheries And The Environment (FATE) program.

Professional references:

- Dr. James Hastie (current supervisor): NOAA-NWFSC, Jim.Hastie@noaa.gov, 206-860-3412.
- Dr. Richard Methot: NOAA-NWFSC/HQ, Richard.Methot@noaa.gov, 206-860-3365.
- Dr. Robyn Forrest: Fisheries and Oceans Canada, Robyn.Forrest@dfo-mpo.gc.ca, 250-756-7205.

THE UNIVERSITY OF BRITISH COLUMBIA
Curriculum Vitae for Faculty Members

Date: May 3, 2012 **Initials:**SJDM

1. **SURNAME:** Martell **FIRST NAME:** Steven
MIDDLE NAME(S): James Dean

2. **DEPARTMENT/SCHOOL:** Fisheries Centre

3. **FACULTY:** Faculty of Graduate Studies

4. **PRESENT RANK:** Associate Professor, **SINCE:** July 2010
: Canada Research Chair in Quantitative Fisheries Science (Tier 2)

5. **POST-SECONDARY EDUCATION**

University or Institution	Degree	Subject Area	Dates
University of British Columbia	Ph.D.	Fisheries Science	1999-2002
University of British Columbia	M.Sc.	Applied Ecology	1997-1999
University of British Columbia	B.Sc.	Marine Biology	1993-1997

Title of Dissertation and Name of Supervisor
Population dynamics of pink shrimp (*Pandalus jordani*) on the west coast of Vancouver Island: recruitment variation and trophic interactions
Supervisor: Dr. Carl J. Walters

Special Professional Qualifications
Diploma in Fisheries and Aquaculture (Malaspina College)
WCB Crew Supervisor Electrofishing Certification

6. **EMPLOYMENT RECORD**

(a) Prior to coming to UBC

University, Company or Organization	Rank or Title	Dates
University of Maryland, Center for Environmental Sci.	Assistant Professor	2003-2004
University of Wisconsin	Postdoctoral fellow	2002-2003
Department of Fisheries and Oceans Canada	Research Scientist	1999-2001
Vancouver Aquarium Marine Science Centre	Research Assisstant	1991-1999

(b) At UBC

Rank or Title	Dates
Assistant Professor	July-2004

Associate Professor	July-2010
CRC Tier II Chair	July-2012

(c) Date of granting of tenure at U.B.C.: December 15, 2010

7. LEAVES OF ABSENCE

University, Company or Organization at which Leave was taken	Type of Leave	Dates
University of British Columbia	Sabbatical	01/01/2012-12/31/2012

8. TEACHING

(a) Areas of special interest and accomplishments

Teaching Philosophy

There are three important criteria for a successful education: (1) exposure to courses that develop an essential set of skills that enable students to examine critical questions, (2) opportunities to reach beyond the scope of course work and thesis research, and (3) exposure to world class research. My philosophy toward teaching is that courses should be intellectually challenging, rewarding, and a source of continuous feedback. It is very important from both the student and teachers' perspective to provide stimulating course material that engages student discussion and thinking beyond the scope of a simple lecture. In my courses I like to present alternative arguments to particular problems, actively engage student participation, ask students to think critically about and examine ways in which to discern among alternative hypothesis. I also feel that courses should be rewarding for both student and teacher. Student performance is directly proportional to faculty interest and effectiveness in commutating ideas and course material. Both student and professor should have ample opportunities to evaluate how effectively the course material is being assimilated as a way to judge the performance of communicating and assimilating the ideas.

Accomplishments

I am the first person to incorporate R and AD Model Builder into the Fisheries Centre curriculum. Both R and AD Model Builder are becoming the standard software tools used in fisheries science and Fisheries Agencies around the world.

(b) Courses Taught at UBC

Since the spring of 2005 I have taught 3 different graduate level courses: Research Skills for Fisheries Scientists (FISH 502), Quantitative Analysis of Fisheries I (FISH 504), and Quantitative Analysis of Fisheries II (FISH 505). FISH 502 was only taught in 2005; in 2006 I took over FISH 504 from Dr. Tony Pitcher and much of the course material that was taught in FISH 502 has now been integrated into FISH 504. The objectives of FISH 502 and now FISH 504 are to introduce students to the quantitative methods and theory used in fisheries science and management of natural resources. Since 2006, I have co-taught FISH 505 with Dr. Carl Walters; this course covers advanced topics and methods in fisheries science, with an emphasis on design of harvest policies for sustainable fisheries. We use a mixture of lectures, computer tutorials and real present day examples of fisheries data and stock assessments to teach students the main methods that are in use today. The students seem extremely interested in the real case studies as it allows them to compare their findings with official government reports.

Session	Course Number	Scheduled Hours	Class Size	Hours Taught			
				Lectures	Tutorials	Labs	Other

S 2005	FISH 502	39	27	36	24		5
W 2006	FISH 505	39	14	18	12		
W 2006	FISH 504	39	17	36	36		5
W 2007	FISH 504	39	10	36	36		40
W 2008	Fish 504	39	7	12	18		5
S 2008	FISH 505	39	5	19.5	19.5		10
W 2009	Fish 504	39	8	19.5	26		5
W 2010	Fish 504	39	7	19.5	26		5
S 2011	Fish 505	39	5	19.5	26		2

(c) Graduate Students Supervised and/or Co-Supervised

Student Name	Program Type	Year		Principal Supervisor	Co-Supervisor(s)
		Start	Finish		
Matias Braccini	Postdoctoral	2009	2010	Steven Martell	
Mike Frisk, PhD	Postdoctoral	2005	2006	Steven Martell	Tom Miller
Josh Korman	Ph.D. (Zool)	2005	2009	Steven Martell	
Meaghan Darcy	Ph.D. (Zool)	2005	2012	Steven Martell	
Brett van Poorten	Ph.D. (Zool)	2005		Carl Walters	Steven Martell
Dana Haggarty	Ph.D. (Zool)	2009		Steven Martell	Jon Shurin
Aaron Greenburg	Ph.D. (Zool)	2010		Steven Martell	
Ricky Amoroso	Ph.D. (Zool)	2011		Steven Martell	
Roberto Licandeo	Ph.D. (Zool)	2012		Steven Martell	
Catarina Wor	Ph.D. (Zool)	2012		Steven Martell	
Line Christensen	M.Sc. (RMES)	2004	2006	Steven Martell	
Chad Wilkinson	M.Sc. (Zool)	2005	2009	Steven Martell	
Rachael Chudnow	M.Sc. (Zool)	2010		Villy Christensen	Steven Martell

Thesis committees:

Student name	Program	Primary Supervisor	Year Start	Year Finished
Robyn Forrest	PhD	T. Pitcher	2004	2008
Mike Melnychuck	PhD	C. Walters	2004	2009
Natalie Ban	PhD	A. Vincent	2004	2008
Robert Ahrens	PhD	C. Walters	2004	2010
Meghan Moody	MSc	T. Pitcher	2004	2008

Sarah Foster	PhD	A. Vincent	2004	2009
Gakushi Ishimura	PhD	R. Sumaila	2004	2010
Pablo Trujillo	MSc	D. Pauly	2005	2007
Luciano Della Rosa	PhD	A. Trites	2005	2010
Erin Rechisky	PhD	C. Walters	2005	2010
Kerrie O'Donnell	PhD	A. Vincent	2006	2011
Diva Varkey	PhD	T. Pitcher	2006	2010
Rajeev Kumar	PhD	T. Pitcher	2007	
Rodrigo Montes	PhD	E. Pakhomov	2007	
Dale Marsden	PhD	R. Sumaila	2007	
Tom Porteus	PhD	M. McAllister	2007	
Rachael Louten	PhD	M. McAllister	2007	
Roseti Imo	PhD	R. Sumaila	2007	DNF
Aya Murakami	MSc	J. Richardson	2008	2009
Laura Tremblay Boyer	MSc	D. Pauly	2008	2010
Francis Robertson	PhD	A. Trites	2009	
Shannon O'Bradovich	PhD	M. McAllister	2009	
Jonathon Graas	MSc	S. McKinley	2010	
Kate Barley	PhD	G. Rose (Memorial University of Newfoundland)	2010	
Sarah Hawkshaw	MSc	M. McAllister	20011	

(d) Continuing Education Activities

- I also contribute to of the Automatic Differentiation Model Builder (ADMB) Project (http://admb-project.org/) with newsletter contributions, as well as, actively participate in the ADMB users discussion forum.
- I've had visiting graduate students, postdoctoral fellows, Professors, and Government Scientists from other Universities attend my courses and workshops to learn how to use ADMB and R, some of these people include:
  - Olaf Jensen, University of Wisconsin
  - Hiroyuki Kurota, Japan
  - Kiersten Curti, University of Rhode Island.
  - Jon Schnute, DFO Canada
  - Jeremey Collie, University of Rhode Island
  - Carl J. Walters, University of British Columbia
  - Robert Bison, BC Ministry of Environment, Fish and Wildlife Branch.
  - Howard Townsend, NOAA Chesapeake Bay Office
  - Robert Latour, VIMS College of William and Mary.

(e) Visiting Lecturer (indicate university/organization and dates)

- University of Wisconsin/Zoology (Monica Turner), October 2005
- University of Washington, School of Fisheries, February, 2008
- University of Florida, September-October 2008
- IMARPE, Lima Peru, September 13-24, 2010

(f) Other

- Feb 2006: UBC. Non-linear parameter estimation: 4-day workshop on the use of Non-linear parameter estimation in fisheries science using Automatic Differentiation Model Builder.
- March 2007: Smithsonian Environmental Research Center (Annapolis MD). 4-day workshop on non-linear parameter estimation and the use of Automatic Differentiation Model Builder.
- Feb 2008: Pacific Biological Station, Department of Fisheries and Oceans. 2-day workshop on Bayesian methods in fisheries science using R.
- April 2008 UBC. Non-linear parameter estimation and Management Procedure Evaluation workshop. 4-day workshop on the use of Automatic Differentiation Model Builder.
- April 2010 UBC. Non-linear parameter estimation and Management Procedure Evaluation workshop. 4-day workshop on the use of Automatic Differentiation Model Builder.
- May 2010. 4-day training course for DFO Canada, Pacific Biological Station. Use of ADMB in fisheries modeling.
- Sept, 2010. 10-day training course in Lima Peru. Curso Internacional: Quantitative Analysis of Fisheries

9. SCHOLARLY AND PROFESSIONAL ACTIVITIES

(a) Areas of special interest and accomplishments

The over-arching objective of my research program is to better understand of the ecology of harvested species and how we can better manage exploitation of natural marine and freshwater systems. My research is very applied and I tend to focus on problems that are of immediate interest to the general public (e.g., conservation of endangered species) and fisheries management agencies (e.g., stock assessment and devising sustainable harvest policies). I have a special interest in designing monitoring programs, adaptive management experiments, computer models and statistical tools for better understanding the dynamics of natural populations and developing harvest policies that are robust to uncertainties. My areas of expertise are in fisheries stock assessment, non-linear parameter estimation, Bayesian inference and decision analysis, and closed-loop policy evaluation or Management Procedure Evaluation.

(b) Research or equivalent grants (indicate under COMP whether grants were obtained competitively (C) or non-competitively (NC))

Granting Agency	Subject	COMP	$ Per Year	Year	Principal Investigator	Co-Investigator(s)
NOAA	Blue Crab Assessment	C	$166,315	2003	Thomas Miller	Steve Martell
NOAA	Ecosystem Modeling	C	$80,000	2004	Villy Christensen	Steve Martell
NMFS	Grouper Assessment	C	$83,088	2005	Behzad Mahmoudi	Steve Martell Carl Walters
NOAA	Chesapeake Stock Assessment	C	$69,505	2005	Steven Martell	Villy Christensen Rob Latour
NOAA	Chesapeake Stock Assessment	C	$58,631	2006	Steven Martell	
Elk Valley Coal	Monitoring: salmonids in the Elk River	NC	$20,000	2006	Steven Martell	Chad Wilkinson
Elk Valley Coal	Monitoring: salmonids in the Elk River	NC	$20,000	2007	Steven Martell	Chad Wilkinson

British Petroleum	Monitoring and assessment of salmonids in the Elk River drainage	NC	$10,000	2008	Steven Martell	Chad Wilkinson
NSERC	Canadian Capture Fisheries Research Network	C	$250,000	2010	Robert Stephenson	Martell, McAllister, Walters, Christensen and Trites +28 others
NSERC	Discovery Grant	C	$20,000	2010	Steven Martell	
NSERC	Discovery Grant	C	$20,000	2011	Steven Martell	
NSERC	Discovery Grant	C	$20,000	2012	Steven Martell	
NSERC	Canada Research Chairs, Tier 2	C	$100,000	2012	Steven Martell	

(c) Research or equivalent contracts (indicate under COMP whether grants were obtained competitively (C) or non-competitively (NC).

Granting Agency	Subject	COMP	$ Per Year	Year	Principal Investigator	Co-Investigator(s)
PSEG	Ecosystem Modeling	NC	$125,000	2003	Steven Martell	Thomas Miller
NOAA/NMFS Hawaii	Hawaiian Bottomfish	NC	$16,207	2005	Steven Martell	Meaghan Darcy
C. Peterson	Quahog Court Case Settlement	NC	$5,000	2005	Steven Martell	
DFO Canada	Pacific Hake Assessment	NC	$10,000	2005	Steven Martell	Nathan Taylor
USGS/GCMRC	Humpback Chub Assessment	NC	$5,000	2006	Steven Martell	
NOAA/NMFS Hawaii	Hawiian Lobster Assessment	NC	$50,000	2006	Steven Martell	Carl Walters
NOAA/NMFS Hawaii	Hawaiian Bottomfish	NC	$18,764	2006	Steven Martell	
NOAA/NMFS Hawaii	Hawaiian Bottomfish Assessment	NC	$45,949	2007	Steven Martell	
DFO Canada	Pacific Hake Assessment	NC	$10,000	2007	Steven Martell	
DFO Canada	Pacific Hake Assessment	NC	$22,458	2008	Steven Martell	
University of Florida	Gulf Sturgeon Assessment	C	$10,000	2009	Steven Martell	Bill Pine

DFO Canada	Pacific Hake Assessment	NC	$24,314	2009	Steven Martell	
NOAA/NMFS Hawaii	Hawaiian Lobster Assessment	NC	$13,000	2009	Steven Martell	
Greenpeace	EBS Pollock Assessment review	NC	$15,000	2009	Steven Martell	
DFO Canada	Pacific Hake Assessment	NC	$25,000	2010	Steven Martell	
USGS	Humpback Chub Assessment (Grand Canyon)	NC	$17,000	2010	Steven Martell	
DFO Canada	Pacific Hake Assessment (mentoring)	NC	$5,000	2011	Steven Martell	
SCS	MSC Priciple 1	NC	$15,000	2011	Steven Martell	
DFO Canada	Pacific Herring Assessment	C	$47,980	2011	Steven Martell	
ADMB Foundation	C++ Libraries for ADModel Builder	NC	$10,000	2011	Steven Martell	
ADMB Foundation	Training Course University of FL	NC	$10,000	2011	Steven Martell	Mollie Brooks
DFO Canada	Herring iSCAM assessment	NC	$9995	2011	Steven Martell	
DFO Canada	Herring data analysis	NC	$9800	2011	Steven Martell	
DFO Canada	Halibut Apportionment Review	NC	$5,000	2011	Steven Martell	
DFO Canada	Halibut AIC & Retrospective review	NC	$2000	2012	Steven Martell	
USGS/GCMRC	Humpback Chub Assessment	COMP	$43,000	2012	Steven Martell	
APA	Halibut Bycatch Working Group	NC	$30,200	2012	Steven Martell	

(d) Invited Presentations

- April 20, 2011. "Ecology and Management of Natural Renewable Resources", Scripts Institute of Oceanography, La Jolla, CA.
- May 2010, "One fish, two fish, red fish, blue fish", University of Washington, Seattle WA.
- September 2010. "This Is Not Stock Synthesis", Nantes, France..
- January 2009. "An obituary for the Pacific hake Fishery", UBC Fisheries Centre.
- January 2008. "Should ecosystem management involve active control of species abundances?", NOAA, Honolulu Hawaii.
- February, 2008, "Stock Assessment from a Fisheries Management Perspective" University of Washington School of Fisheries. "
- February, 2007, NC State "Future of fisheries". (cancelled due to family matters)
- November 2006, "Incorporating juvenile indices into assessment and forecasts of Pacific hake abundance". Lowell Wakefield Symposium, Anchorage, Alaska.

- November 2006, A hierarchical assessment framework for meta-populations connected through larval dispersal. Mote Symposium, Sarasota Florida.
- May 2005. "Estimating components of population change for west coast Vancouver Island smooth pink shrimp (*Pandalus jordani*). Department of Fisheries and Oceans, St. Johns, New Foundland.
- October 2003, "Sustainable fisheries management from an ecosystem perspective", University of Maryland, Center for Environmental Science, Horn Point Labs.
- October 2003, "Information requirements for assessing trophic impacts of fisheries on ecosystems" PICES XII Annual Meeting, Seoul, Korea.
- May, 2003. "Using Ecospace to Assess Alternative Management Policies: MPAs for tuna fisheries in the Central North Pacific. University of Wisconsin, Center for Limnology, Madison WI.
- November, 2002. "Fishery/Mammal/Enhancement Trade-offs in the Pacific Northwest". Confronting Trade-offs in the Ecosystem Approach to Fisheries Management, 4th Mote Symposium, Sarasota, Florida
- May, 2002. "Effects of climate change on marine population abundance, and consequences for fisheries management." 41st Annual Meeting of the Canadian Society of Zoologists.
- October, 2000. "Simulating historical changes in the Strait of Georgia ecosystem using Ecopath with Ecosim." PICES IX Annual Meeting, Hakodate, Hokkaido, Japan.

(e) Other Presentations

(f) Other

- November 2010. "Evaluating the relationship between capture probability and uncertainty in estimates of humpback chub abundance using ASMR" Technical Working Group, Phoenix Arizona.
- March 2010. AD Model Builder Annual Developers Meeting, La Jolla CA.
- February 2010. Joint statistical committee for the Assessment of Pacific hake.
- February 2009. Joint statistical committee for the Assessment of Pacific hake.
- February 2008. Joint statistical committee for the Assessment of Pacific hake.
- June 2007. Chair, International Pacific Halibut Commission Technical Review.
- May 2007. Bottomfish Stock Assessment workshop, Honolulu, HI.
- September 2006. Pre-Recruit workshop, Santa Cruz, CA.
- May 2006. Bottomfish Stock Assessment workshop, Honolulu, HI.
- December 2005. Ecopath with Ecosim Workshop, Capetown South Africa
- November 2005. An introduction to Bayesian Analysis using R, University of Wisconsin, Madison.
- March 2005. Bayesian Hierarchical modeling workshop, Kamloops, BC.
- December 2004-Present. Member of the Joint Statistical committee for assessment and management of Pacific Hake.
- April 2003. NOAA Chesapeake Bay Ecopath with Ecosim workshop, Annapolis, Maryland. Workshop assistant providing tutorial advice for workshop participants.
- January 2003-Present. Consultant, British Columbia Hydro. Development of size/age composition models for estimating trends in mountain white fish recruitment.

- December 2002. Programming and introduction to non-linear parameter estimation workshop, University or British Columbia. Instructor for a 4-day workshop on programming in the Visual Basic Language and fitting models to data.
- November 2002. Charlotte Harbor Ecosystem modeling workshop, Sarasota, Florida. Consultant for developing a linkage between physical biogeochemical models and Ecosim and Ecospace.
- June 2002. Mixed error stock-recruitment models workshop, Department of Fisheries and Oceans, Nanaimo, BC. Instructor for a 4-day workshop on mixed error models, programming in Visual Basic and linking AD Model Builder with Visual Basic.
- April 2002. Programming in Visual Basic, with special reference to fisheries science workshop, University of British Columbia. Instructor for a 4-day workshop on using Visual Basic for Applications, building applets, and simple assessment models commonly used in fisheries science.
- January 2002. Stock recruitment assessment and policy analysis workshop, Ministry of Water Land and Air Protection, Kamloops, BC. Instructor for a 3-day workshop on estimating parameters in mixed error models, developing decision rules and formal decision analysis.
- December 2000. Introduction to age-structured models, and assessing alternative harvest policies workshop, Ministry of Environment Lands and Parks, Kamloops, BC. Instructor for a 2-day workshop developing age structured population models for evaluating alternative size limits for bull trout conservation.

(g) Conference Participation (Organizer, Keynote Speaker, etc.)

- Session moderator, 4th William Mote Symposium, Sarasota, Florida, 2002
- Discussion moderator, 6th William Mote Symposium, Sarasota, Florida, 2006

10. SERVICE TO THE UNIVERSITY

(a) Memberships on committees, including offices held and dates

- 2004-2005: AERL IT committee.
- 2009-present: AERL space committee chair.

(b) Other service, including dates

11. SERVICE TO THE COMMUNITY

(a) Memberships on scholarly societies, including offices held and dates

- 2004-present: American Fisheries Society
- 2010-present: ADMB Foundation (Co-chair of Fundraising).
- 2011-present: Alaska Fisheries Science Center, Crab Plan Team.
- 2011-present: ADMB Foundation Board Member

(b) Memberships on other societies, including offices held and dates

(c) Memberships on scholarly committees, including offices held and dates

(d) *Memberships on other committees, including offices held and dates*
- March 2006, Atlantic States Marine Fisheries Commission (Reviewer)
- January 2006, Herring Conservation and Research Society.
- 2005, Canadian Sablefish Association Science Advisor.
- December 2004-present, STAT team member for the CAN-US joint assessment of Pacific whiting.

(e) *Editorships (list journal and dates)*
- Ecological Applications, June 2008

(f) *Reviewer (journal, agency, etc. including dates)*
- Can. J. Fish. Aquat. Sci. 2004-2012
- Ecological Applications 2004-2011
- Bulletin of Marine Science 2004-2008
- Ecological modeling, 2005-2012.
- Fish and Fisheries, 2005-2012
- Fisheries Research, 2008-2011
- PNAS, 2008-2010
- Alaska Sea Grant, 2008

(g) *External examiner (indicate universities and dates)*
- University of Kwazulu-Natal, Durban South Africa, 2007. PhD thesis for Mr du Bruyn
- University of Calgary, Alberta, 2007. PhD thesis for Mr Paul Askey

(h) *Consultant (indicate organization and dates)*
- Fisheries and Oceans, PBS Nanaimo, 2008
- National Marine Fisheries Service 2004-2011
- Department of Fisheries and Oceans 2004-2011

(i) *Other service to the community*
- Fraser Institute, Public Form on Saving the Salmon (Part II), 2006
- Independent reviewer for Pacific Stock Assessment Secretariat, DFO Canada, stocks reviewed:
  Pacific Herring (2003, 2004, 2006, 2008, 2009,2010)
  Pacific Sablefish (2008, 2008)
  Strait of Georgia lingcod (2005)
  Pacific Ocean Perch (2010)
- Independent reviewer for Atlantic States Marine Fisheries Commission:
  Weakfish (2006).
- Steering Committee for Dedicated Access Programs at the University of Washington School of Fisheries (PI, Prof. Tim Essington, funded by LENFEST)
- Panelist: "Age structure metrics for precautionary management: can simpler assessment tools save fish, time and money?" Oregon State University (PI Prof. Selina Hepple, funned by LENFEST).
- Expert reviewer for the Indian Ocean Tuna Commission (IOTC), review of the Indian Ocean swordfish assessment and management, July 2010.
- I also serve as a co-coordinator for Fundraising for the ADMB foundation (April 2010).
- Chair: Crab Modelling Workshop for the Alaska Fisheries Science Centre, NOAA (Feb 2011).

12. AWARDS AND DISTINCTIONS

(a) *Awards for Teaching (indicate name of award, awarding organizations, date)*

(b) *Awards for Scholarship (indicate name of award, awarding organizations, date)*
- Rudy E. North Scholarship, Vancouver Aquarium, 1994-1997.

(c) *Awards for Service (indicate name of award, awarding organizations, date)*

(d) *Other Awards*

13. <u>OTHER RELEVANT INFORMATION</u> (Maximum One Page)

Over the past year, and in the upcoming year, I have developed a strong outreach program with other Universities and Government agencies in North America and recently in Lima Peru. I am one of less than six people in the world who teaches an intensive short course using the Automatic Differentiation Model Builder (ADMB) software. This software has recently been made available as an open source, and is now freely available to all thanks to a generous donation from the Moore Foundation. This software is widely used by fisheries agencies around the world for conducting fisheries stock assessments and is currently maintained by the ADMB foundation. I have taught ADMB courses for over 10 years now and in the last two years I have now integrated some of the material into our Fisheries Stock assessment courses here at UBC. In the upcoming year, I'm scheduled to teach ADMB 3 4-day short courses at the University of Florida and the Bedford Institute in Halifax Nova Scotia. In the past year, I have been asked to teach this course in Sete, France and at the Sultan Qaboos University in Oman; I declined these opportunities due to other commitments but will likely pursue this opportunities in the future.

I recently was invited to an ICES working group meeting in Nates France where the objectives of the working group was to review the pros and cons of developing generic software (e.g., Stock Synthesis) versus application specific software for conducting stock assessments within ICES. As a product of this workshop, I have started a new initiative in collaboration with DFO Canada, to develop a generic integrated statistical catch age model (ISCAM) software. The first application of this software was used in a review of Atlantic herring on the east coast of Canada by Jake Schweigert. The software platform will also be used to conduct Pacific herring assessments for 2011, and is currently being investigated by DFO Pacific staff for use with Pacific hake and lingcod on the Pacific coast. This ISCAM product is continuously being developed and will serve as the software platform for graduate students and post docs involved in the NSERC funded Canadian Capture Fisheries Research Network project (CCFRN).

THE UNIVERSITY OF BRITISH COLUMBIA
Publications Record

SURNAME: Martell **FIRST NAME:**Steven **MIDDLE NAME(S):**James Dean **Initials:**SJDM **Date:**03/05/12

1. REFEREED PUBLICATIONS

In refereed scientific journals I have published a total of 26 articles with 7 first authored manuscripts since 2000. In my area of study, the Canadian Journal of Fisheries and Aquatic Sciences is considered to be the top journal (ISI Impact Factor of 2.276) where I have published 11 articles. I have also recently published articles in Fish and Fisheries (ISI Impact Factor 4.97), Fisheries Research (1.434), Ecological Applications (3.470), and ICES Journal of Marine Science (1.661). Since 2000 I have published over 30 refereed articles and co-authored 1 book, which have all been cited a total of 534 times (based on google Scholar results as interpreted by Publish or Perish; www.harzing.com). My author impact factor h-index is 12 and the g-index is 23.

In the list of publications below, my name is highlighted in **bold** and I have underlined the last names of students and postdoctoral fellows that I supervise. Publications that are of primary importance are marked with an asterisk (*). I also list the number of times each article has been cited in parentheses after the citation.

(a) Journals

Braccini, J., Etienne, M., and Martell, S. (2011). Subjective judgement in data sub- setting: implications for cpue standardisation and stock assessment of non-target chondrichthyans. Marine and Freshwater Research, 62(6):734–743.

Melnychuk, M., Essington, T., Branch, T., Heppell, S., Jensen, O., Link, J., Martell, S., Parma, A., Pope, J., and Smith, A. (2011). Can catch share fisheries better track management targets? Fish and Fisheries.

Korman, J., Walters, C., **Martell**, S., Pine III, W., Dutterer, A., and Rosenfeld, J. (2011). Effects of flow fluctuations on habitat use and survival of age-0 rainbow trout (oncorhynchus mykiss) in a large, regulated river. Canadian Journal of Fisheries and Aquatic Sciences, 68(6):1097–1109.

Korman, J., **Martell**, S., Walters, C., and Rosenfeld, J. (2011). Describing population dynamics for early life stages of rainbow trout (Oncorhynchus mykiss) using a stock synthesis model. Canadian Journal of Fisheries and Aquatic Sciences, 68(6):1110–1123.

Forrest, R., McAllister, M., Dorn, M., **Martell**, S., and Stanley, R. (2010). Hierarchical Bayesian estimation of recruitment parameters and reference points for Pacific rockfishes (Sebastes spp.) under alternative assumptions about the stockrecruit function. Canadian Journal of Fisheries and Aquatic Sciences, 67(10): 1611–1634.

Frisk, M., Miller, T., Latour, R., and **Martell**, S. (2011). Assessing biomass gains from marsh restoration in Delaware Bay using Ecopath with Ecosim. Ecological Modelling, 222:190–200.

Frisk, M., **Martell**, S., Miller, T., and Sosebee, K. (2010). Exploring the population dynamics of winter skate (*Leucoraja ocellata*) in the Georges Bank region using a statistical catch-at-age model incorporating length, migration, and recruitment process errors. Canadian Journal of Fisheries and Aquatic Sciences, 67(5):774–792.

Jensen, O., Ortega-Garcia, S., **Martell**, S., Ahrens, R., Domeier, M., Walters, C., and Kitchell, J. (2010). Local management of a "highly migratory species": the effects of long-line closures and recreational catch-and-release for baja california striped marlin fisheries. Progress in Oceanography, 86(1):176–186.

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*Forrest, R. E., S.J.D. **Martell**, M.C. Melynychuk, C. J. Walters 2008. An age-structured model with leading management parameters, incorporating age-specific selectivity and maturity. Can. J. Fish. Aquat. Sci. 65: 286-296. (2 citations)

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Coggins, L. G. J., W. E. I. Pine, C. J. Walters, and S. J. D. **Martell**. 2006. Age-structured mark-recapture analysis: A virtual-population-analysis-based model for analyzing age-structured capture-recapture data. North American Journal of Fisheries Management 26:201-205. (10 citations)

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(b) Conference Proceedings

Marsden, A. D., S. J. D. **Martell**, and U. R. Sumaila. 2008. Retrospective economic analysis of Fraser River sockeye salmon fishery management. In: Proceedings of the 2006 International Institute of Fisheries Economics and Trade (IIFET) Conference, Portsmouth, UK.

(c) Other

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Helser, T. E and **Martell** S.J.D. 2007. Stock Assessment of Pacific Hake (Whiting) in U.S. and Canadian Waters in 2007. Northwest Fisheries Science Center National Marine Fisheries Service National Oceanic and Atmospheric Administration 2725 Montlake Blvd., East Seattle, WA 98112, USA.

Coggins, L.G., Pine, W.E., **Martell**, S.J.D., Melis, T.S. and Andersen, M.E. (2006) Adaptive management of the Colorado River ecosystem below Glen Canyon Dam, Arizona: using science and modeling to resolve uncertainty in river management. In: Proceedings of the American Water Resources Association. (www.awra.org/roceedings/cd_proceedings.html.)

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Martell, S. J. D., C. J. Walters, and G. DiNardo. 2005. Stock Assessment of Northwestern Hawaiian Island Lobsters. National Atmospheric Administration, National Marine Fisheries Service, Honolulu, HI.

Miller, T. J., S. J. D. **Martell**, D. B. Bunnell, G. Davis, L. A. Fegley, A. F. Sharov, and C. F. Bonzek. 2005. Stock Assessment of Blue Crab in Chesapeake Bay. Chesapeake Biological Laboratory, Solomons, MD.

Helser, T. E., Fleischer, G. W., **Martell**, S. and Taylor, N. (2005). Stock assessment of Pacific hake (whiting) in U.S. and Canadian waters in 2004. Northwest Fisheries Science Center National Marine Fisheries Service National Oceanic and Atmospheric Administration 2725 Montlake Blvd., East Seattle, WA 98112, USA.

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Martell, S. J. D. 2002. Variation in pink shrimp populations off the west coast of Vancouver Island: oceanographic and trophic interactions. Ph.D. dissertation. University of British Columbia, Vancouver.

Sinclair, A., S. **Martell**, and J. Boutillier. 2001. Assessment of Pacific cod off the west coast of Vancouver Island and in Hecate Strait, November 2001. Canadian Stock Assessment Secretariat 2001/159:60.

Martell, S., J. Boutillier, H. Nguyen, and C. Walters. 2000. Reconstructing the offshore *Pandalus jordani* trawl fishery off the west coast of Vancouver Island and simulating alternative management policies. Canadian Stock Assessment Secretariat 2000/149:1-38.

2. NON-REFEREED PUBLICATIONS

(a) Journals

(b) Conference Proceedings

Martell, S. J. D. 2001. Simulating historical changes in the Strait of Georgia ecosystem using ECOPATH and ECOSIM. In Report of the 2000 BASS Workshop on the development of a conceptual model of the Subarctic. Pacific basin ecosystems, PICES-GLOBEC International Program On Climate Change And Carrying. Capacity Report of the 2000 BASS, MODEL, MONITOR and REX workshops, and the 2001 BASS/MODEL workshop. PICES Report No. 17.

(c) Other

Martell, S, (2010) Assessment and status of Swordfish in the SW Indian Ocean (1950-2008), IOTC WP 14, 20 pages.

Frisk, M.G., T.J. Miller, R.J. Latour and S.J.D. **Martell** (2005). An ecosystem model of Delaware Bay. Prepared for PSEG, New Jersey. pp. 161.

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Martell, S. J. D., A. I. Beattie, C. J. Walters, T. Nayar, and R. Briese. 2002. Simulating fisheries management strategies in the Strait of Georgia ecosystem using Ecopath with Ecosim. Pages 16-23 in T. Pitcher and K. Cochrane, editors. The use of ecosystem models to investigate multispecies management strategies for capture fisheries. Fisheries Centre Research Reports., Vancouver, BC.

Martell, S. J. D. 1999. Estimating lingcod biomass in Hecate Strait using stock reduction analysis. Pages 49-55 in N. Hagan, A. I. Beattie, and D. Pauly, editors. Back to the Future: Reconstructing the Hecate Strait Ecosystem. Fisheries Centre Research Reports., Vancouver, BC.

Martell, S. J. D., and S. S. Wallace. 1998. Estimating historical lingcod biomass in the Strait of Georgia. Pages 45-47. In D. Pauly, T. Pitcher, and D. Preikshot, editors. Back to the Future: Reconstructing the Strait of Georgia Ecosystem. Fisheries Centre Research Reports, Vancouver, BC.

Martell, S. J. D. 1998. An in situ mark-recapture method for estimating fish abundance over small-scale areas. Pages 25-32. In. Proceedings of the American Academy of Underwater Science, Vancouver, BC.

3. BOOKS

(a) Authored

Walters, C. J. and S. J. D. **Martell** (2004). Fisheries Ecology and Management. Princeton, NJ: Princeton University Press. (204 citations)

(b) Edited

(c) Chapters

4. **PATENTS**

5. **SPECIAL COPYRIGHTS**

6. **ARTISTIC WORKS, PERFORMANCES, DESIGNS**

7. **OTHER WORKS**

8. **WORK SUBMITTED (including publisher and date of submission)**
Martell, S. J. D. Froese, R. (In Review) A simple method for estimating MSY from catch and resilliance, Fisheries Research.

9. **WORK IN PROGRESS (including degree of completion)**

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
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Alaska Fisheries Science Center
7600 Sand Point Way N.E.
Seattle, Washington 98115-6349

November 7, 2012

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, AK 99501-2252

Dear Eric,

The Alaska Fisheries Science Center has recently made some changes in staff assigned to crab stock assessments and we would like propose a change in our participation in the Council's Crab Plan Team. In addition, we would like to supplement the modeling expertise on the Crab Plan Team through assignment of an additional staff member.

First, Dr. William (Buck) Stockhausen will be taking the lead for the Tanner crab assessment and we would like him to serve on the Crab Plan Team in lieu of Dr. Lou Rugolo. In addition, we propose to bring another AFSC stock assessment scientist, Dr. Martin Dorn, onto the Crab Plan Team. Both individuals bring a solid understanding of stock assessment modeling to the Plan Team. Their CV's are attached.

Thank you for considering these changes, which we hope will benefit the NPFMC.

Sincerely,

Douglas P. DeMaster,
Science and Research Director, Alaska Region
NOAA Fisheries

Attachments
Cc: F/AKC1 Russ Nelson
F/AKC2 Pat Livingston

MARTIN W. DORN

Alaska Fisheries Science Center
National Marine Fisheries Service
7600 Sand Point Way NE
Seattle, WA 98125

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Email: Martin.Dorn@noaa.gov

Education

B.S. University of Washington, Fisheries, 1979.
M.S. University of Washington, Biomathematics, 1989.
Ph.D., University of Washington, Fisheries, 1998, Committee chair: Gordie Swartzman

Professional Experience

Fisheries Research Biologist, Alaska Fisheries Science Center, National Marine Fisheries Service, 1988-present.

Lead assessment author for the Gulf of Alaska pollock assessment.

Five Recent Publications

Spencer, P.D., and M.W. Dorn. In Press. Incorporation of weight-specific relative fecundity and maternal effects in larval survival into stock assessments. Fish. Res. http://dx.doi.org/10.1016/j.fishres.2012.05.003

Berkson, J, L. Barbieri, S Cadrin, S. Cass-Calay, P. Crone, M. Dorn, C. Friess, D. Kobayashi, T. J. Miller, W. S. Patrick, S. Pautzke, S. Ralston, M. Trianni, Calculating acceptable biological catch for stocks that have reliable catch data only. 2011. NOAA Technical Memorandum NMFS-SEFSC-616. 44 p.

Forrest, R.E., M. K. McAllister, M. W. Dorn, S. D.Martell and R. D. Stanley. 2010. Hierarchical Bayesian estimation of recruitment parameters and reference points for Pacific rockfishes (Sebastes spp.) under alternative assumptions about the stock recruit function. Canadian Journal of Fisheries and Aquatic Sciences. 67: 1611–1634.

A'mar, Z.T., A.E. Punt, and M.W. Dorn. 2009. The impact of regime shifts on the performance of management strategies for the Gulf of Alaska walleye pollock fishery. Canadian Journal of Fisheries and Aquatic Sciences 66:2222-2242.

A'mar, Z.T., A.E. Punt, and M.W. Dorn. 2009. Incorporating ecosystem forcing through predation into a management strategy evaluation for the Gulf of Alaska walleye pollock (Theragra chalcogramma) fishery. Fisheries Research.

Five Other Significant Publications

Haltuch, M.A., A.E. Punt, and M.W. Dorn. 2009. Evaluating the estimation of fishery management reference points in a variable environment. Fisheries Research 100:42-56.

A'mar, Z.T., A.E. Punt, and M.W. Dorn. 2009. The evaluation of two management strategies for the Gulf of Alaska walleye pollock fishery under climate change. ICES Journal of Marine Science, 66: 1614–1632.

Shen, H. M.W. Dorn, V. Wespestad, and T.J. Quinn. 2009. Schooling pattern of eastern Bering Sea walleye pollock and its effect on fishing behaviour. ICES Journal of Marine Science, 66:1284-1288.

Punt, A.E, M.W. Dorn, and M.A. Haltuch. 2008. Evaluation of threshold management strategies

for groundfish off the U.S. west coast. In: Advances in the analysis and application of harvest policies in the management of fisheries. Fisheries Research, Special Issue, 94(3)251-266.

Dorn, M.W. 2002. Advice on West Coast rockfish harvest rates from Bayesian meta-analysis of stock-recruit relationships. N. Am. J. Fish. Management 21:280-300.

Appointments and Committee Memberships

Scientific and Statistical Committee, Pacific Fisheries Management Council (2001-), Vice Chair, 2008-2009, Chair 2010-2012.

Affiliate Associate Professor, School of Aquatic and Fisheries Sciences, University of Washington.

Member of study group formed during the 2009 National SSC workshop to evaluate data-poor methods used to set acceptable biological catches.

Member of National Standard 2 Working Group convened by National Marine Fisheries Service to develop guidance on the role of the SSC and the use of best available science.

Guest editor of Fisheries Research special issue: Advances in the analysis and application of harvest policies in the management of fisheries.

Collaborators in the past 48 months

André Punt (UW), John Horne UW), Jim Ianelli (AFSC), Paul Spencer (AFSC), Teresa A'mar (AFSC), Vidar Wespestad (Resource Analysts International), Suzanne Romain (Romain Consulting), Robyn Forrest (Fisheries and Oceans Canada), Murdoch McAllister (UBC Fisheries Centre), Steven Martell (UBC Fisheries Centre), Richard Stanley (Fisheries and Oceans Canada), Jim Berkson (SEFSC), Luiz Barbieri (Florida FWC), Steve Cadrin (UMass), Shannon Cass-Calay (SEFSC), Paul Crone (SWFSC), Claudia Friess (Ocean Conservancy), Donald Kobayashi (PIFSC), Thomas J. Miller (U Maryland), Wesley Patrick NMFS OSF), Sarah Pautzke (WPFMC), Steve Ralston (Retired SWFSC), Michael Trianni (CNMI DFW), Haixue Shen (ADF&G), Terrance Quinn (UAF), Stéphane Gauthier (Fisheries and Oceans Canada), Luiz Mello (Fisheries and Oceans Canada), Gary Melvin, (Fisheries and Oceans Canada), Vladlena Gertseva (NWFWSC), Cynthia Jones (Old Dominion University), Mathew Cieri (Maine Department of Marine Resources).

CURRICULUM VITAE: **WILLIAM T. STOCKHAUSEN**

Research Fisheries Biologist
Alaska Fisheries Science Center
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email: William.Stockhausen@noaa.gov
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EDUCATION

2001	Ph. D, Marine Science (concentration: Fisheries Science) School of Marine Science /Virginia Institute of Marine Science The College of William and Mary
1994	MS, Marine Science (concentration: Physical Oceanography) School of Marine Science /Virginia Institute of Marine Science The College of William and Mary
1984	MS, Physics College of Letters and Science University of California, Davis
1982	BS, Physics and Mathematics (double major) College of Science and Mathematics James Madison University

RECENT PROFESSIONAL EXPERIENCE

Nov., 2004-Present	**Research Fisheries Biologist** National Marine Fisheries Service Alaska Fisheries Science Center 7600 Sand Point Way, NE Seattle, WA 98115
Oct., 2002-Nov., 2004	**NRC Postdoctoral Fellow** National Marine Fisheries Service Northeast Fisheries Science Center 166 Water Street Woods Hole, MA 02543-1026
Oct., 2002-Present	**Guest Investigator** Marine Policy Center Woods Hole Oceanographic Institution Woods Hole, MA 02543
June, 1995–Oct., 2002	**Senior Marine Scientist** Department of Fisheries Science Virginia Institute of Marine Science The College of William and Mary Gloucester Point, VA 23062

GRANTS

2010-2014	North Pacific Research Board. "Exploring temporal and spatial variability in Gulf of Alaska groundfish dynamics with integrated biophysical models." (GOA IERP Modeling Component) $900K (co-PI).
2009-2011	North Pacific Research Board. "Ontogenetic patterns of abundance and distribution of Pacific halibut (*Hippoglossus stenolepis*) and Greenland halibut (*Reinhardtius hippoglossoides*) in canyon and slope habitats of the eastern Bering Sea." $231K (co-PI).

2008	US-ROK Bilateral Agreement. "Projecting influences of climate-driven oceanographic changes on distribution, migration and recruitment of pelagic fishes by developing and applying bio-physical coupling models in the North Pacific." $3K (co-PI)
2007-2009	NOAA Fisheries and the Environment (FATE). "Developing recruitment forecasts f or age-structured flatfish stock assessments in the eastern Bering Sea based on models of larval dispersal." $87K (PI)
2007	Norwegian Research Council. "Comparison of Marine Ecosystems of NORWAY and the US (MENU)" 950K NKr (Co-PI)
2000-2002	National Science Foundation. "Impact of Larval Transport and Benthic Habitat Quality upon Recruitment Dynamics: Poor Nursery Habitat Decouples Larval Supply from Reproductive Output of Caribbean Spiny Lobster" $250K (Co-PI)

PUBLICATIONS

Cooper, D.W., J.T. Duffy-Anderson, **W.T. Stockhausen** and W. Cheng. 2012. Modeled connectivity between northern rock sole (*Lepidopsetta polyxystra*) spawning and nursery areas in the eastern Bering Sea. J. Sea Res. in press, available online. http://dx.doi.org/10.1016/j.seares.2012.07.001

Holsman,K. K., T. Essington, T. J. Miller, M. Koen-Alonso and **W. T. Stockhausen**. 2012. Comparative analysis of cod and herring production dynamics across 13 northern hemisphere marine ecosystems. Mar. Ecol. Prog. Ser., 459: 231–246.

Link, J.S., R.J. Bell, P.J. Auster, B.E. Smith, W.J.Overholtz, E.T. Methrattra, F. Pranovi and **W.T. Stockhausen**. 2012. Food Web and Community Dynamics of the Northeast U.S. Large Marine Ecosystem. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 12-15; 96 p.

Stockhausen, W.T., M. Koen-Alonso, K. Holsman, T.J. Miller, T.E. Essington, R.J. Gamble, S.K. Gaichas. 2012. Taking the final step: Can a full multispecies production model tell us anything a single-species model with covariates can't? ICES CM-2011. http://www.ices.dk/products/CMdocs/CM-2011/O/O0711.

Hollowed, A. B., N. A. Bond, T. K. Wilderbuer, **W. T. Stockhausen,** Z. T. A'mar, R. J. Beamish, J.E. Overland and M. J. Schirripa. 2009. A framework for modelling fish and shellfish responses to future climate change. ICES Journal of Marine Science, 66: 1584-1594.

Link, J., **W. Stockhausen**, G. Skaret, W. Overholtz, B. Megrey, H. Gjøsæter, S. Gaichas, A. Dommasnes, J. Falk-Petersen, J. Kane, F. Mueter, K. Friedland and Jon Hare. 2009. A comparison of biological trends from four marine ecosystems: synchronies, differences, and commonalities. Progress in Oceanography 81:29-46. doi:10.1016/j.pocean.2009.04.004

Gaichas, S., G. Skaret, J. Falk-Petersen, J. Link, W. Overholtz, B. Megrey, H. Gjoesaeter, **W. Stockhausen,** A. Dommasnes, K. Friedland, and K. Aydin. 2009. A comparison of community and trophic structure in five marine ecosystems based on energy budgets and system metrics. Progress in Oceanography 81:47-62. doi:10.1016/j.pocean.2009.04.005

B. Megrey, J. Hare, **W. Stockhausen,** A. Dommasnes, H. Gjøsæter, W. Overholtz, S. Gaichas, G. Skaret, J. Falk-Petersen, J. Link, K. Friedland. 2009. A cross-ecosystem comparison of spatial and temporal patterns of covariation in the recruitment of functionally analogous fish stocks. Progress in Oceanography 81:63-92. doi:10.1016/j.pocean.2009.04.006

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Lipcius, R., D. Eggleston, S. Schreiber, R. Seitz, J. Shen, M. Sisson, **Stockhausen, W.** and H. Wang. 2008. Importance of metapopulation connectivity to restocking and restoration of marine species. Reviews in Fisheries Science, 16(1–3):101–110.

Stockhausen, W. and A. Hermann. 2007. Modeling larval dispersion of rockfish: A tool for marine reserve design? In: J. Heifetz, J. DiCosimo, A.J. Gharrett, M.S. Love, T. O'Connell, and R. Stanley (eds.), Biology, assessment, and management of North Pacific rockfishes. Alaska Sea Grant College Program, University of Alaska Fairbanks.

Steele, J.H., J.S. Collie, J.J. Bisagni, D.J. Gifford, M.J. Fogarty, J.S. Link, B.K. Sullivan, M.E. Sieracki, A.R. Beet, D.G. Mountain, E.G. Durbin, D. Palka and **W.T. Stockhausen**. 2007. Balancing end-to-end budgets of the Georges Bank ecosystem. Progress in Oceanography. 74:423-448.

Stockhausen, W. and M. Fogarty. 2007. Removing observational noise from fisheries-independent time series using ARIMA models. Fishery Bulletin, U.S., 107:88-101.

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AYK SSI CHINOOK SALMON OUTREACH WORKSHOP

An outreach event highlighting new research on the causes of the declines of Arctic-Yukon-Kuskokwim River Chinook salmon populations critical to subsistence communities

December 10 - 11, 2012
Anchorage Sheraton Hotel
Anchorage, Alaska

MONDAY – 9:00 – 12:00 – Session 1:

Session 1: New Research & Analyses from the AYK SSI Chinook Salmon Expert Panel Process

- Introduction: Development of the AYK SSI Chinook Salmon Research Action Plan - Overview of Expert Panel process and draft Action Plan Priorities.
  Daniel Schindler, University of Washington - School of Aquatic & Fishery Sciences
  & Chuck Krueger, Great Lakes Fish Commission

- Voices from the region – Speaker to be determined

- Overview of Evidence of Declines/Comparative Analysis of Patterns of Productivity between AYK and Selected Non-AYK Chinook Salmon Stocks
  Matt Catalano, Auburn University

- Ocean ecology of Arctic-Yukon-Kuskokwim Chinook salmon in the Bering Sea
  Kate Myers, University of Washington - School of Aquatic & Fishery Sciences (retired)

MONDAY – 12:00-1:00 – LUNCH in-house

MONDAY – 1:00 – 5:00 – Continuation of Session 1:

- Overview: using a multivariate model to test freshwater and marine hypothesis
  Daniel Schindler presenting for Mark Scheuerell Northwest Fisheries Science Center, NOAA Fisheries

- Changes in productivity of freshwater life phase as a driver AYK-region Chinook salmon decline
  Mike Bradford, DFO and Simon Fraser University, School of Resource and Environmental Management

- Voices from the region – Speaker to be determined

- Mortality during the early ocean life phase in the eastern Bering
  Jim Murphy, Alaska Fisheries Science Center/Auke Bay Laboratories/NOAA Fisheries

- Has marine fishery-caused mortality (bycatch) contributed significantly to the decline of AYK Chinook salmon stocks?
  Diana Stram, North Pacific Fishery Management Council **& James Ianelli,** Alaska Fisheries Science Center, NOAA Fisheries

TUESDAY – 9:00 – 12:00 – Continuation of Session 1

- Voices from the region – Speaker to be determined
- Have selective fishing and natural mortality altered the size, sex ratio, and composition of life history types, and contributed to the decline of AYK Chinook salmon stocks?
  Jeffrey Hard, NMFS/NWFSC Montlake Facility
- Assessment of evidence of adult mortality from pathogens during upstream migration as a driver of declines of Yukon River Chinook salmon stocks
  Paul Hershberger, U.S. Geological Survey

TUESDAY – 12:00-1:00 – LUNCH in-house

TUESDAY – 1:00-5:00 – Session 2

Session 2: Management Strategy Evaluation

- **Management Strategy Evaluation (MSE)** An innovative approach to exploring management tradeoffs and creating dialogue between managers and stakeholders.
  Mike Jones, Michigan State University - Quantitative Fisheries Center & **Matt Catalano**, Auburn University
- Voices from the region – Speaker to be determined
- Closing comments and future pathways

For more information, contact Karen Gillis, AYK SSI Program Manager, Phone 907-279-6519 x 1, email karen.gillis@bsfaak.org

###

The Arctic-Yukon-Kuskokwim Sustainable Salmon Initiative was formed in response to recent declines of AYK-region salmon stocks critical to over-eighty subsistence communities in the region. Native regional organizations joined with state and federal agencies to form this innovative partnership among eight signatory partners working cooperatively to address the urgent salmon research and restoration needs of this region. For more information about the AYK SSI go to www.aykssi.org

AYK SUSTAINABLE SALMON INITIATIVE

DEVELOPING THE

AYK SSI Chinook Salmon Research Action Plan

A PLAN FOR COLLABORATIVE RESEARCH ADDRESSING DECLINED SALMON STOCKS SUPPORTING SUBSISTENCE COMMUNITIES

The AYK region has experienced disastrous declines of Chinook salmon over the past decade, resulting in widespread commercial fishing closures and restrictions in subsistence harvests. These declines and subsequent restrictions have caused nutritional, economic, and cultural hardship for the thousands in the region who depend upon salmon stocks. The 2012 run appears to be following this pattern of sustained steep declines. In response to the decline, the AYK SSI Steering Committee funded and launched this new expert-panel based planning effort in **June 2011**, entitled: **"AYK SSI Chinook Salmon Research Action Plan."**

Chinook Action Plan Overview:

This planning effort, underway for over a year, strongly complements the current **AYK SSI Research and Restoration Plan** (RRP), our strategic salmon science plan designed to identify significant knowledge gaps and establish research priorities. This plan provides a science-based roadmap guiding the Initiative's current and future "Invitations to Submit Research Pre-Proposals" (RFP) and ensuring that available funds target the highest priority research questions and issues.

Because the Plan addresses the research needs related to all salmon species in the entire AYK region, the priorities presented in the **AYK SSI Research and Restoration Plan** are of necessity more general in nature. Section 9.5 and 9.6 of our existing **Research and Restoration Plan** specifies that the plan is to be reviewed and revised to establish new research priorities and hypotheses. The expert-panel project will directly accomplish this purpose for AYK Chinook salmon by providing more detailed research priorities for Chinook salmon. The research action plan from this project will be considered by the SC as a potential addendum to our RRP and be used to encourage and guide development of project proposals targeting Chinook salmon stocks in the region.

Bering Sea Fishermen's Assoc.
110 W. 15th Ave, Unit A
Anchorage, Alaska 99501
(907) 279-6519
(888) 927-2732
WWW.AYKSSI.ORG

The purpose of this expert-panel project is to identify which variables and processes are the most likely causes of these declines and to produce a more detailed set of questions targeting the key drivers of Chinook salmon abundance in the AYK region. The approach implemented to accomplish this purpose established a group of fishery scientists to review and synthesize information and to identify the most likely critical variables and processes affecting Chinook salmon abundance.

The objectives of the project are:

1) **Review and Synthesis of Existing Knowledge of Chinook Salmon** (completed)
   - Survey the current state of knowledge regarding the observed patterns in AYK Chinook salmon stocks and the potential stressors that could be driving those patterns, including published and unpublished sources.

2) **Identify Key Variables and Processes that Affect Chinook Salmon Abundance** (completed)
   - Identify the variables or driving factors that have contributed most significantly to the patterns of declines observed in Chinook salmon, and are those factors acting alone or in synergy.
   - Assess whether the major stressors responsible for the declines are acting predominately in the freshwater phase or the marine phase of the Chinook salmon life cycle?
   - Assess the potential strength of their effect on salmon abundance (explanatory importance).

3) **Provide Recommendations for Future Research**
   - Identify and describe specific research hypotheses and questions aimed at improving our understanding of the trends and causes of variation in the abundance of AYK Chinook salmon. Provide relevant research questions for each hypothesis then develop a prioritized set of research questions across all hypotheses

AYK SSI Chinook Salmon Expert Panel Established

A thirteen member **AYK SSI Chinook Salmon Expert Panel** was appointed by the AYK SSI Scientific and Technical Committee (STC) in the fall of 2011. This panel is composed of a subset of STC members as well as additional salmon scientists who collectively have expertise over the entire freshwater and marine life cycle phases of the salmon. The AYK SSI research coordinator provides direct staff support to the Expert Panel throughout the project.

Members of the AYK SSI Chinook Salmon Expert Panel include:

Daniel Schindler *(co-chair), (STC Member) University of Washington, School of Aquatic and Fishery Sciences*

Charles Krueger *(co-chair), (STC Member) Great Lakes Fishery Commission*

- **Eric Volk**, *(STC Member) Alaska Department of Fish and Game (ADFG), Commercial Fisheries Division*
- **Bob Clark**, *Alaska Department of Fish and Game (ADFG), Sport Fish Division*
- **Jan Conitz**, *Alaska Department of Fish and Game (ADFG), Commercial Fisheries Division*
- **Katherine Howard**, *Alaska Department of Fish and Game (ADFG), Commercial Fisheries Division*
- **Kate Myers**, *(STC Member) University of Washington, School of Aquatic and Fishery Sciences (retired)*
- **Mike Jones**, *Michigan State University, Quantitative Fisheries Center*
- **Pete Bisson**, *US Forest Service (USFS), Pacific Northwest Research Station*
- **Jim Murphy**, *National Marine Fisheries Service (NMFS), Alaska Fisheries Science Center, Auke Bay Lab*
- **James Winton**, *US Geological Survey (USGS), Western Fisheries Research Center*
- **Mark Scheuerell**, *National Marine Fisheries Service (NMFS), Northwest Fisheries Science Center*
- **Mike Bradford**, *DFO and Simon Fraser University, School of Resource and Environmental Management*

Review of Existing Knowledge / Development of Hypothesized Drivers of Decline

From January to May 2012 panel members and invited workshop presenters surveyed the current state of knowledge of AYK Chinook salmon by reviewing published and unpublished information. Where available and beneficial, unpublished information was sought from SSI partners such as ADF&G.

During the process of reviewing existing knowledge, the Expert Panel identified several hypotheses, each describing a major driver or a set of associated drivers that could plausibly have contributed to the decline in Chinook salmon stocks. This set of hypotheses was not intended to be a list of all possible mechanisms, but rather a focused set that would cover the breadth of the most likely contributors to the decline for which some data were available.

Scientific hypotheses are conventionally written in the form of a definitive statement, as if the hypothesis is true, which is then tested to determine whether the available evidence supports (or fails to support) the hypothesized relationship. However, to avoid potential misinterpretation, the hypotheses developed by the expert panel are presented below in the form of questions to emphasize explicitly their uncertain nature.

The hypotheses, being evaluated within the research plan are as follows:

Hypothesis 1: Has the long-term variation and recent declines in AYK Chinook salmon stocks been caused by density-dependent feedbacks in population dynamics (stock-recruitment relationships)?

Hypothesis 2: Have changes in the suitability or productivity of the freshwater habitat used for spawning, rearing, and migration caused the declines in AYK Chinook salmon stocks?

Hypothesis 3: Have changing ocean conditions (physical and biological) in the Bering Sea increased mortality of Chinook salmon and contributed to the decline of AYK stocks?

Hypothesis 4: Has human-caused forcing (such as through climate change or fishing) of marine ecological processes that support ocean growth and survival of Chinook salmon contributed to declines of AYK stocks?

Hypothesis 5: Has marine fishery-caused mortality (bycatch) contributed significantly to the decline of AYK Chinook salmon stocks?

Hypothesis 6: Have selective fishing and natural mortality altered the size, sex ratio, and composition of life history types, and therefore contributed to the decline of AYK Chinook salmon stocks?

Hypothesis 7: Has adult mortality from pathogens during upstream migration contributed to the decline of AYK Chinook salmon stocks?

May 2012 Chinook Salmon Synthesis Workshop

The Expert Panel convened a synthesis workshop on May 2-3, 2012 featuring presentations and discussions by panel members and other invited participants on selected topics related to understanding of the trends and causes of variation in the abundance of AYK-region Chinook salmon throughout their life cycle. Participants included panel members as well as scientists and managers from ADF&G and additional fisheries scientists from universities and federal agencies. Several presentations were given on recent analyses of the underlying patterns observed in the Yukon and Kuskowkwim Rivers, including an assessment placing AYK Chinook salmon stocks within the context of Chinook salmon stocks elsewhere such as Bristol Bay and southeastern Alaska. The majority of the presentations addressed the hypotheses on the major factors that may have contributed to the observed the decline. Collectively, these presentations were the culmination, of the first objective of the project (review and synthesis) and addressed the second objective of identifying key variables and processes.

Recommendations for Future Research

A key product from the project, as well as the central focus of the AYK SSI Chinook Salmon Research Action Plan, will be a set of recommendations for a focused program of Chinook salmon research in the region. Based on the above synthesis of current information and identification of gaps in knowledge (project objectives 1 and 2), the Action Plan recommendations will include:

- Presentation and description of Hypothesized drivers of decline, including:
    - Plausibility of the biological mechanism by which the hypothesized factor(s) could produce the observed patterns in AYK Chinook populations.
    - Summary of evidence for hypothesis.
    - Identification of the high priority hypotheses addressing causes of the observed declines in Chinook salmon stocks in the AYK region.
    - Key research questions specific to the AYK region Chinook salmon, with a special emphasis on the Yukon and Kuskokwim River populations.
- Prioritization of the hypotheses and key research questions under each hypothesis.

Timeline for Development of AYK SSI Chinook Salmon Action Plan: To date, the Expert Panel members, assisted by AYK SSI staff, have completed the first two project objectives. Based on the timeline below, the target date for delivery of a final Chinook Research Plan to the Steering Committee is January 2013.

Timeline for Completion of AYK SSI Chinook Salmon Research Action Plan.

	DATE	ACTIVITY
COMPLETED	Sept. 2011	Chinook Expert Panel Appointments Complete.
	Oct. 2011 – Jan. 2012	Panel begins review of available information, identifies key topics and authors for commissioned synthesis papers.
	Dec. 2011	Panel designs schedule and process for workshop
	Jan - May '12	Data access and analysis undertaken. Chinook Salmon Synthesis Workshop Review papers prepared.
	May 2012	Synthesis Workshop held, identification of priority variables, processes, and hypotheses; consideration of weight of evidence for/against hypotheses undertaken.
	May- Oct. 2012	Draft AYK Chinook Research Plan prepared and edited by Expert Panel.
	Nov. 2012	Review of Draft AYK Chinook Research Plan
	Dec. 2012	Convene Chinook Salmon Outreach Workshop / Revision of research plan based on reviews
	Jan. 2013	Final AYK Chinook Research Plan delivered - Presented to AYK SSI Steering Committee.

AYK SSI Chinook Salmon Outreach Workshop: DECEMBER 10-11 2012:

To facilitate the rapid sharing of new analysis and research findings addressing these declined salmon stocks, the Arctic-Yukon-Kuskokwim Sustainable Salmon Initiative (AYK SSI) is convening this two-day outreach event targeting in-region native leaders, fishers and community members from throughout the region as well as state and federal agency staff, the salmon research community and interested members of the public

The Workshop will be held **December 10-11, 2012** in at the Sheraton Hotel in Anchorage , and will feature presentations addressing **two priority areas** for our research program:

1) Presentation of new research and analyses from our AYK SSI Chinook Salmon Expert Panel Process, including:

- Review of new research priorities and questions from the forthcoming AYK-Region Chinook Salmon Research Action Plan
- Evidence of declines of AYK region Chinook Salmon populations and assessment of current population trends
- Results of a new comparative analysis of patterns of productivity between AYK-region and non-AYK Chinook salmon stocks
- Analysis of potential freshwater drivers which may be an important contributors to the decline of AYK-region Chinook salmon stocks.
- Analysis of mortality resulting from changing ocean conditions in the Bering Sea
- Review of trends in marine by-catch of AYK-region Chinook salmon stocks
- Review of the effect of selective fishing and natural mortality on the size, sex ratio, and composition of life-history types
- Review of evidence of adult mortality from pathogens – especially *Ichthyophonus* during upstream migration

2) Management Strategy Evaluation (MSE): An innovative approach to exploring management tradeoffs and creating dialogue between managers and stakeholders.

MSE is a modeling approach that provides a rigorous, quantitative basis for estimating the potential benefits and risks of alternative policy choices by formally incorporating uncertainty into realistic models that simulate the entire biological and management system. This approach to modeling shows considerable promise as a means to facilitate discussions among stakeholders and managers regarding how uncertainty and risk should be included in future policy deliberations for salmon management. Topics to be addressed at the workshop include

- Defining and considering multiple objectives for salmon fisheries sustainability
- Accounting for the effects of uncertainty in assessment, population dynamics, and implementation of management on the performance of policies
- Visualizing and evaluating trade-offs among objectives across a range of management policies
- Applications to both escapement goal policy development and to in-season management challenges.
- Presentations of model results from AYK region salmon case studies

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Sessions will be of interest to policymakers, fishery managers and scientists, fishery participants, environmental advocates, members of the public, students, and journalists.

For more information:

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Renaissance Mayflower Hotel
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The third **Managing Our Nation's Fisheries** conference will be held next May in Washington, D.C. The conference will be convened by the eight Regional Fishery Management Councils and the National Marine Fisheries Service. This conference follows up on the highly successful *Managing Our Nation's Fisheries* conferences held in 2003 and 2005.

Registration will be open through a new website premiering in November.

Conference Details

- Purpose Statement, Session Themes and Focus Topics
- Program and Process
- Conference Schedule

Session Descriptions, Including Focus Topics and Speakers

- Session 1: Improving Fishery Management Essentials
- Session 2: Advancing Ecosystem-Based Decision Making
- Session 3: Providing for Fishing Community Stability
- All three sessions in one PDF

Poster Session

Please note that because of the unique structure of this conference, unsolicited papers are not being accepted. However, there will be a poster session and an area for displays. To submit a poster or display proposal, please see the links below. Submissions are due **January 15, 2013.** For more information, contact Kerry Griffin at (866) 806-7204.

- Poster Abstract Submission Form
- Display Proposal Form

For More Information

For more information, contact Jennifer Gilden at the Pacific Fishery Management

Council at jennifer.gilden@noaa.gov, 503-820-2280, or toll free at 866-806-7204.

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Concurrent Session and Focus Topics: Program and Process Description

Conference Purpose, Process, Schedule and Format

The conference will convened by the collective Regional Fishery Management Council in their capacity as the Councils Coordination Committee as described in the Magnuson Stevens Act, with the Pacific Fishery Management Council serving as primary host. Towards the purpose of identifying ways to advance the sustainability of United States marine fishery management[1], 27 invited speakers will describe ideas for improvement, which will be distributed in advance of the conference and discussed in an audience interaction environment where additional ideas may be brought forward. Nine panels will consider the discussions from each focus area, and attempt to identify findings that have a high potential to advance fishery sustainability to a higher level. These findings will be presented in a plenary session to a panel of influential individuals who will offer reactions as to supportability and implementation potential. The Councils Coordination Committee will consider the findings and other results of the conference with regard to possible recommendations to relevant authorities.

The conference will be held May 6-9, 2013 at the Mayflower Hotel in Washington, DC. The conference will begin with registration and a reception the evening of May 6. The conference will open the morning of May 7 in plenary session. This initial plenary session will include a keynote address, presentations from high profile featured speakers, and relevant perspectives from each of the eight Regional Fishery Management Councils.

The conference will then break into concurrent sessions the afternoon of May 7 through May 8 to allow participants to delve deeper into important contemporary topics, as described below. Following the concurrent sessions, conference attendees will reconvene in plenary session the morning of May 9. During the final plenary sessions, the conference will focus on preliminary ideas and conclusions developed in the concurrent sessions. The conference will conclude with a panel with broad representation that will be charged with providing initial reactions to the ideas and findings crafted in the concurrent session, relative to their applicability to change current fishery management practices or their potential for new legislation. The attached meeting agenda graphic illustrates the flow of conference events.).

[1] [1] See (insert link) for the Conference Purpose Statement

Concurrent Session and Focus Topics: Program and Process Description

Concurrent Session Format and Program

The conference will be organized around three moderated sessions with the following themes and Chairs: *Improving Fishery Management Essentials* chaired by Mr. David Witherell (Deputy Director, North Pacific Fishery Management Council), *Advancing Ecosystem-based Decision-making* chaired by Mr. John Henderschedt (Executive Director, Fisheries Leadership & Sustainability Forum), and *Providing for Fishing Community Sustainability* chaired by Dr. Mark Holliday (Director, Office of Policy, National Marine Fisheries Service).

Each moderated session will include three focus topics germane to the session theme. The first of the three focus topics will occur in the afternoon of May 7 with the other two scheduled for the morning and afternoon of May 8, each roughly 3.5 hours in length. Detailed written descriptions of the moderated sessions, the focus topics, the speakers, and pertinent reference materials are available on the conference website www.managingfisheries.org. Speaker papers will be posted on the website a month prior to the conference.

The session chairs will open and moderate each of the three focus topics sessions that will begin with 20 minute presentations from each of three speakers, covering a range of ideas and perspectives on the topic. In their presentation, speakers will summarize the ideas and perspectives contained in their papers submitted for review in advance of the conference, and will include their ideas on possible ways to advance sustainability in the context of the particular focus topic. Presentations will be followed by an audience interaction period of about an hour, where conference participants will have the opportunity to both support and challenge the ideas presented.

Following the audience interaction period, the three speakers will be joined by four participants, chosen in advance of the conference, to form a seven-member panel with broad representation. The panel will be charged with condensing the ideas and perspectives from the session into findings via moderated discussion. These findings will be later shared in plenary session for consideration as overall conference results.

Two rapporteurs will be assigned to each of the focus topic sessions. These rapporteurs will be charged with capturing summary minutes of the sessions as well as major conclusions and recommendations. Working with the rapporteurs, the sessions chair will prepare a short presentation on their respective focus topic conclusions.

Concurrent Session and Focus Topics: Program and Process Description

Concurrent Session Reports to Plenary

The conference will reconvene in plenary session the morning of May 9. Session chairs and rapporteurs will present key findings from their respective focus topic sessions in the context of identifying improvements to national fishery practices, policies, and laws. The conference will conclude with a panel of influential representatives from organizations that may have a role in implementing the recommended improvement; including both houses of Congress, heads of Federal and State fishery agencies, recreational and commercial fishing interests, tribal or subsistence communities, environmental advocacy organizations, and Regional Fishery Management Councils. This "Reactions Panel" will be asked to provide their initial reactions to the conference conclusions, including input on the merits of the recommendations, the feasibility of their implementation, or ways to improve or clarify the conclusions.

Following the conference, conference staff will report the results to the Councils Coordination Committee and work with the appropriate conference participants to publish and widely distribute the conference proceedings.

MANAGING OUR NATION'S FISHERIES 3: *Advancing Sustainability*
MAY 6-9, 2013

	MONDAY MAY 6, 2013	TUESDAY MAY 7, 2013	WEDNESDAY MAY 8, 2013	THURSDAY MAY 9, 2013
7:00 am		*Continental Breakfast*	*Continental Breakfast*	*Continental Breakfast*
8:00 am		Plenary Session: • Opening Remarks • Featured Speakers • Keynote Address	Concurrent Sessions: *Continued from Tuesday*	Plenary Session: • Reports on Results of the Concurrent Sessions from May 8
		Break	*Break*	*Break*
10:00 am		Regional Fisheries Managers *Round Robin*	Concurrent Sessions: *Continued*	Plenary Session: • Findings Reactions Panel • Summary Statements
12 Noon		Box Lunch Program: Poster Session Review Opportunity	Lunch on the Town	Conference Adjourned— Lunch on Own
1:00 pm		Concurrent Sessions: 1. Improving Fishery Management Essentials 2. Advancing Ecoystem-Based Decision Making 3. Providing for Fishing Community Sustainability	Concurrent Sessions: *Continued from Morning Program*	
		Break	*Break*	
3:00 pm		Concurrent Sessions: *Continued*	Concurrent Sessions: *Continued*	
6:00 pm	Welcome Reception	Focused Poster Session Review Opportunity	Banquet Dinner Program—Featured Speaker	

10/18/2012

Alaska SeaLife Center presents:

Steller sea lion research relevant to fisheries management

North Pacific Fishery Management Council
Wednesday, December 5, 2012, 5:30-7 pm
Anchorage Hilton Hotel

Dr. Russ Andrews, Ph.D.
Scientist, Alaska SeaLife Center
Assistant Research Professor, School of Fisheries and Ocean Sciences, University of Alaska Fairbanks

To study the behavior and physiology of marine mammals that swim far from shore and dive deep beneath the waves, we use biotelemetry to "virtually" dive along with them. Recently we have been developing and applying new telemetry methods to study predator-prey interactions of Steller sea lions and their main predator, killer whales. Although Steller sea lion populations in most of Alaska and Russia have stabilized or are increasing, this is not the case for Steller sea lions in the Western and Central Aleutians and in nearby Commander Islands (Russia), where abundance continues to decline. Our research on the diet overlap and potential competition between Steller sea lions and northern fur seals in Russia includes underwater sea lion "head cam" video and features an analysis of Atka mackerel consumption that may be relevant to the recent controversy over the potential impact of Atka mackerel fisheries on Steller sea lions in Alaska.

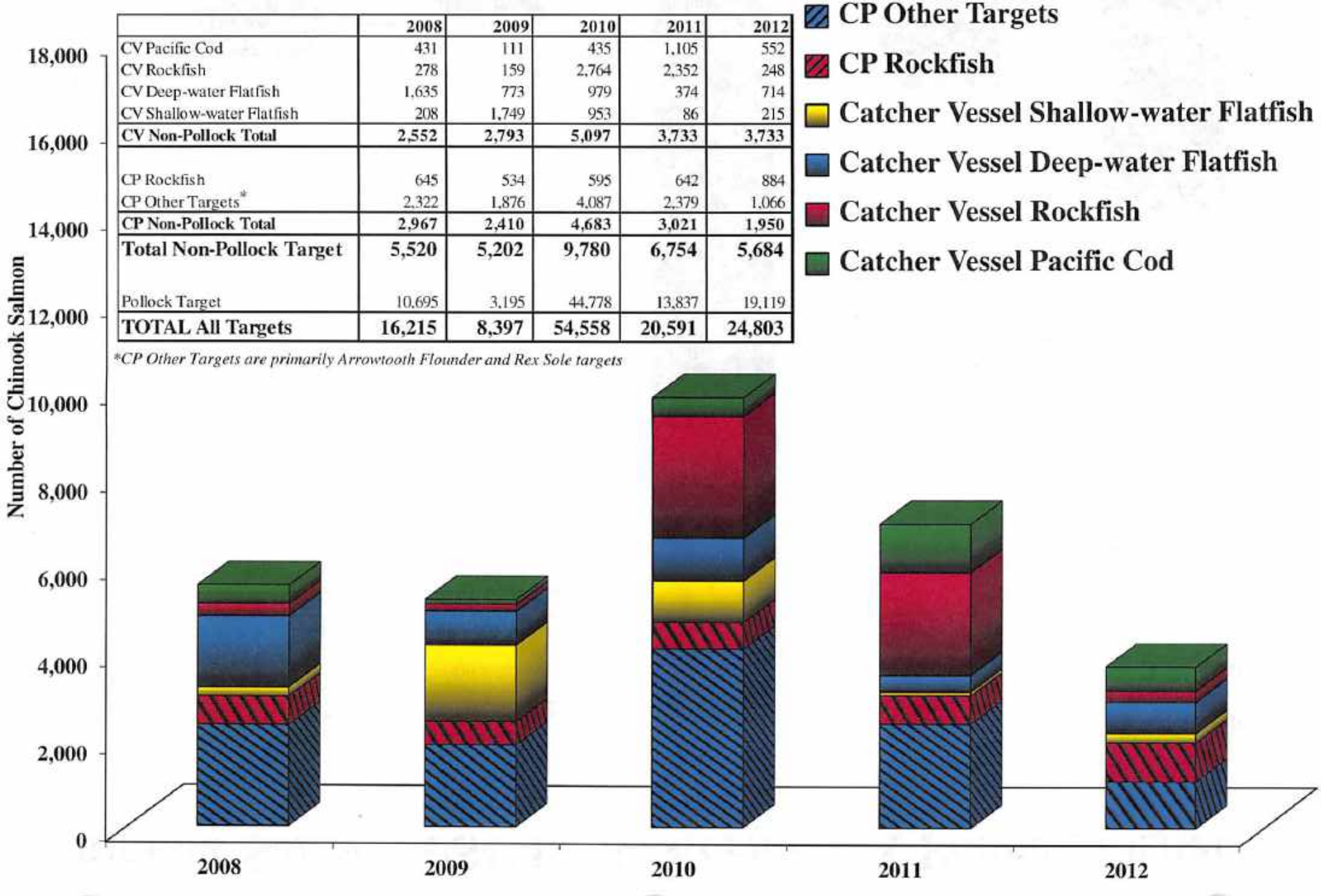
John Maniscalco, M.S.
Scientist, Alaska SeaLife Center

John Maniscalco has been studying Steller sea lion behavior, vital rates, and population trends in the Gulf of Alaska for more than a decade. Throughout much of the Gulf of Alaska, the Steller sea lion population has been increasing since the early 2000s. Data collected on these studies indicate that maternal care of young is very good, and reproductive rates (natality) and juvenile survival have returned to levels that were seen prior to the Steller sea lion decline and consistent with observations from the southeastern population where numbers have been increasing for more than 3 decades. The detail of data provided by these studies indicates that the Gulf of Alaska population increase is highly significant and could accelerate in the coming years as large numbers of juveniles reach sexual maturity. Continuing research will explore potential links between prey selection and Steller sea lion vital rates.

Chinook Salmon PSC in GOA Non-Pollock Fisheries

	2008	2009	2010	2011	2012
CV Pacific Cod	431	111	435	1,105	552
CV Rockfish	278	159	2,764	2,352	248
CV Deep-water Flatfish	1,635	773	979	374	714
CV Shallow-water Flatfish	208	1,749	953	86	215
CV Non-Pollock Total	**2,552**	**2,793**	**5,097**	**3,733**	**3,733**
CP Rockfish	645	534	595	642	884
CP Other Targets*	2,322	1,876	4,087	2,379	1,066
CP Non-Pollock Total	**2,967**	**2,410**	**4,683**	**3,021**	**1,950**
Total Non-Pollock Target	**5,520**	**5,202**	**9,780**	**6,754**	**5,684**
Pollock Target	10,695	3,195	44,778	13,837	19,119
TOTAL All Targets	**16,215**	**8,397**	**54,558**	**20,591**	**24,803**

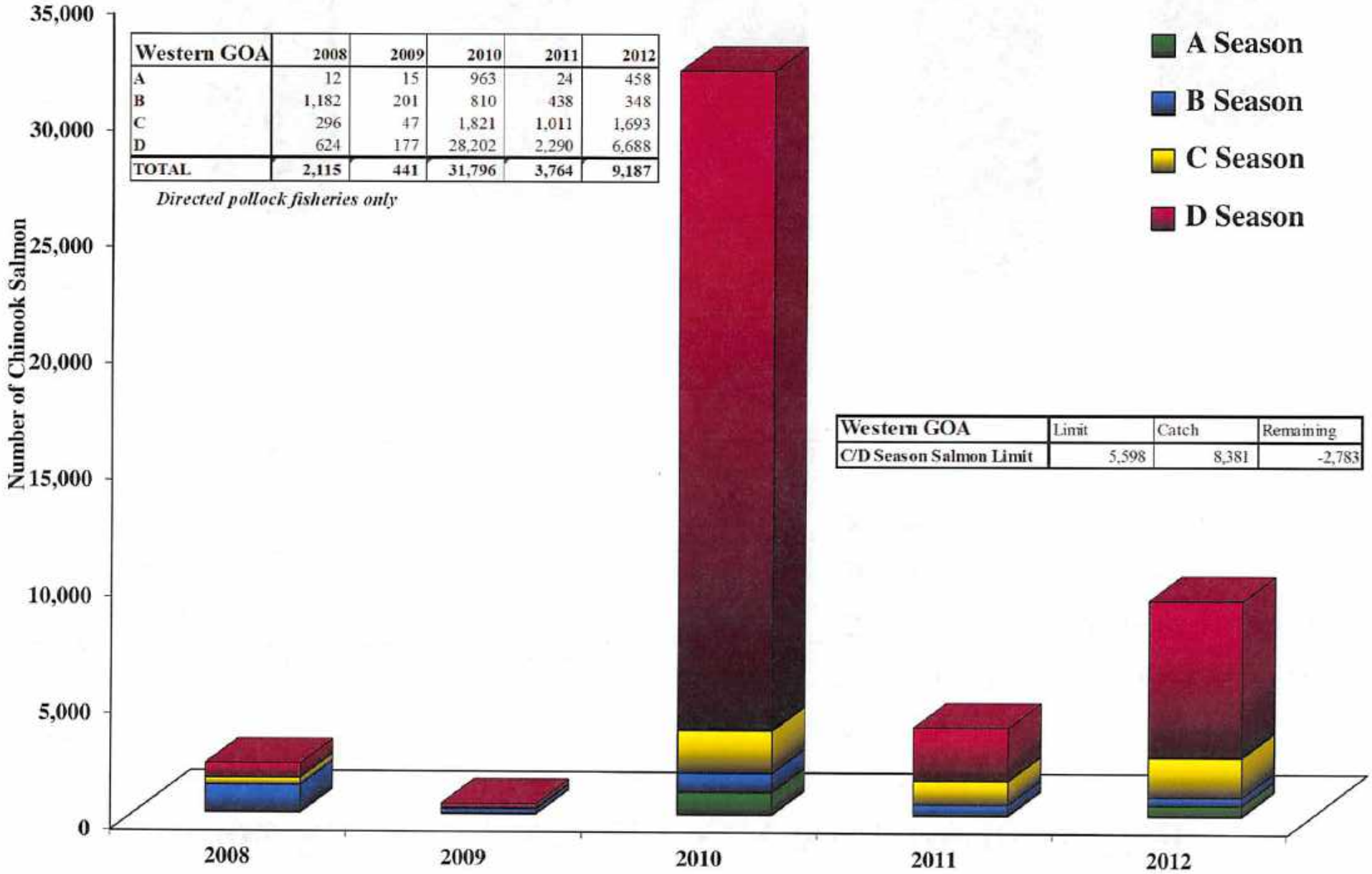
**CP Other Targets are primarily Arrowtooth Flounder and Rex Sole targets*



Chinook Salmon PSC in Western GOA Pollock Fisheries

Western GOA	2008	2009	2010	2011	2012
A	12	15	963	24	458
B	1,182	201	810	438	348
C	296	47	1,821	1,011	1,693
D	624	177	28,202	2,290	6,688
TOTAL	2,115	441	31,796	3,764	9,187

Directed pollock fisheries only



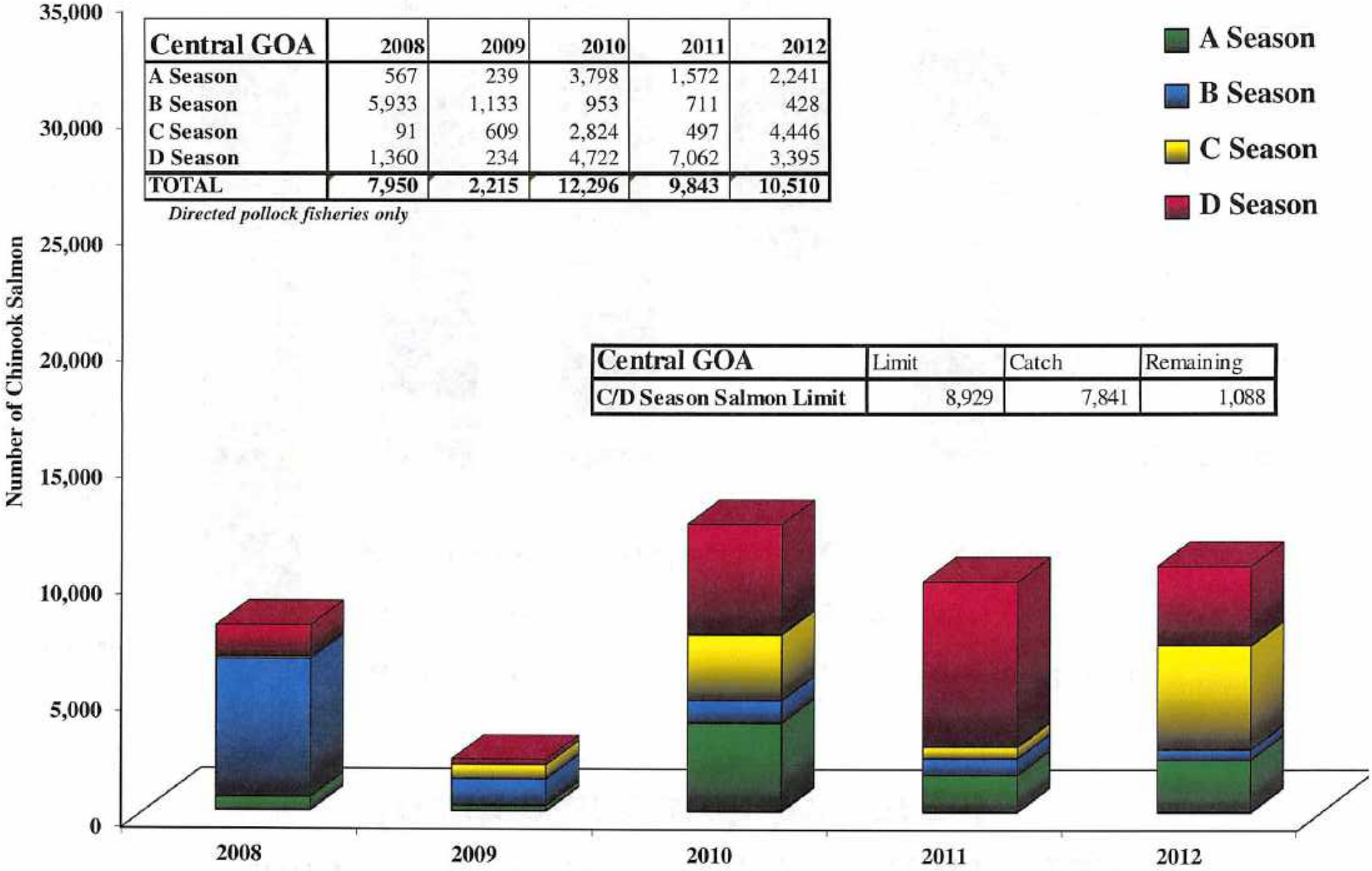
Western GOA	Limit	Catch	Remaining
C/D Season Salmon Limit	5,598	8,381	-2,783

Chinook Salmon PSC in Central GOA Pollock Fisheries

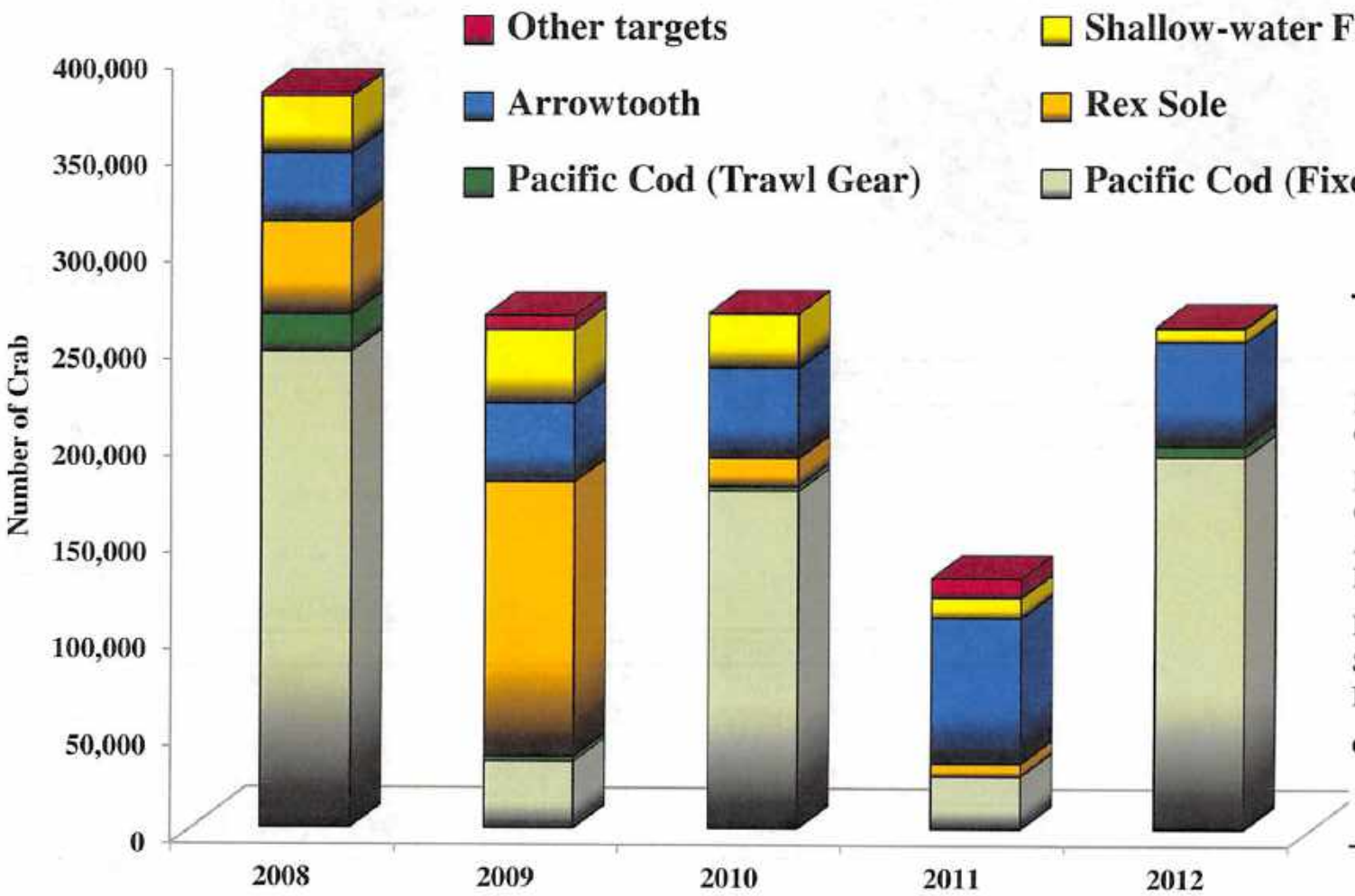
Central GOA	2008	2009	2010	2011	2012
A Season	567	239	3,798	1,572	2,241
B Season	5,933	1,133	953	711	428
C Season	91	609	2,824	497	4,446
D Season	1,360	234	4,722	7,062	3,395
TOTAL	**7,950**	**2,215**	**12,296**	**9,843**	**10,510**

Directed pollock fisheries only

Central GOA	Limit	Catch	Remaining
C/D Season Salmon Limit	8,929	7,841	1,088



2008-2012 GOA *C. Bairdi* Tanner Crab Incidental Catch by Target



2012 by Target	*C. Bairdi* Crab
Pacific Cod (Fixed Gear)	191,480
Pacific Cod (Trawl Gear)	5,651
Arrowtooth Flounder	53,439
Rex Sole	0
Shallow-water Flatfish	6,978
Other Targets	814
Total	**258,363**

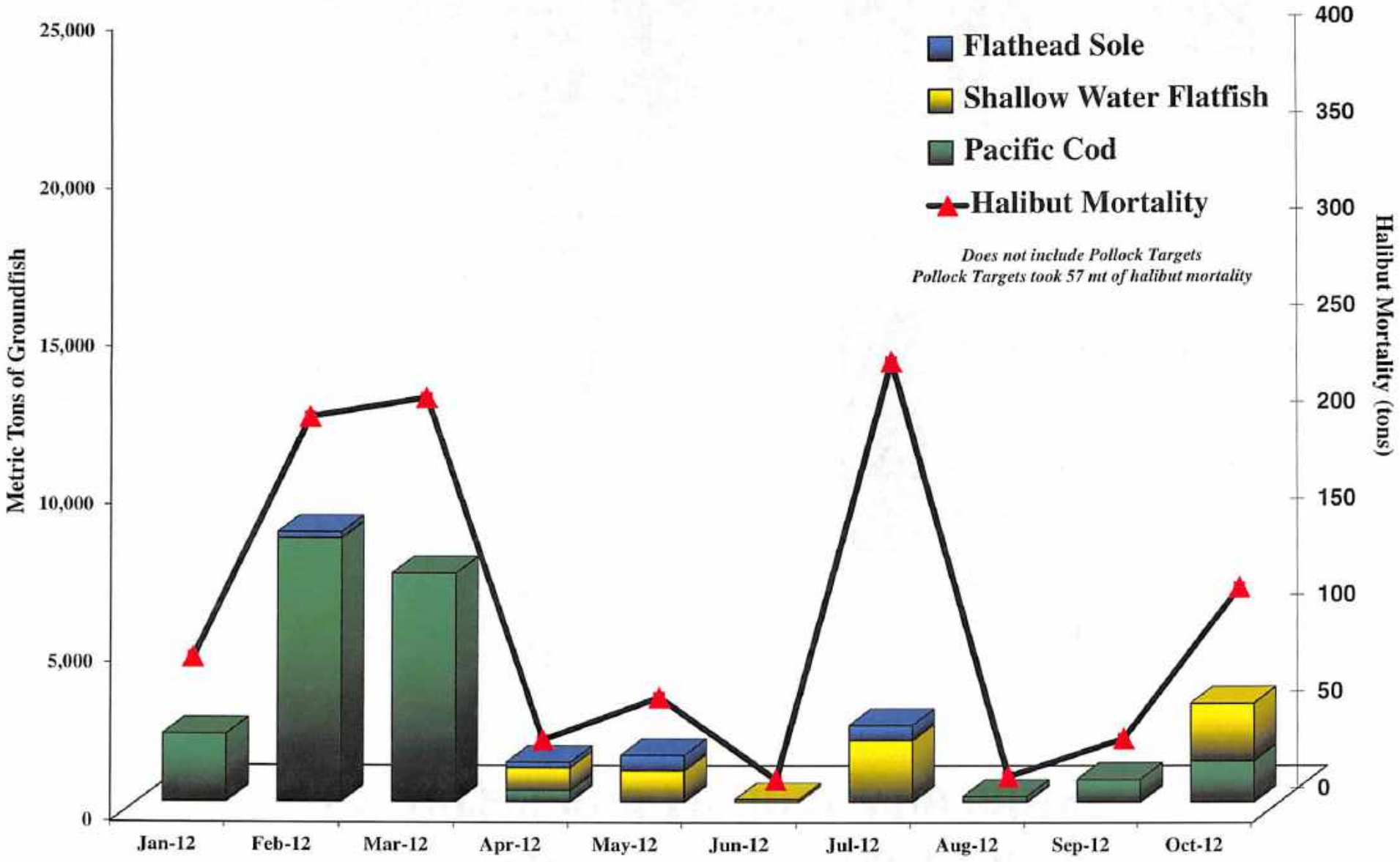
2012 Trawl Halibut Mortality

Shallow Water Complex	Season	Start Date	End Date		Limit (mt)	Total Mortality (mt)
	1	Jan 20	Apr 1		450	493
	2	Apr 1	Jul 1		100	76
	3	Jul 1	Sep 1		200	222
	4	Sep 1	Sep 30		150	1
				TOTAL	**900**	**792**
Deep Water Complex	**Season**					
	1	Jan 20	Apr 1		100	71
	2	Apr 1	Jul 1		300	385
	3	Jul 1	Sep 1		182	133
	4	Sep 1	Sep 30		0	0
				TOTAL	**582**	**590**
Rockfish Pilot Program					198	**87**
Fall Halibut Allocation		Oct 1	Nov 1		300	**226**
Total Halibut Mortality					2,000	**1,695**

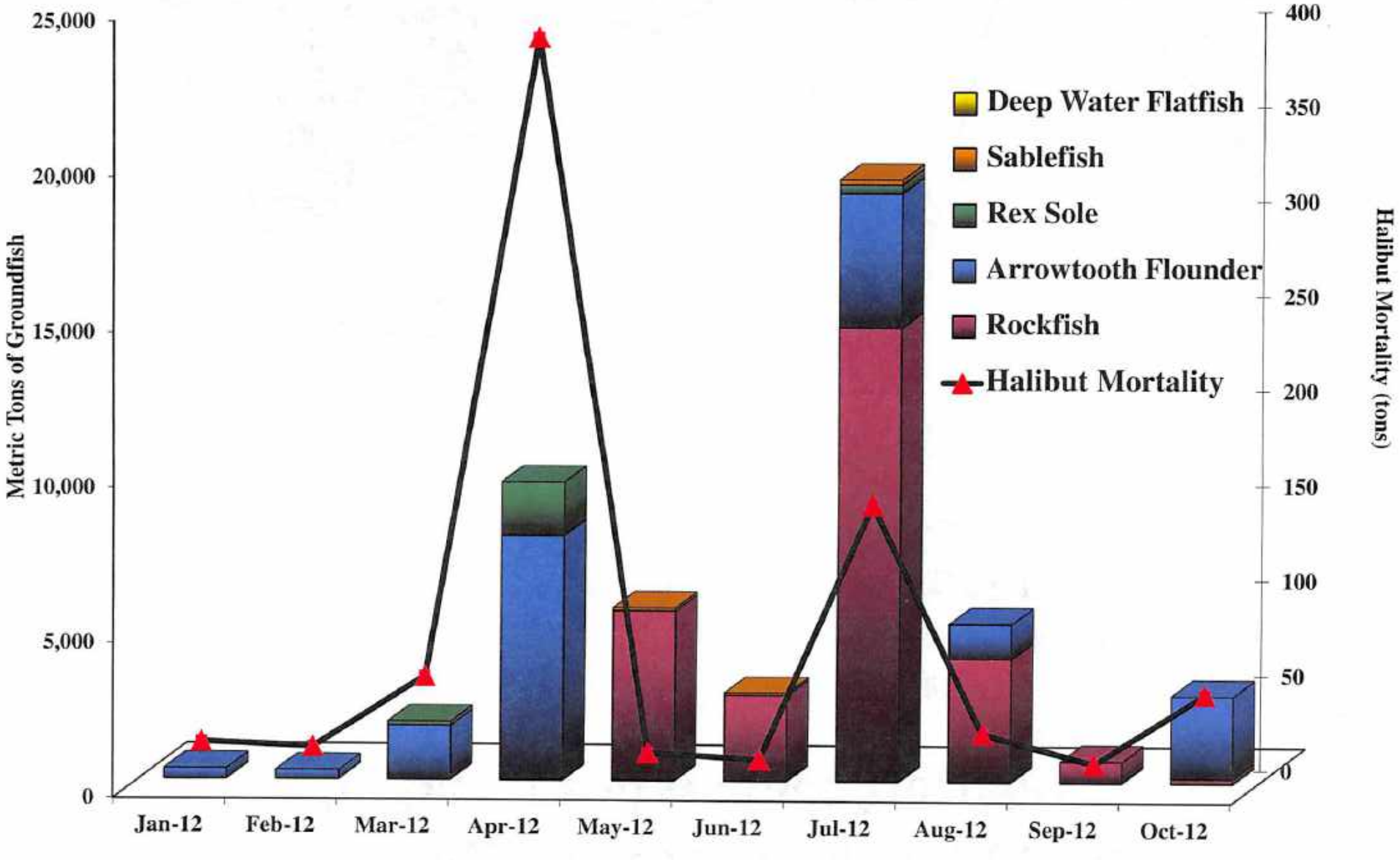
2012 Flatfish and Skate Catch in the GOA

	TAC (mt)	Total Catch (mt)	Percentage caught of TAC
Arrowtooth Flounder			
Central	75,000	18,516	25%
Western	14,500	1,257	9%
Flathead Sole			
Central	15,400	1,740	11%
Western	8,650	277	3%
Rex Sole			
Central	6,412	2,083	32%
Western	1,307	215	16%
Shallow Water Flatfish			
Central	18,000	3,718	21%
Western	13,250	153	1%
Deep Water Flatfish			
Central	2,308	264	11%
Western	176	5	3%
Big Skate			
Central	1,793	1,732	97%
Western	469	64	14%
Longnose Skate			
Central	1,879	725	39%
Western	70	31	45%

2012 Shallow Water Complex Catch by Target and Halibut Mortality



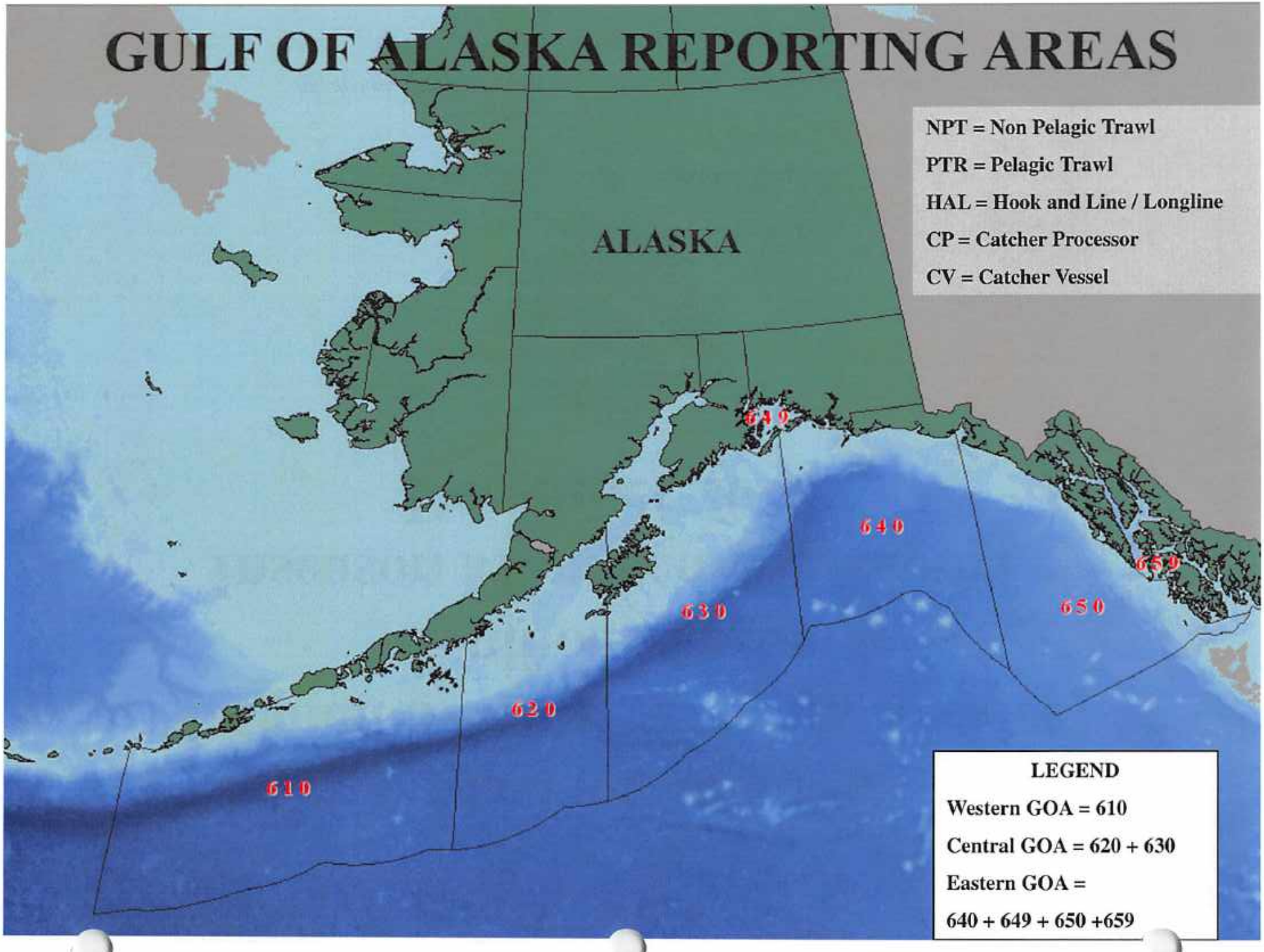
2012 Deep Water Complex Catch by Target and Halibut Mortality



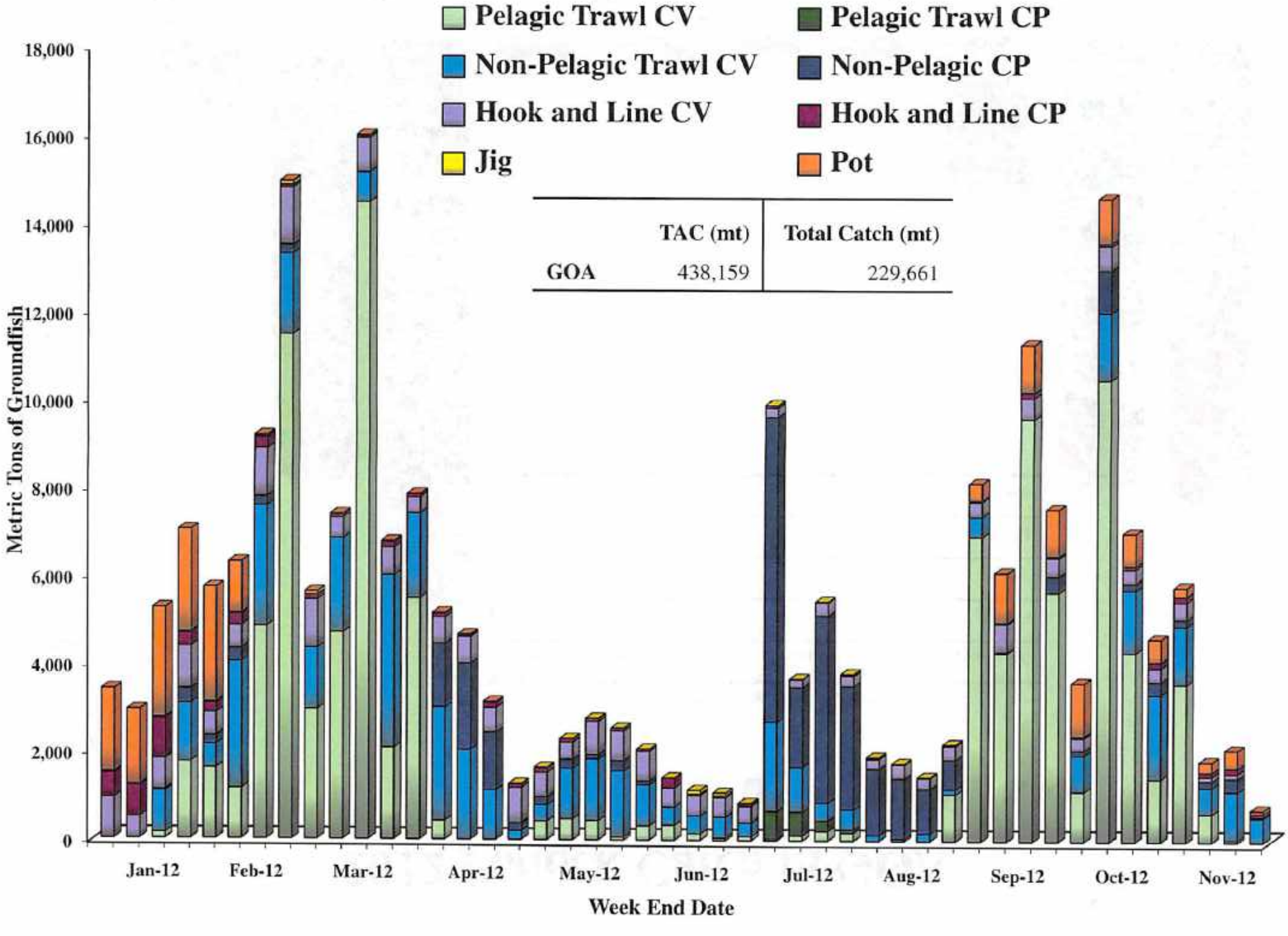
Alaska Region
National Marine Fisheries Service
Gulf of Alaska
Inseason Management Report
December 2012

Catch data are through November 17, 2012

Management reports can be found at:
http://alaskafisheries.noaa.gov/sustainablefisheries/inseason/default.htm

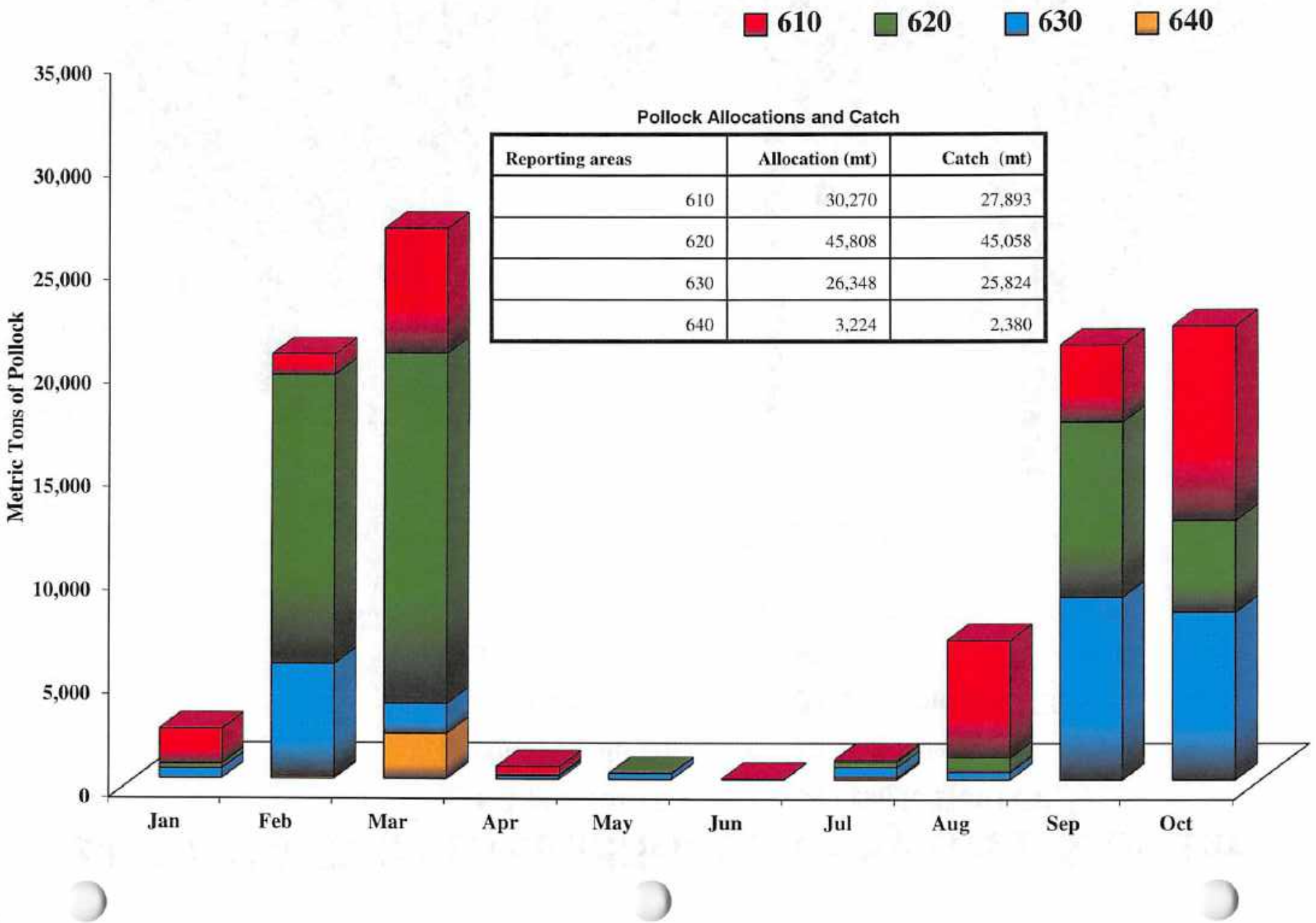

GULF OF ALASKA REPORTING AREAS
NPT = Non Pelagic Trawl
PTR = Pelagic Trawl
HAL = Hook and Line / Longline
CP = Catcher Processor
CV = Catcher Vessel
ALASKA
610
620
630
640
649
650
659
LEGEND
Western GOA = 610
Central GOA = 620 + 630
Eastern GOA =
640 + 649 + 650 +659

2012 GOA Total Groundfish Catch by Gear & Sector



	TAC (mt)	Total Catch (mt)
GOA	438,159	229,661

2012 Pollock Catch in GOA



Pollock Allocations and Catch

Reporting areas	Allocation (mt)	Catch (mt)
610	30,270	27,893
620	45,808	45,058
630	26,348	25,824
640	3,224	2,380

2003 - 2012 Counts of Vessels Targeting GOA Pollock

	Spring 2003	Fall 2003	Spring 2004	Fall 2004	Spring 2005	Fall 2005	Spring 2006	Fall 2006	Spring 2007	Fall 2007	Spring 2008	Fall 2008	Spring 2009	Fall 2009	Spring 2010	Fall 2010	Spring 2011	Fall 2011	Spring 2012	Fall 2012
610	27	21	21	20	23	27	26	23	20	17	15	14	17	19	22	21	20	22	22	26
620	41	29	41	31	46	19	44	20	36	9	36	16	32	23	36	33	40	37	39	53
630	30	35	32	38	38	29	25	29	25	23	23	27	33	31	36	33	31	36	33	42

2012 Pollock Closures

		Open	Closed	Reason
610 Pollock	**A Season**	Jan 20	Mar 10	Season end
	B Season	Mar 10	Apr 1	TAC
	C Season	Aug 25	Sep 10	TAC
	D Season	Oct 1	Oct 12	TAC
		Oct 19	Oct 23	TAC
620 Pollock	**A Season**	Jan 20	Feb 27	TAC
	B Season	Mar 10	Mar 17	TAC
	C Season	Aug 25	Sep 18	TAC
	D Season	Oct 1	Oct 1	TAC
		Oct 24	Nov 1	Season end
630 Pollock	**A Season**	Jan 20	Jan 23	TAC
		Feb 16	Feb 25	TAC
	B Season	Mar 10	Mar 10	TAC
		Mar 21	Mar 24	TAC
	C Season	Aug 25	Oct 1	Season End
	D Season	Oct 1	Oct 20	TAC

2012 Gulf of Alaska Trawl Pacific Cod Catch

2012 Pacific Cod Catch
(Trawl Gear)

- 1 mt - 50 mt
- 51 mt - 100 mt
- 101 mt - 250 mt
- 251 mt - 500 mt
- 501 mt - 1,000 mt
- 1,001 mt +

649
640
630
620
610

Data from the Catch-in-Areas (CIA) Database
Does not include State GHL Pacific Cod Fisheries

2012 Gulf of Alaska Non-Trawl Pacific Cod Catch

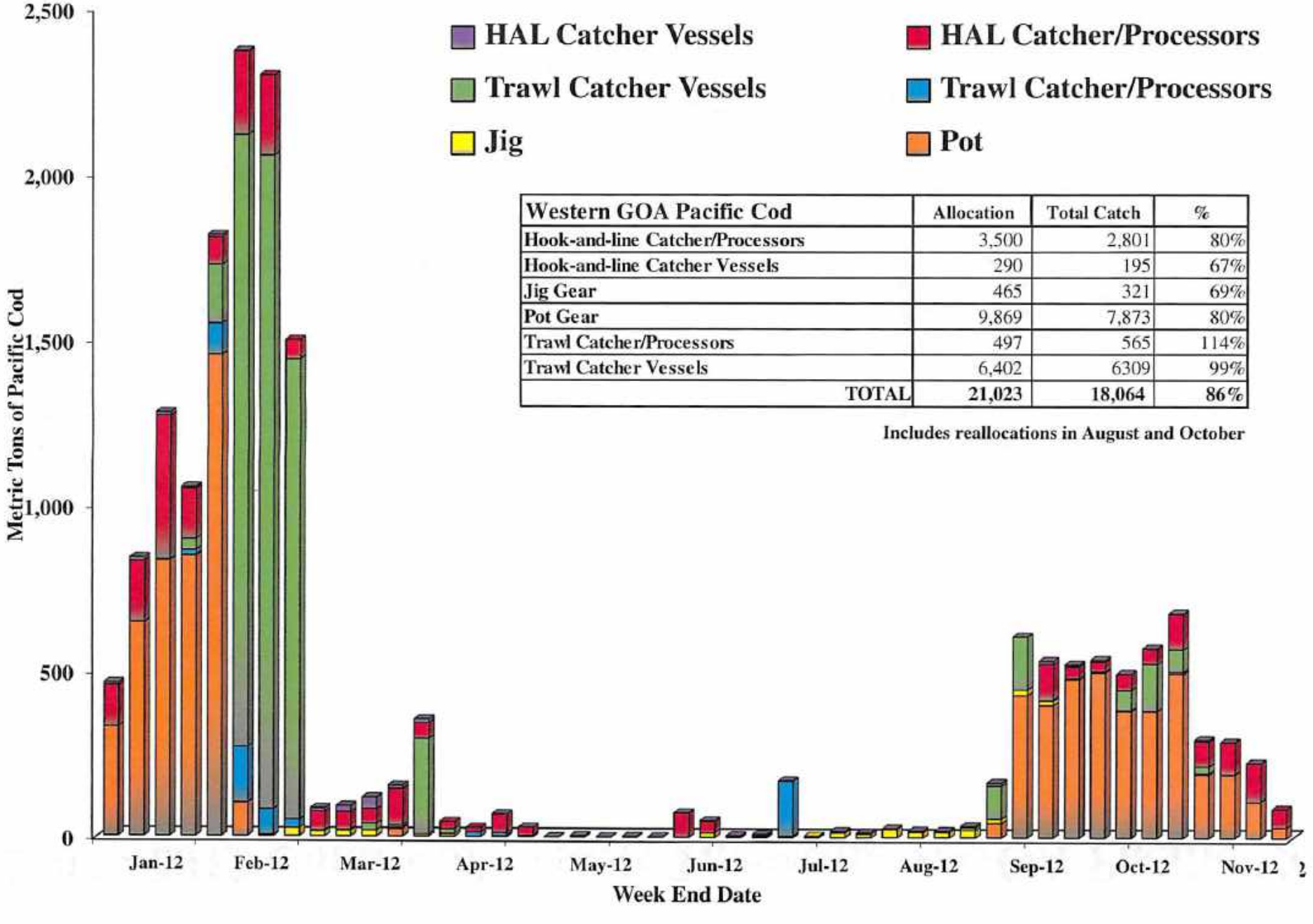
2012 Pacific Cod Catch
(Non-Trawl Gear)

- 1 mt - 50 mt
- 51 mt - 100 mt
- 101 mt - 250 mt
- 251 mt - 500 mt
- 501 mt - 1,000 mt
- 1,001 mt +

649
640
630
620
610

Data from the Catch-in-Areas (CIA) Database
Does not include State GHL Pacific Cod Fisheries

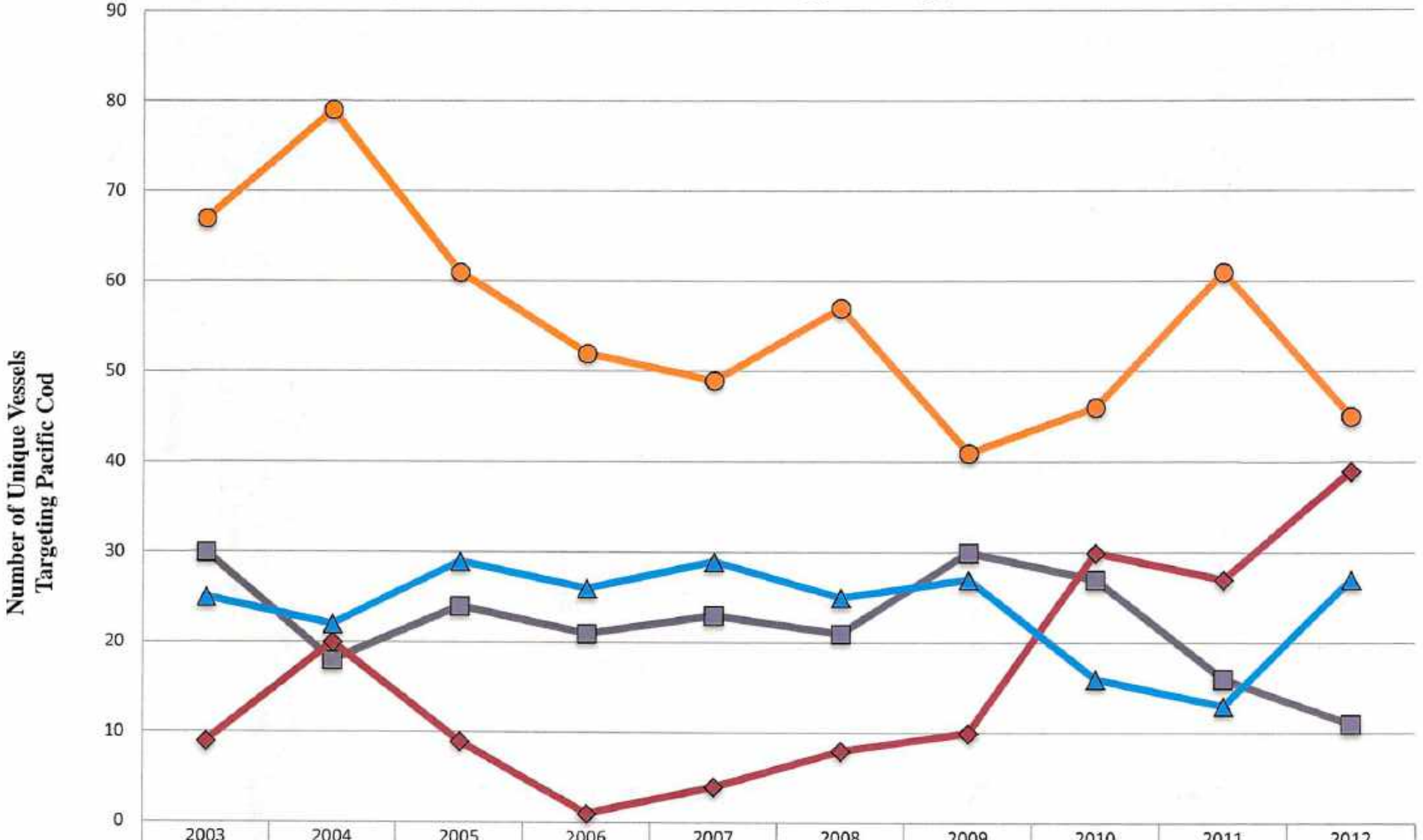
2012 Western Gulf Pacific Cod Catch by Week and Sector



Western GOA Pacific Cod	Allocation	Total Catch	%
Hook-and-line Catcher/Processors	3,500	2,801	80%
Hook-and-line Catcher Vessels	290	195	67%
Jig Gear	465	321	69%
Pot Gear	9,869	7,873	80%
Trawl Catcher/Processors	497	565	114%
Trawl Catcher Vessels	6,402	6309	99%
TOTAL	**21,023**	**18,064**	**86%**

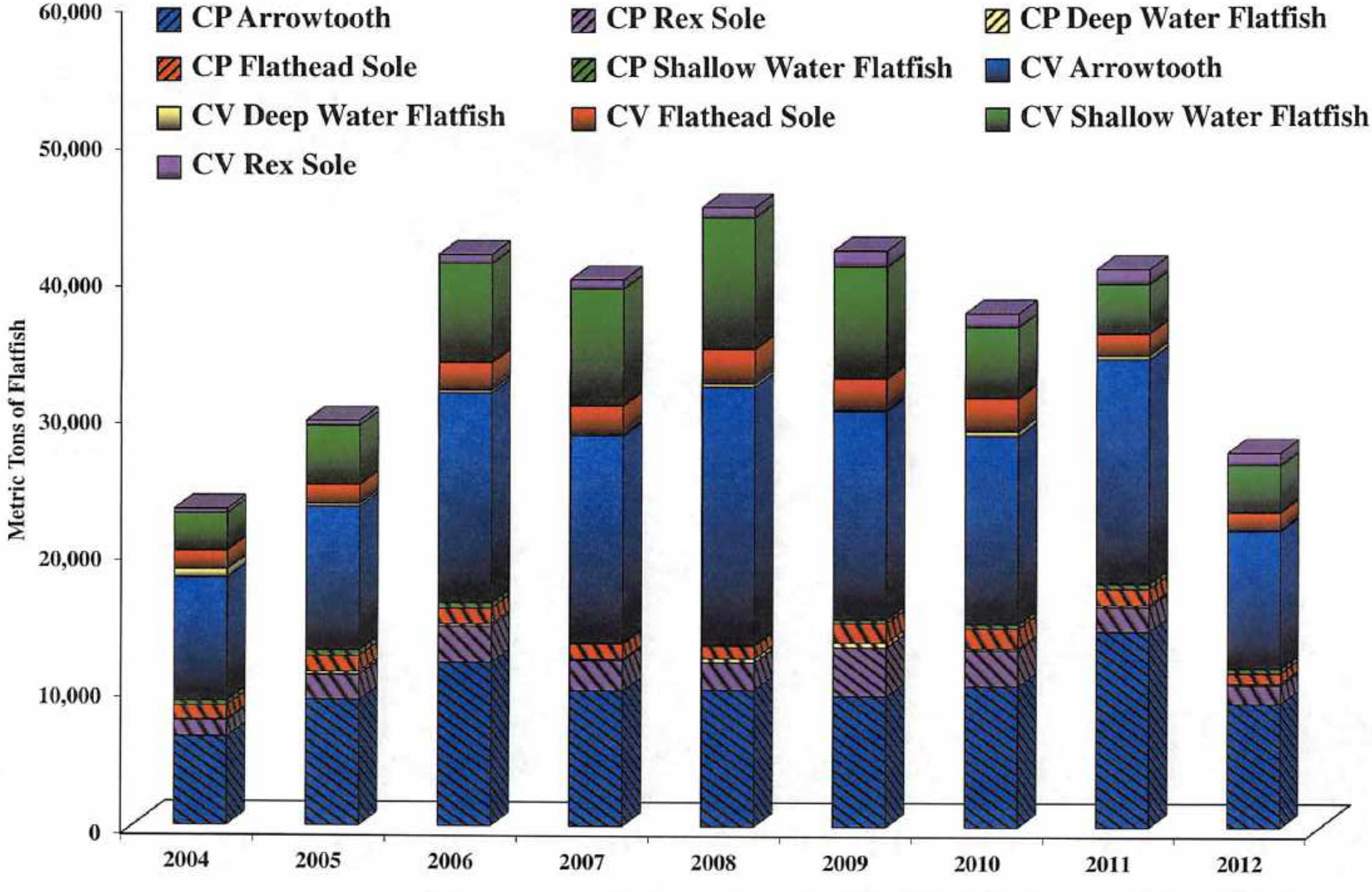
Includes reallocations in August and October

2003 - 2012 Counts of Vessels Targeting WGOA Pacific Cod

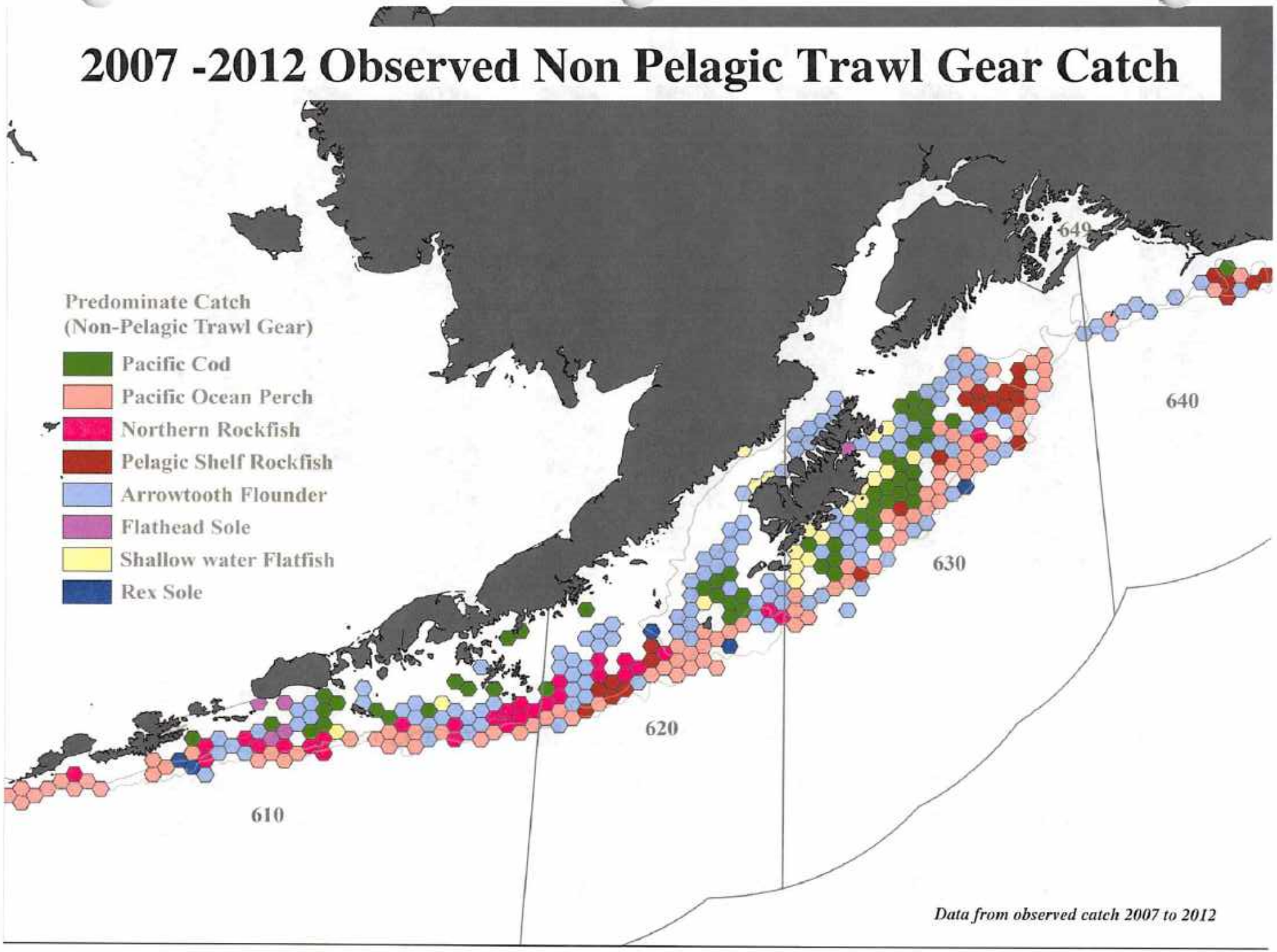


	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
HAL	30	18	24	21	23	21	30	27	16	11
JIG	9	20	9	1	4	8	10	30	27	39
POT	67	79	61	52	49	57	41	46	61	45
TRW	25	22	29	26	29	25	27	16	13	27

2004-2012 GOA Trawl Flatfish Catch by Species



2007 -2012 Observed Non Pelagic Trawl Gear Catch

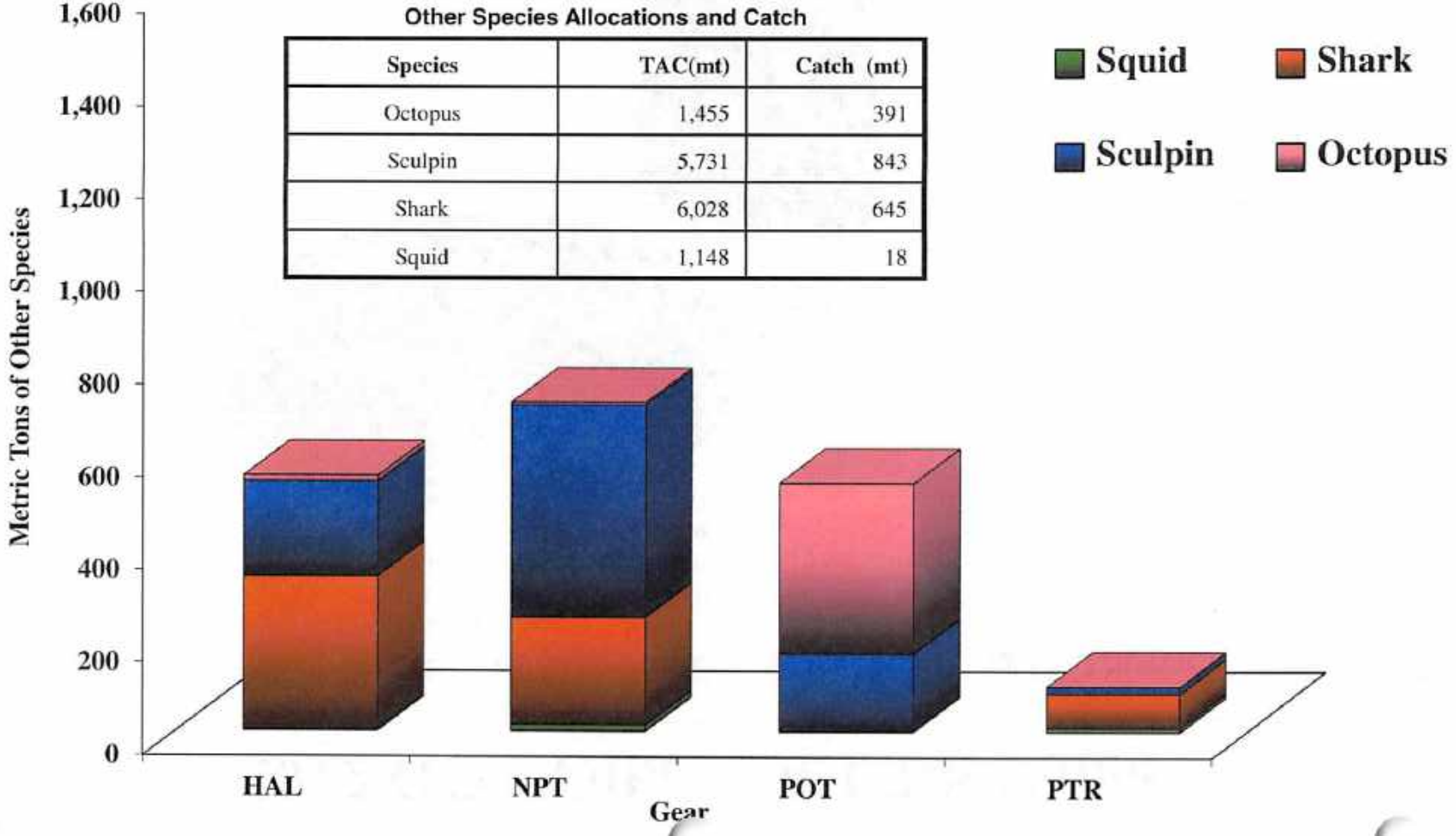


2012 GOA Other Species by Gear

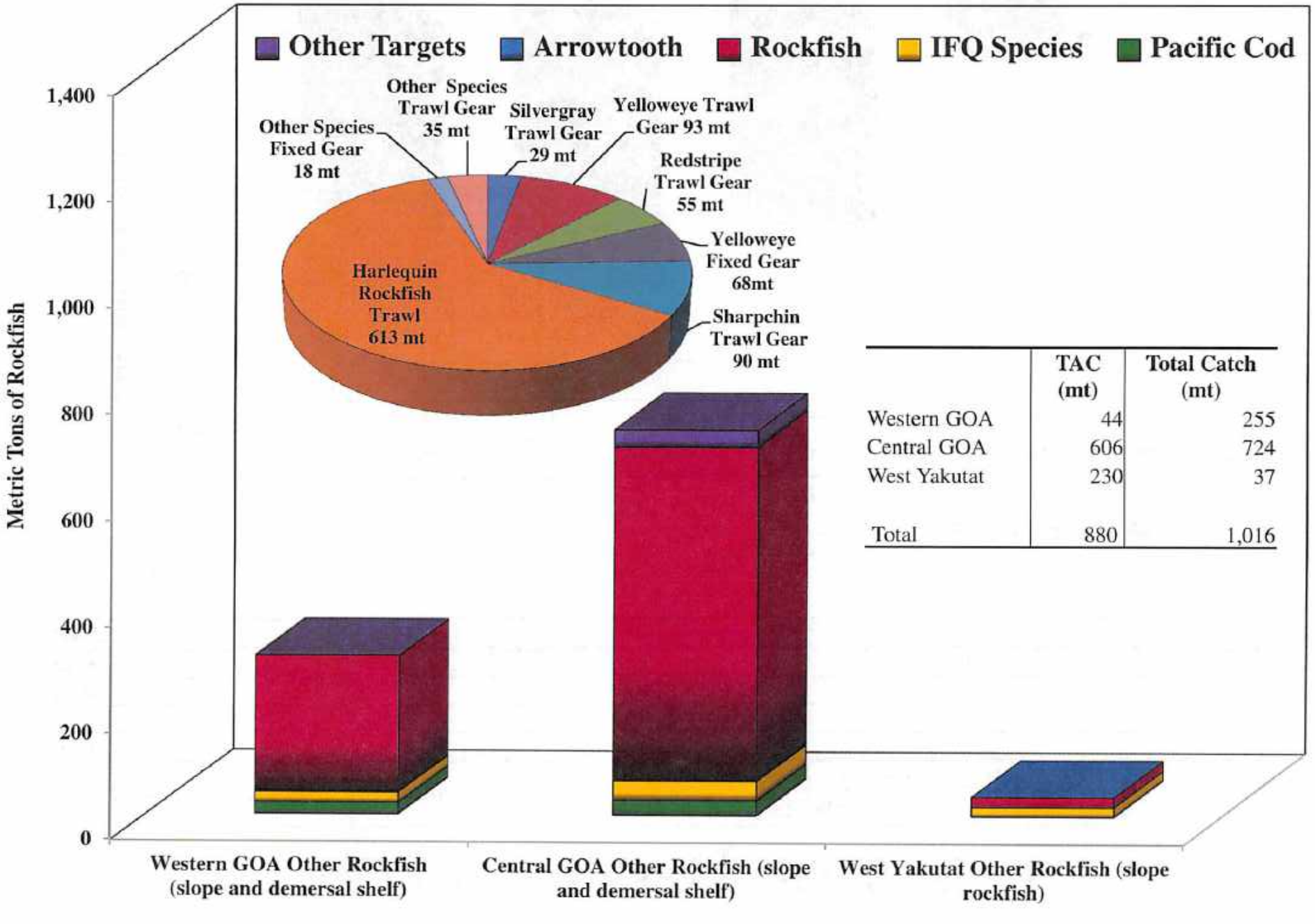
Gear	Octopus	Sculpin	Sharks				Squid
			Salmon Shark	Sleeper Shark	Spiny Dogfish	Other Sharks	
HAL	13	205	0	7	321	4	0
NPT	6	458	< 1	131	96	3	14
POT	368	166	0	0	< 1	0	0
PTR	< 1	15	54	4	13	2	8
TOTAL	**387**	**844**	**54**	**142**	**430**	**9**	**22**

Other Species Allocations and Catch

Species	TAC(mt)	Catch (mt)
Octopus	1,455	391
Sculpin	5,731	843
Shark	6,028	645
Squid	1,148	18

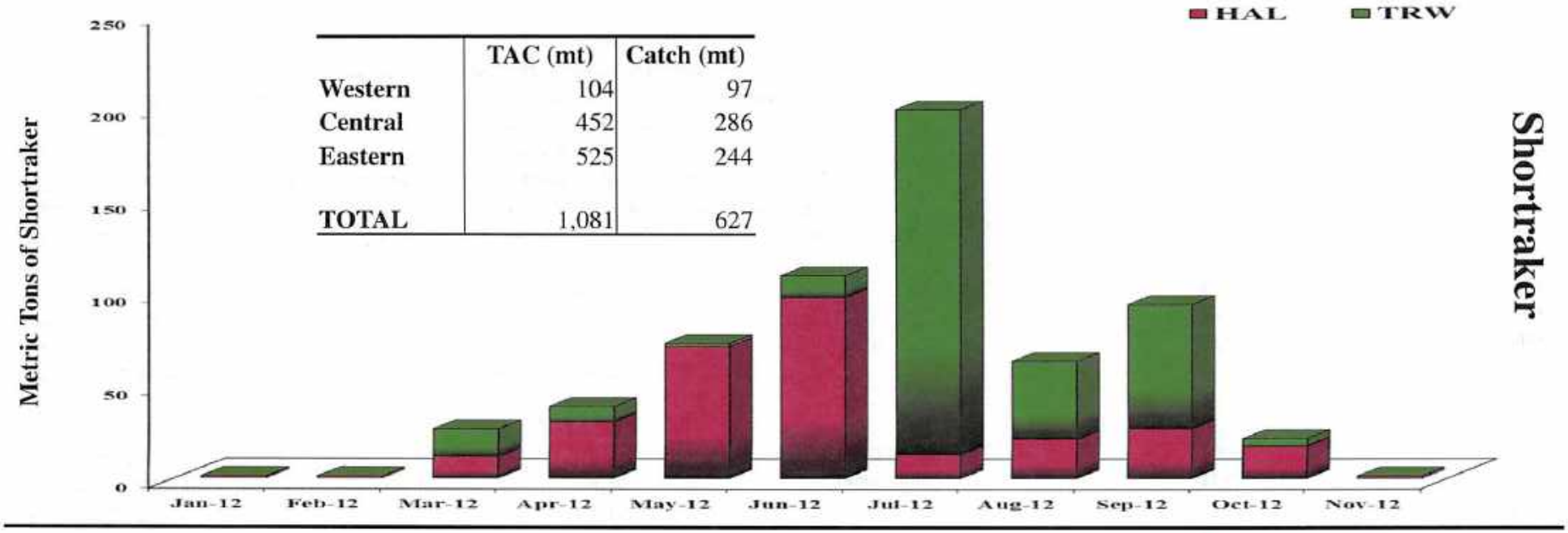


2012 GOA Other Rockfish Catch

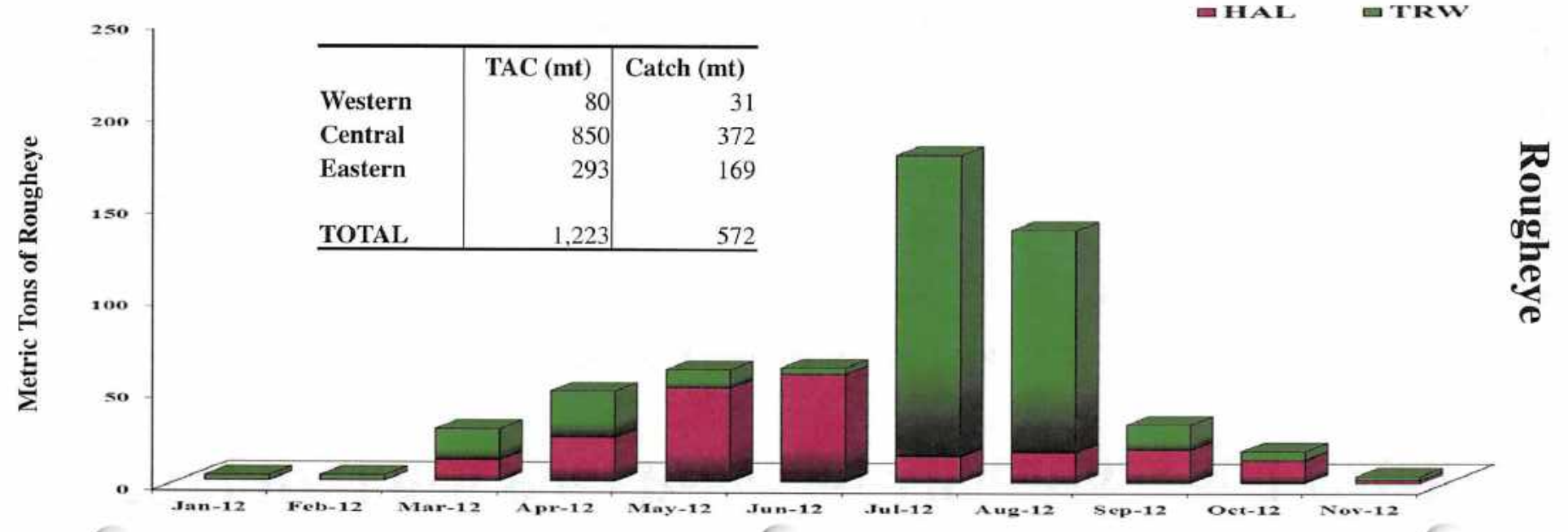


	TAC (mt)	Total Catch (mt)
Western GOA	44	255
Central GOA	606	724
West Yakutat	230	37
Total	880	1,016

2012 GOA Shortraker and Rougheye Rockfish Catch



	TAC (mt)	Catch (mt)
Western	104	97
Central	452	286
Eastern	525	244
TOTAL	1,081	627



	TAC (mt)	Catch (mt)
Western	80	31
Central	850	372
Eastern	293	169
TOTAL	1,223	572

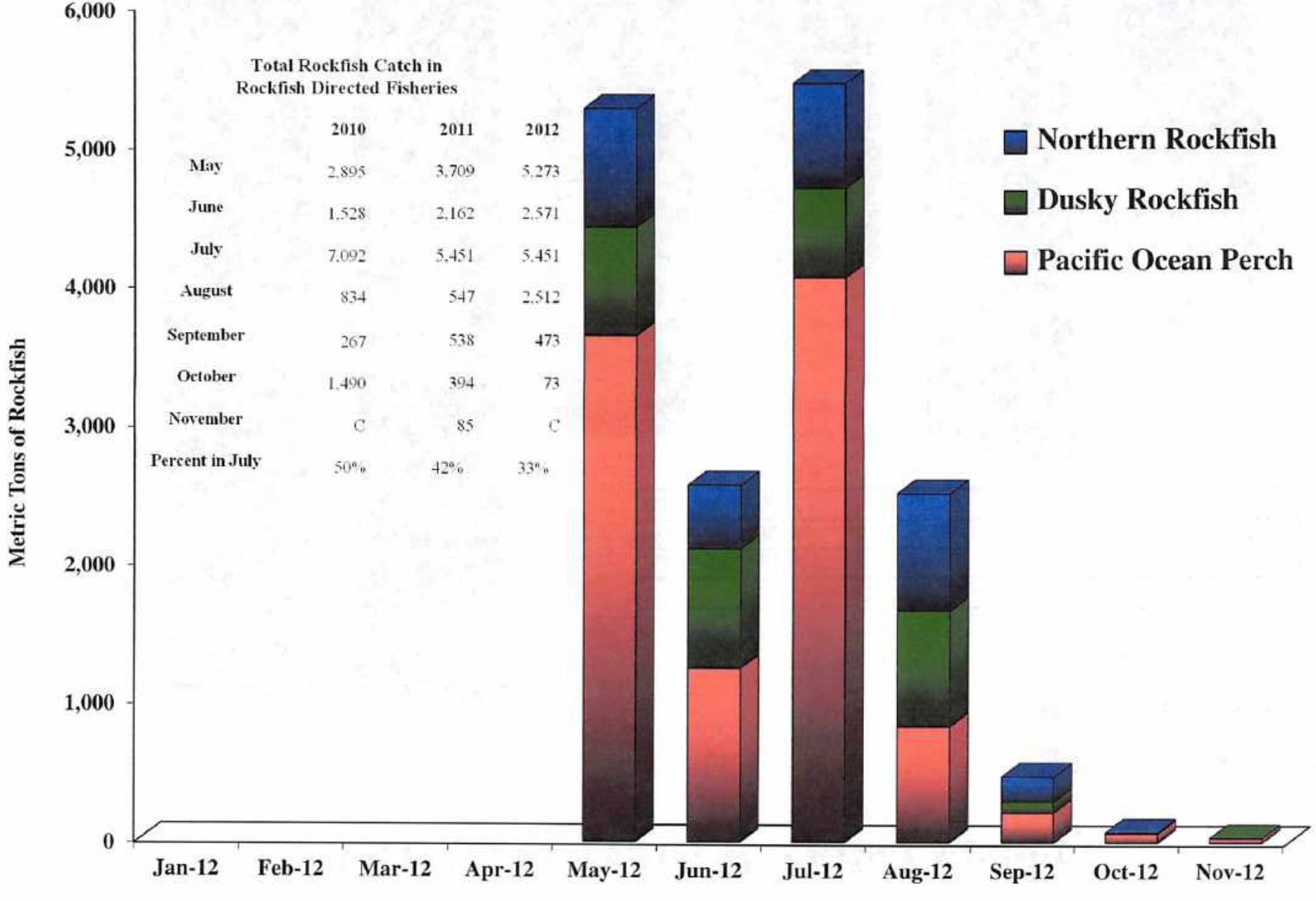
2012 Rockfish Pilot Program Allocations and Catch

Preliminary catch as of December 1, 2012

	Limit	Catch	Percent Caught	Remaining
Entry Level				
Pacific Ocean Perch	5	0	0%	5
Northern Rockfish	5	0	0%	5
Pelagic Shelf Rockfish	30	3	10%	27
Cooperatives				
Pacific Ocean Perch	10,358	10,283	99%	75
Northern Rockfish	3,221	3,100	96%	121
Dusky Rockfish	3,694	3,670	99%	24
Pacific Cod	1,627	796	49%	831
Sablefish	593	567	96%	26
Thornyhead Rockfish	263	84	32%	179
Shortraker Rockfish	181	Confidentail	N/A	N/A
Rougheye Rockfish	500	Confidentail	N/A	N/A
Pacific Halibut	191	88	46%	103
Primary Species Totals Including Central GOA Incidental Catch				
Pacific Ocean Perch	11,263	10,777	96%	486
Northern Rockfish	3,351	3,222	96%	129
Dusky Rockfish	3,849	3,564	93%	285

In 2006, 5 catcher proccesors and 25 trawl catcher vessels targeted rockfish in the Central GOA.
In 2007, 5 catcher proccesors and 27 trawl catcher vessels targeted rockfish in the Program.
In 2008, 6 catcher proccesors and 27 trawl catcher vessels targeted rockfish in the Program.
In 2009, 8 catcher proccesors and 26 trawl catcher vessels targeted rockfish in the Program.
In 2010, 8 catcher proccesors and 27 trawl catcher vessels targeted rockfish in the Program.
In 2011, 5 catcher proccesors and 25 trawl catcher vessels targeted rockfish in the Program.
In 2012, 5 catcher proccesors and 28 trawl catcher vessels targeted rockfish in the Program.

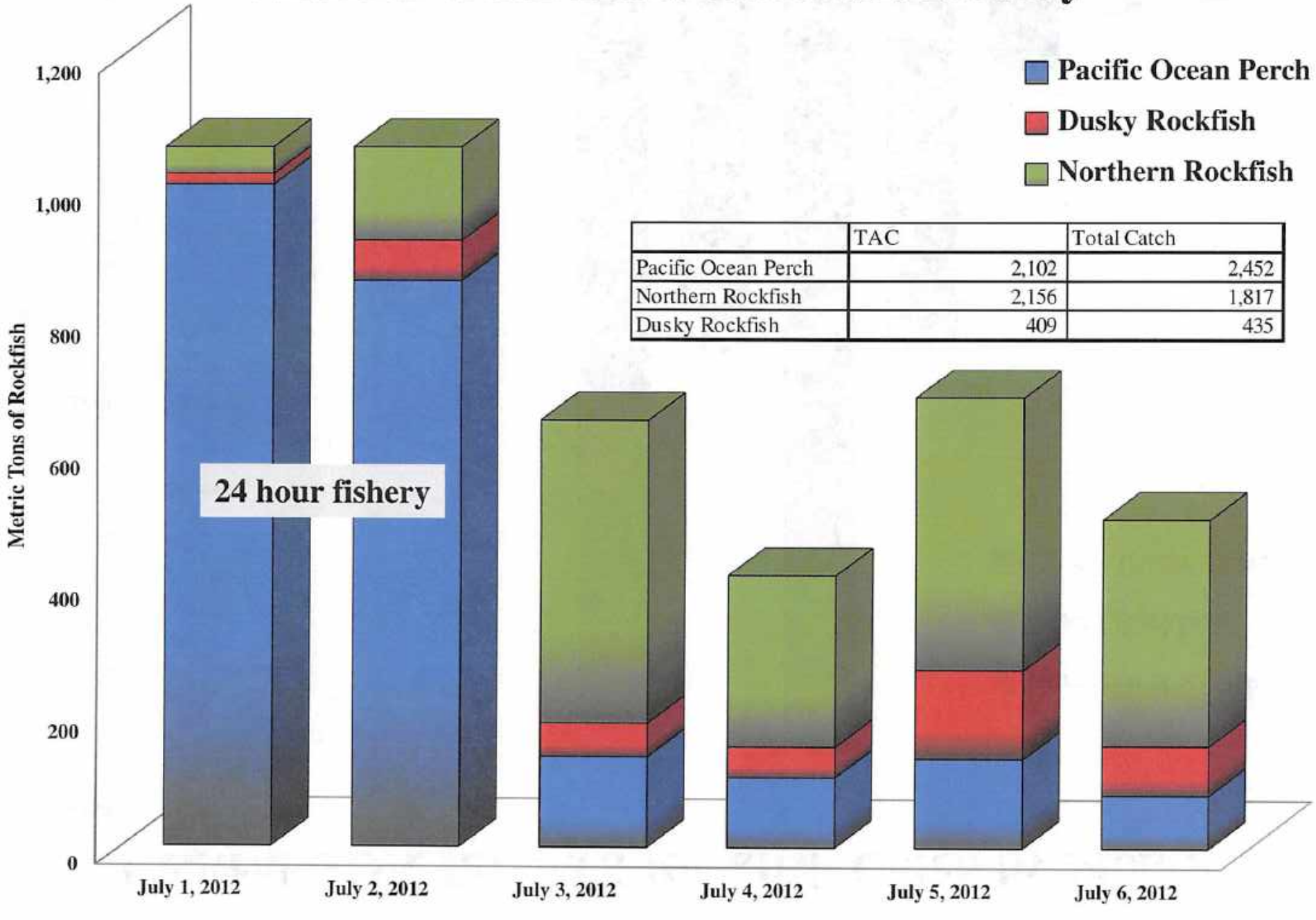
Central GOA Targeted Rockfish Catch by Month



Total Rockfish Catch in Rockfish Directed Fisheries

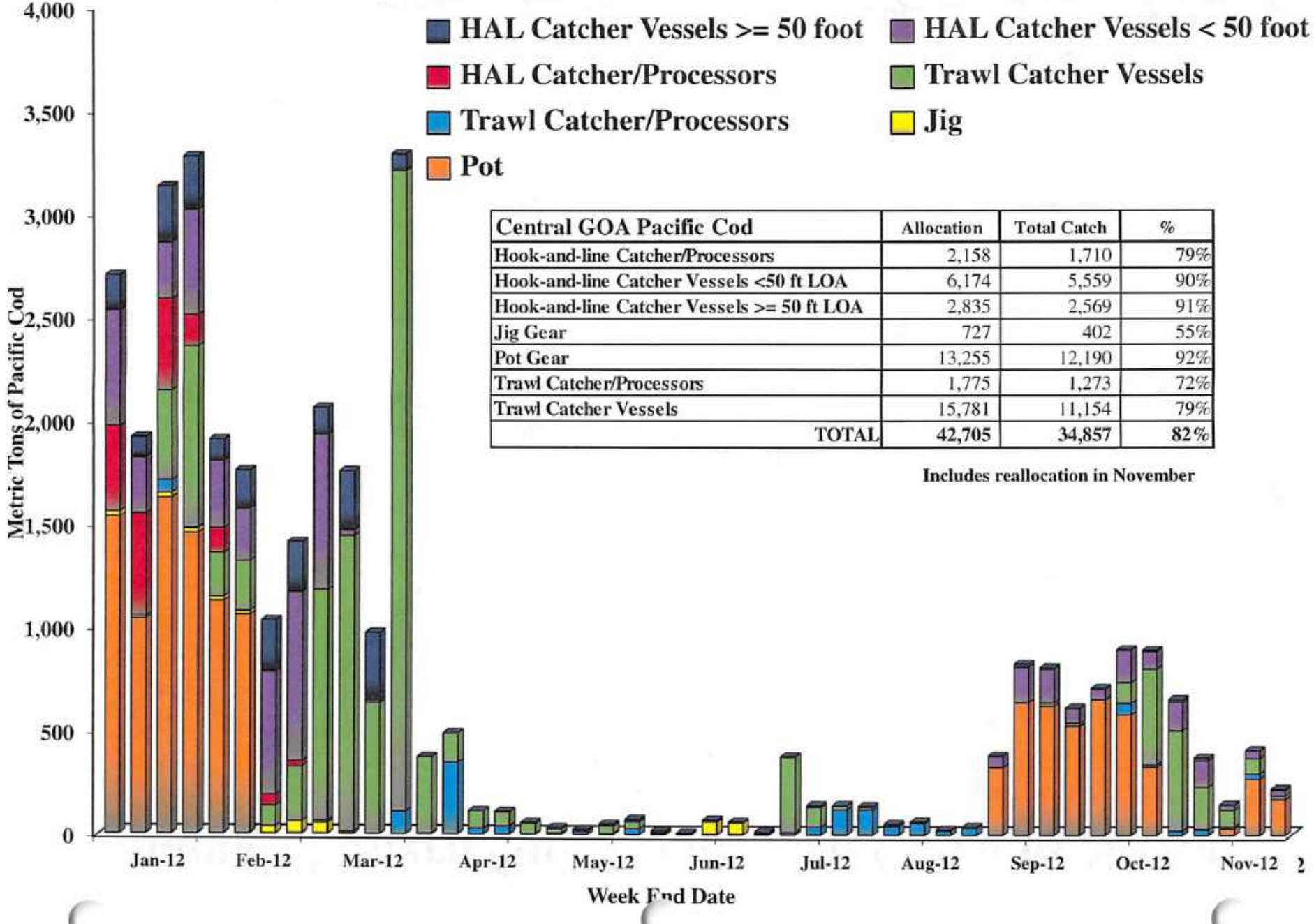
	2010	2011	2012
May	2,895	3,709	5,273
June	1,528	2,162	2,571
July	7,092	5,451	5,451
August	834	547	2,512
September	267	538	473
October	1,490	394	73
November	C	85	C
Percent in July	50%	42%	33%

Western GOA Trawl Rockfish Fishery



	TAC	Total Catch
Pacific Ocean Perch	2,102	2,452
Northern Rockfish	2,156	1,817
Dusky Rockfish	409	435

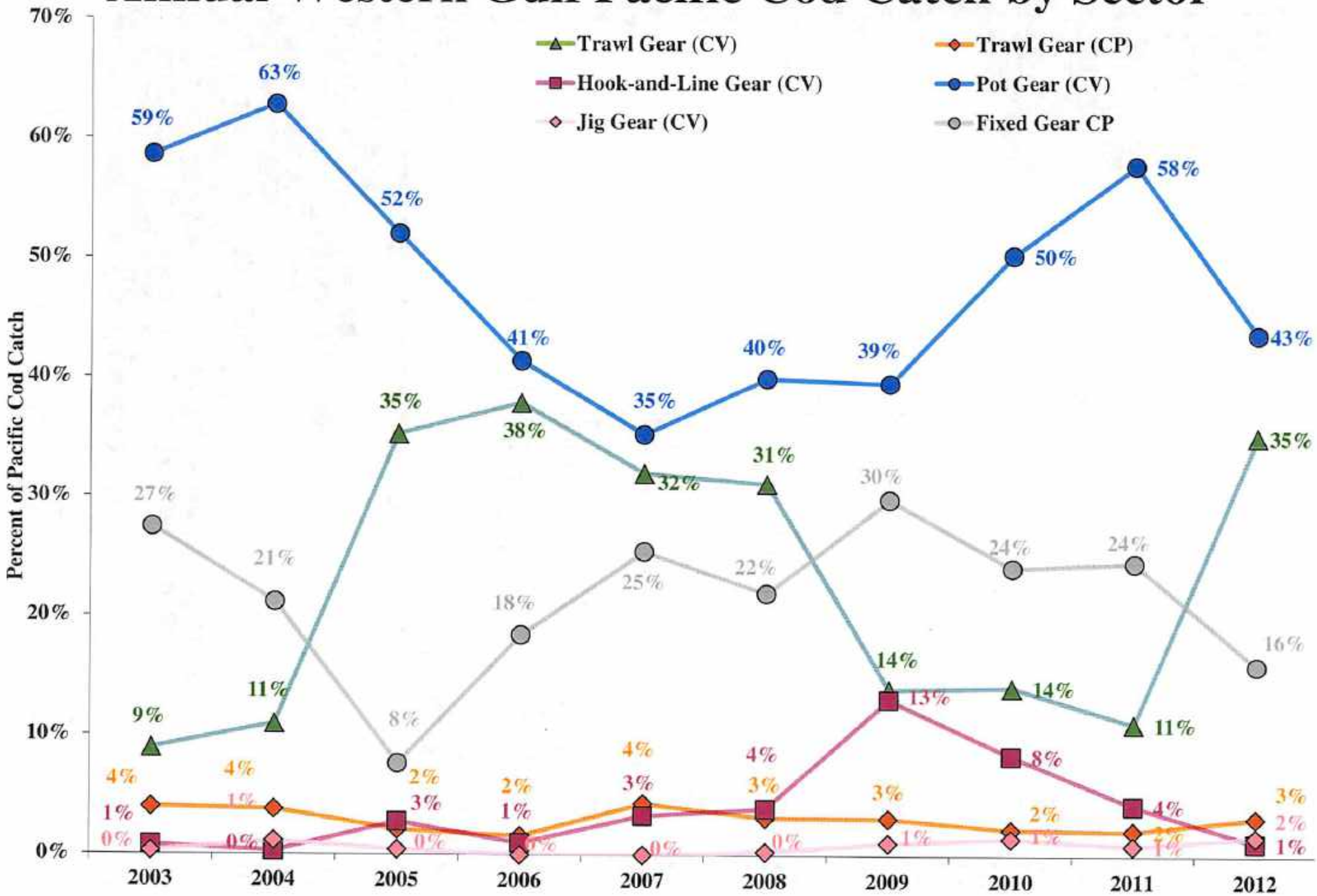
2012 Central Gulf Pacific Cod Catch by Week and Sector



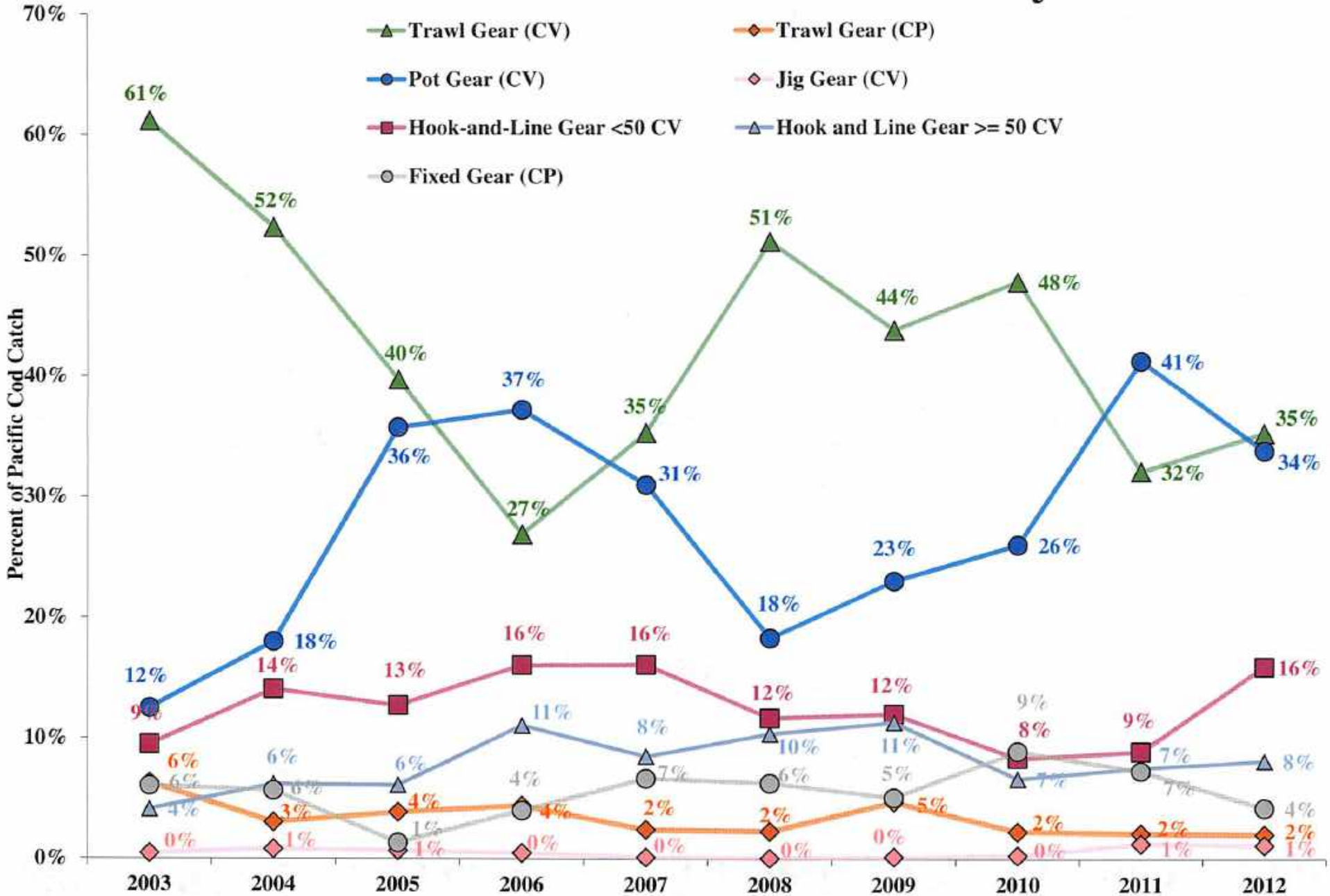
Central GOA Pacific Cod	Allocation	Total Catch	%
Hook-and-line Catcher/Processors	2,158	1,710	79%
Hook-and-line Catcher Vessels <50 ft LOA	6,174	5,559	90%
Hook-and-line Catcher Vessels >= 50 ft LOA	2,835	2,569	91%
Jig Gear	727	402	55%
Pot Gear	13,255	12,190	92%
Trawl Catcher/Processors	1,775	1,273	72%
Trawl Catcher Vessels	15,781	11,154	79%
TOTAL	**42,705**	**34,857**	**82%**

Includes reallocation in November

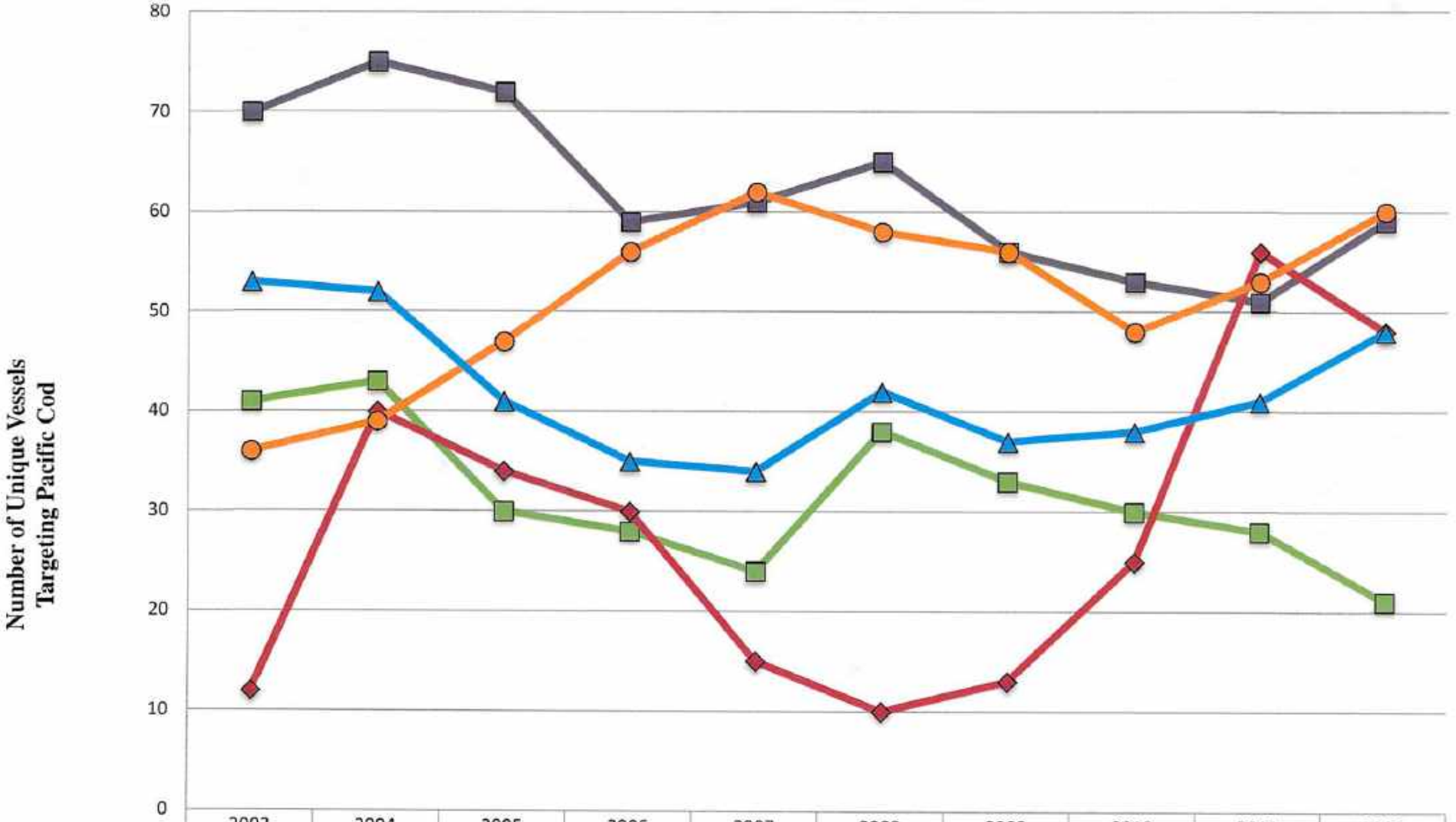
Annual Western Gulf Pacific Cod Catch by Sector



Annual Central Gulf Pacific Cod Catch by Sector



2003 - 2012 Counts of Vessels Targeting CGOA Pacific Cod



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
HAL <50	70	75	72	59	61	65	56	53	51	59
HAL >=50	41	43	30	28	24	38	33	30	28	21
JIG	12	40	34	30	15	10	13	25	56	48
POT	36	39	47	56	62	58	56	48	53	60
TRW	53	52	41	35	34	42	37	38	41	48

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

November 30, 2012

Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Dear Chairman Olson:

At its October 2012 meeting, the North Pacific Fishery Management Council (Council) received a report from the National Marine Fisheries Service (NMFS) on the 2013 Annual Deployment Plan (ADP) for the restructured Groundfish and Halibut Observer Program (Observer Program). This letter addresses several topics in the Council's motion regarding the deployment of observers, outreach, and future review of the program.

Recommended Revisions to the ADP

The intent of the ADP is not to adjust policy, but rather to focus on science driven deployment to meet data needs. However, as outlined in the ADP, the Council may provide input on the priority of particular data collection goals and we will consider adjustments to how observers are deployed in the partial coverage category to achieve these goals. Upon review of the ADP in October, the Council provided several recommendations about the ADP and requested that we report back on the status of these recommendations at the December 2012 meeting.

1. *The Council asked NMFS to reconsider the continuous 3-month deployment for selected vessels in the vessel selection pool. NMFS should implement a 2-month deployment for selected vessels.*

In the ADP presented to the Council in October, we described that the specified period for vessels in the vessel section pool to take observers was a calendar quarter, or 3 months. The 3-month period was based on comments received from industry through the Council's Observer Advisory Committee.

The scientific group responsible for analytical guidance for the deployment of observers evaluated the Council's recommendation. Using simulations of data used to evaluate deployment in the ADP, the unique number of vessels that would have been observed in 2011 increased from 95, if sampled quarterly, to 103 under a 2-month deployment period. However, a

2-month period does conform more closely to fishery openings than quarterly openings. Further, the increase in the number of vessels sampled may improve data quality since we would sample across a wider selection of vessels with participation in more fisheries, areas, and times.

Changing the deployment period to two months does carry potential risks. Decreasing the selection duration will increase costs for the agency since it will increase the number of vessels and the frequency of sending letters and inspecting vessels that request a release from coverage. In addition, part of the rationale for a 3-month time period was related to reducing the potential for vessels to "game" the system and avoid fishing during the selection period. The impact of a 2-month period on "gaming" is unknown.

We believe the risks associated with this recommendation are offset by the potential sampling improvements. **We revised the 2013 ADP to have a 2-month selection period for vessels in the vessel selection pool. For January and February, NMFS selected 9 vessels from the vessel selection pool for observer coverage.**

2. *The Council recommended that the 2013 ADP be revised to reflect a priority for monitoring vessels managed under prohibited species catch (PSC) limits in the trip selection pool. The Council recognized that this would necessarily modify the equal probability sampling design such that higher observer coverage rates are provided in the trip selection pool, and lower rates in the vessel selection pool, compared to what is currently in the ADP.*

The ADP presented to the Council specified an equal sampling rate of 13% across both the vessel and trip select pools. At its October 2012 meeting, the Council recommended a revision to the sampling rate to reflect a priority for monitoring vessels managed under PSC limits in the trip selection pool. This recommendation provides important guidance about the Council's management objectives and priorities concerning the deployment of observers.

In reviewing this request, we considered the impacts a change to the sampling rate would have on overall quality of observer data. The analytical team responsible for developing the ADP carefully considered a number of scientific issues associated with selecting different rates. The group ultimately specified a single sampling rate for both selection pools based on the best available scientific information. Details on this analysis are found on page 8 and 9 of the ADP presented at the October 2012 Council meeting.

The scientific specification of the rate was reviewed by the Council's Scientific and Statistical Committee (SSC) at the October 2012 meeting. In its review, the SSC acknowledged uncertainty and bias regarding the observer effect that is thought to exist in the historical information. Statistical analysis of optimizing sampling schemes requires robust historical information. The SSC indicated the rate for 2013 was likely not optimal with respect to management needs and cost-benefit, and the SSC recommended future analysis of optimization once data are collected.

We agree with the Council that the management of PSC is a priority. In evaluating this priority in terms of deployment for 2013, some trends with respect to PSC were apparent:

- Using simulations of 2011 data, there is a disproportionate loss in observer coverage rates in the vessel selection pool compared to any increase in the trip selection pool. In other words, a 1% drop in the deployment rate for the vessel selection pool does not result in a corresponding 1% increase in the trip selection pool.
- Sampling 2011 "as restructured" would have substantially improved overall PSC estimation for the AKR catch accounting system. The observer coverage is more evenly distributed compared to the draft deployment plan, thus improving the representativeness of the sample across the entire fleet and year.

The magnitude of the improvement to the accuracy and precision of PSC estimation through an increase in the sampling rate for the trip selection pool is uncertain. A change in rate would increase the sample size for trawl, hook-and-line, and pot vessels larger than 57.5 ft length overall (LOA). The change in rate would also decrease the sample size for vessels between 40 ft and 57.5 ft LOA. This increase in sample size may have some benefits in terms of PSC estimation and the amount of data available for inseason management on trawl vessels and hook-and-line vessels larger than 57.5 ft LOA. NMFS considered the impacts of reducing sampling in the vessel selection pool and, due to the large amount of uncertainty, was concerned that a large reduction would negatively impact estimation.

The estimation needs for both the vessel and trip selection pools are important, however, existing data prevents a statistical analysis of how deployment could be optimized to address PSC. A small adjustment to increase the sampling rate in the trip selection pool will increase sample size and will provide in season managers with more information to monitor PSC on large vessels. **Therefore, we will modify the coverage rates for the trip selection and vessel selection pools in the 2013 ADP. A simulation using 2011 fishery landings was used to evaluate the tradeoff between the vessel and trip selection pools. For 2013, we anticipate that the vessel selection pool will have a coverage rate of 11% (a small deviation from the 11% rate is expected due to differences in fishing effort between the 2011 landing information used in the simulations and what will be realized in 2013). We will place the rest of the available coverage days into the trip selection pool. Depending on the number of vessels subject to full coverage in the Bering Sea and Aleutian Islands Pacific cod catcher vessel fleet, we anticipate coverage in the trip selection pool will be between 14-15%.**

Information collected under the restructured Observer Program will better inform future deployment rates. We will revisit this sampling rate as new information and analysis become available.

Industry Requests for Additional Observer Coverage

The Council asked NMFS to work with industry on two areas where there are requests for additional observer coverage:

1. *NMFS and the BSAI Pacific cod catcher vessel trawl fleet should work together to develop a mechanism to allow 100% observer coverage for the 2013 season, with additional costs to be borne by the vessel owners;*

2. *All trawl fleets in the GOA have the option to voluntarily carry 100% observer coverage at some times in the seasons, also with additional costs borne by vessel owners.*

Consistent with current regulations, some catcher vessels in the Bering Sea and Aleutian Islands trawl fishery for Pacific cod have voluntarily taken additional observers in the past to enable their own efforts to manage PSC. These voluntary arrangements have been conducted in agreement with NMFS. We support the industry proposal to carry an observer at all times in this fishery. This proposal will improve the information available to management of the fishery. It will support industry efforts to manage its catch within PSC limits and to minimize bycatch to the extent practicable. The proposal also eliminates the logistical complexities of vessels crossing from full to partial observer coverage, or vice versa.

In the long term, this proposal should be addressed through a regulatory amendment. However, allowing vessels in the partial coverage category to take an observer on all fishing trips under existing regulations in the short term, and possibly through an exempted fishing permit in the interim, will provide valuable information for the elements of a future regulatory amendment.

From an estimation perspective, we would need advance notice of any planned additional coverage so that the necessary programming can be established to properly account for this additional data. Ad-hoc increases in observer coverage could bias estimates in the partial coverage fleet unless properly accounted for. We will work closely with vessel operators to ensure that data from increased observer coverage in the Bering Sea and Aleutian Islands Pacific cod trawl fishery provide useful data to fishery managers and do not bias data in the partial coverage category. Our estimation procedures are set up in advance and changes require staff time for programming. Our ability to commit to the industry proposal will require a firm commitment from industry for the additional coverage. We are unable to make in-season adjustments to the estimation procedures. In addition, large scale coverage increases would also require the observer providers to have lead time and contracts in place to ensure observers would be available. Additional observers place additional training and debriefing responsibilities on NMFS.

To enable trawl catcher vessels in the Bering Sea and Aleutian Islands Pacific cod fishery to take observer coverage in addition to that required for the partial observer coverage category, we request that vessel owners or their designated representative send a letter to NMFS and procure an observer through one of the five certified observer providers. Vessel owners opting to take

additional observer coverage would continue to be required to comply with all applicable regulations, including logging all fishing trips while they meet the requirements for the partial coverage category. In addition, the observer fee liability under § 679.55 would continue to apply.

The letter to NMFS should identify the names and the Federal Fisheries Permit numbers of vessels that will take an observer (100 percent coverage) in 2013. The letter should also state that the vessel owners, vessel operators, or designated representatives agree to and understand the following:

1. individuals taken over and above existing observer coverage requirements are observers as defined at § 679.2;
2. vessel owners and operators will comply with the prohibitions protecting observers that are at § 679.7(g) and will meet the vessel responsibilities described at § 679.51(e);
3. vessel owners and operators are subject to general requirements applicable to observers described at § 600.746;
4. vessel owners or operators must log all fishing trips and follow applicable regulations when they are in the partial coverage category; and
5. landings will be subject to the observer fee under § 679.55.

In terms of allowing fleets in the Gulf of Alaska to have the option of carrying additional observer coverage in the future, we would consider specific requests on a case-by-case basis in 2013. We would follow a model similar to that described above for the Bering Sea and Aleutian Islands Pacific cod trawl fishery, including the recommendation that a regulatory amendment is needed if the Council wishes to offer this opportunity on a long term basis.

First year review and outreach

The Council had several recommendations for topics to be addressed during outreach and in the review of the first year of the program. We will present a summary of experiences with the initial deployment plan at the Council's June 2013 meeting and we will consider each of these recommendations. Finally, the Council recommended that we provide information and outreach on several aspects of the upcoming program. Attached to this letter is a list of outreach meetings on the restructured Observer Program and material that has been mailed to interested parties or is available online at http://www.alaskafisheries.noaa.gov/sustainablefisheries/observers/.

Additionally, we have revised the frequently asked questions (FAQs) to address recent concerns from the public. The main substantive change was that we will now consider an individual fishing quota (IFQ) holder as a crew member for the 2013 observer deployment. This policy change is consistent with Council direction and federal regulations. We made a number of other changes to more clearly explain the process for deploying observers and for releasing a vessel from observer coverage requirements. The revised FAQs are available online at http://www.alaskafisheries.noaa.gov/sustainablefisheries/observers/faq.htm.

We appreciate the input from the Council regarding the 2013 ADP and we expect that the ADP process will become an integrated part of the Council process with considerable opportunity for industry, public, and Council comment and review. Working with the Council, we are committed to implementing the important improvements that have been made to the Observer Program through this restructuring effort.

Sincerely,

James W. Balsiger, Ph.D.
for Administrator, Alaska Region

Recent and Planned Outreach Activities on the Observer Program

Meetings:

- October 31: Seattle WA, Fishing Vessel Owners Association
- November 27- 29: Seattle, Pacific Marine Expo
- November 27: Seattle, Aleutians East Borough meeting
- November 28: Petersburg, public outreach meeting
- December 11: Anchorage, CDQ Group meeting
- December 12: Homer, public outreach meeting
- December 14: Kodiak, public outreach meeting
- December 18: Newport OR, trawler association meeting

Further outreach will be scheduled early in 2013, and NMFS welcomes input on locations where outreach would be helpful.

Printed and online material:

- Letters were sent to owners of all catcher vessels NMFS identified as being in the partial coverage category for some or all of their fishing in 2013. Examples available online: http://www.alaskafisheries.noaa.gov/sustainablefisheries/observers/
- Post cards & flyers were sent to all vessels in vessel selection pool asking for voluntary participation in Electronic Monitoring (EM) Pilot Study. Flyer available online: http://www.alaskafisheries.noaa.gov/sustainablefisheries/observers/empilotstudy.pdf
- Frequently Asked Questions available online: http://www.alaskafisheries.noaa.gov/sustainablefisheries/observers/faq.htm
- Letters were sent to vessels selected for vessel selection in the first 2-month deployment period (will be available online when mailed).
- Letters will be sent to all Federal Fishery Permit holders with a description of the upcoming observer program changes (will be available online when mailed).

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRIDENT SEAFOODS CORPORATION, et. al., Plaintiffs, v. JOHN E BRYSON, et. al. Defendants.	CASE NO. C12-134 MJP ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

This matter comes before the Court on the parties' cross-motions for summary judgment. (Dkt. Nos. 42, 43.) Having reviewed the motions, respective responses and replies (Dkt. Nos. 43, 44, 46), all related papers, and having heard oral argument from the parties on November 19, 2012, the Court GRANTS Defendants' motion and DENIES Plaintiffs' motion.

Background

Plaintiffs own and operate on-shore fish processing plants in Kodiak, Alaska. Asserting claims under the National Environmental Policy Act ("NEPA") and the Magnuson-Stevens Fishery Conservation and Management Act ("MSA"), Plaintiffs sued Defendants National

Marine Fisheries Service, National Oceanic and Atmospheric Administration, and John E. Bryson as Secretary of Commerce (collectively "the Agencies") challenging the adoption of Amendment 88 to the Fishery Management Plan for Groundfish of the Gulf of Alaska ("Amendment 88"). Plaintiffs argue the Agencies violated NEPA by not considering the Rockfish Pilot Program, a management plan whose statutory authority expired in 2011, as a reasonable alternative to the final rule. Other than their preference for the Pilot Program, Plaintiffs do not allege the final rule, Amendment 88, violates the MSA. Instead, Plaintiffs challenge how the Agencies made that decision.

A. Regulatory Framework

In the MSA, Congress found that "[c]ertain stocks of such fish have declined to the point where their survival is threatened" and established a national program for the conservation of fishery resources. 16 U.S.C. §1801(a)(2)(A). Congress stated that this program was "necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats and to realize the full potential of the Nation's resources." 16 U.S.C. § 1801(a)(6). The purposes of the MSA include providing "fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery," and establishing "Regional Fishery Management Councils" that would create, monitor, and review these Fishery Management Plans. 16 U.S.C. § 1801(b)(4), (5). The MSA provides the Secretary with fishery management authority within the exclusive economic zone of the United States. 16 U.S.C. § 1811(a).

The Secretary carries out his management and conservation duties through the National Marine Fisheries Service ("NMFS") and eight Regional Fishery Management Councils established by the MSA. 16 U.S.C. § 1852(a). The Northern Pacific Fishery Management

Council (the "Council") covers the states of Alaska, Washington, and Oregon, and has authority over fisheries in the exclusive economic zone encompassing the Arctic Ocean, Bering Sea, and the Pacific Ocean seaward of Alaska. 16 U.S.C. § 1852(a)(1)(G).

The Council is required to prepare Fishery Management Plans and amendments to those plans as necessary for the fisheries in its area. 16 U.S.C. § 1852(h)(1). The Fishery Management Plans must contain conservation and management measures deemed by the Council to be "necessary and appropriate for the conservation and management of the fishery," and must be consistent with the "national standards" described in the MSA. 16 U.S.C. § 1853(a)(1)(A). In the present case, the Council, under the authority of Section 303(A) of the MSA, enacted a limited access system to allocate fish harvesting privileges among eligible participants through a system of transferable permits that can be sold on the open market. 16 U.S.C. § 1853(a), (b), (c).

In addition to complying with the substantive requirements of the MSA, NEPA requires federal agencies "take a 'hard look' at the potential environmental consequences of the proposed action." Or. Natural Res. Council v. Bureau of Land Mgmt., 470 F.3d 818, 820 (9th Cir. 2006) (quoting Klamath–Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt., 387 F.3d 989, 993 (9th Cir. 2004)). Through these procedural requirements, NEPA seeks to make certain that agencies "will have available, and will carefully consider, detailed information concerning significant environmental impacts, and that the relevant information will be made available to the larger [public] audience." N. Idaho Cmty. Action Network v. U.S. Dep't of Transp., 545 F.3d 1147, 1153 (9th Cir. 2008). To those ends, NEPA specifically requires agencies to consider reasonable alternatives to the proposed action. 42 U.S.C. § 4332(2)(C); Center for Environ. Law & Policy v. U.S. Bureau of Reclamation, 655 F.3d 1000, 1013 (9th Cir. 2011). But, NEPA does not

mandate a particular result or that the federal agency make a particular policy choice. Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 23 (U.S. 2008).

B. Gulf of Alaska Rockfish Fishery

The MSA fishery at issue in this case is the Gulf of Alaska Rockfish Fishery, which contains, among other species, Pacific ocean perch, pelagic shelf rockfish, and northern rockfish. Two management plans are relevant to this case: the Rockfish Pilot Program and its replacement, Amendment 88.

1. Rockfish Pilot Program

In 2003 in response to a "race for fish" and an effort to stabilize the fish populations, Congress enacted P.L. 108-199, mandating the creation of a pilot program to recognize the historic participation of fishing vessels and historic participation of fish processors in the Gulf of Alaska Rockfish Fishery. The mandate required:

> Such a pilot program shall: (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; and (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

Section 802 of P.L. 108-199.

To comply with this mandate, the Council adopted a share-based management program, under which the total allowable catch was apportioned as exclusive shares to cooperatives comprised of catcher vessels and on-shore processors. 50 CFR Part 679. The Pilot Program required catcher vessel cooperatives to form an association with the on-shore processor to which it had historically delivered the most rock-fish. Under this system, known as "fixed linkages,"

catcher vessels could only deliver harvested fish to the on-shore processor within its own cooperative. By requiring a catcher vessel to deliver its entire harvest to a particular processor, the Rockfish Pilot Program guaranteed some on-shore processors a certain portion of the total allowable catch and eliminated their competition for harvested fish to process. Plaintiffs are on-shore processors who participated in, and benefited from, the Rockfish Pilot Program. By the terms of the authorizing legislation, the Rockfish Pilot expired on December 31, 2011.

2. Amendment 88

Before the expiration of the Rockfish Pilot Program, the Council began working on a replacement management plan. Initially, the Council considered extending the Rockfish Pilot Program. In September of 2009, at the request of the Council, the General Counsel for Defendant National Oceanic Atmospheric Administration ("NOAA"), provided a legal opinion about the statutory authority to continue the Rockfish Pilot Program. The General Counsel's opinion advised that any new rockfish management program would need to be developed under the general authority of the MSA. Further, the General Counsel advised Council it could not require fixed linkages between harvesters and on-shore processors, like those contained in the Rockfish Pilot Program, because that arrangement is akin to a processor quota and is not authorized by the MSA. Based on this advice, the Council did not continue to consider fixed linkages.

The Council issued an Environmental Assessment considering four alternatives relating to catcher vessels and on-shore processors. The Rockfish Pilot Program was not considered as an alternative. The Council subsequently issued a Finding of No Significance, indicating the plan would have no environmental impact.

On December 27, 2011, Defendants issued the final rule, Amendment 88. Although Amendment 88 is similar to the Rockfish Pilot Program, one key difference is the removal of the requirement for harvesters to deliver to a specific on-shore processor. Instead, Amendment 88 contains a geographic requirement, permitting catcher vessels to deliver fish only to on-shore processors in Kodiak, Alaska.

C. Procedural History

On January 24, 2012, Plaintiffs sued alleging Amendment 88 violates the MSA and NEPA, arguing the Agencies erred by (1) not including on-shore processing as a definition under the terms "fishing" and "fishery," and (2) failing to authorize Pilot Program's continuation. Additionally, Plaintiffs claim the Agencies should have considered reasonable alternatives to the final rule, including the Rockfish Pilot Program, prepared an environmental impact statement, and considered the effects of all reasonable alternatives on the natural environment and the attendant socio-economic effects. Plaintiffs ask the Court to "vacate the Final Rule implementing Amendment 88" and to reinstate the Rockfish Pilot Program pending reconsideration by the Council and approval by Defendants of a new rule.

Both parties now move for summary judgment.

Discussion

A. Legal Standard

A court shall enter summary judgment in favor of a moving party if "there is no genuine issue as to any material fact and ... the moving party is entitled to a judgment as a matter of law." Fed.R.Civ.P. 56(c).

Compliance with NEPA and MSA is reviewed under the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 701–706. Under the APA, the reviewing court shall set aside agency

actions found to be arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A); Native Ecosystems Council v. Dombeck, 304 F.3d 886, 891 (9th Cir. 2002) (applying APA standard to NEPA and NFMA claims). In determining whether an agency decision was arbitrary and capricious, the reviewing court "must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment." Marsh v. Oregon Natural Res. Council, 490 U.S. 360, 378 (1989). Therefore, in deciding the parties' summary judgment motions, the Court applies the legal standards governing a review conducted pursuant to § 706(2)(A) and determines whether, as a matter of law, the Agencies' decision to approve and proceed with the regulation is arbitrary and capricious or violates the APA, NEPA, MSA, and their implementing regulations. See, e.g., Oregon Natural Res. Council v. Lowe, 109 F.3d 521, 526 (9th Cir. 1997) (applying, in a review of the district court's summary judgment rulings regarding Forest Service's actions, the "arbitrary and capricious" standard to a NFMA challenge and the "hard look" standard to a NEPA challenge).

B. Standing

Plaintiffs lack standing to bring a NEPA claim because their economic concerns fall outside the zone of interests protected by the statute.

Standing in an administrative review case is a two part inquiry. Ashley Creek Phosphate Co. v. Norton, 420 F.3d 934, 937 (9th Cir. 2005). First, Plaintiffs must show they meet Article III standing requirements by showing that the (1) an injury in fact that is both (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) that the injury is fairly traceable to the challenged action of the defendant; and (3) a likelihood that the injury will be redressed by a favorable decision. Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., 528

U.S. 167, 180-81 (2000). The parties do not dispute, and the Court agrees, that Plaintiffs have Article III standing.

Plaintiffs have standing to bring a NEPA claim only if they also can also establish prudential standing, which examines whether "a particular plaintiff has been granted a right to sue by the statute under which he or she brings suit." City of Sausalito v. O'Neill, 386 F.3d 1186, 1199 (9th Cir. 2004). Plaintiffs' NEPA claim is brought under the APA, which states, "a person ... adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof." 5 U.S.C. § 702. The Supreme Court has interpreted this section of the APA as imposing a prudential standing requirement that "the interest sought to be protected by the complainant [must be] arguably within the zone of interests to be protected or regulated by the statute ... in question." Ass'n of Data Processing Serv. Orgs., Inc. v. Camp, 397 U.S. 150, 153 (1970).

The zone of interest protected by NEPA is environmental. Ashley Creek, 420 F.3d 934, 941 (9th Cir. 2005). Consequently, the Ninth Circuit has held that purely economic interests do not fall within NEPA's zone of interests: "[A] plaintiff who asserts purely economic injuries does not have standing to challenge an agency action under NEPA." Nevada Land Action Ass'n, 8 F.3d at 716; see also Ranchers Cattleman v. United States Dep't of Agric., 415 F.3d 1078, 1102 (9th Cir. 2005) (an economic injury alone will not support a claim under NEPA); Western Radio Servs. Co. v. Espy, 79 F.3d 896, 903 (9th Cir. 1996) (holding that a plaintiff whose only complaint was that agency action would cause economic harm asserted an interest outside NEPA's zone of interests); Port of Astoria, 595 F.2d at 475 (holding that injuries that were "only pecuniary losses and frustrated financial expectations that [were] not coupled with environmental considerations" were "outside of NEPA's zone of interests").

Plaintiffs' interests are unquestionably economic, not environmental. According to the Complaint, the adoption of Amendment 88 harmed Plaintiffs by "harming the conservation of the resources and allocating 100% of the rents…to the vessel owners instead of allowing Plaintiffs to share in those rents." (Dkt. No. 14 at ¶4.) To establish standing, Plaintiffs offered the declaration of Joseph Plesha, legal counsel for Trident Seafoods, who speculated as to the potential harm caused by Amendment 88:

> Processors, therefore, will unavoidably bid up the prices for deliveries of rockfish and its associated bycatch such that they will cover only their variable costs of production of rockfish. Virtually all the rents generated by the fishery will no longer be shared by on-shore processors but, instead, will be transferred exclusively to the vessel owners who receive rockfish harvesting quota.

(Dkt. No. 45 at ¶14.) Plesha further explained that for Trident, the economic cost resulting from Amendment has been a nearly tripling of the per pound payment for rockfish and a decrease in "gross margins earned by Trident's plant." (Id. at ¶15.) At oral argument, when asked by the Court if more than money was at stake, Plaintiffs' counsel stated the harm suffered by Plaintiffs was one of market capitalization. Even applying prudential standings' low bar, Plaintiffs' wholly economic interests fall outside of NEPA's environmental zone of interest. See Ashley Creek, 420 F.3d 941 (holding economic interests cannot be swept into NEPA's environmental inquiry).

The Court is not persuaded by Plaintiffs' assertion that so long as they establish standing for the MSA claim, NEPA's standing requirement is also met. In Nevada Land Action Association v. U.S. Forest Service, 8 F. 3d 713 (9th Cir. 1993), the Ninth Circuit rejected this identical argument:

> We reject NLAA's [Nevada Land Action Association's] suggestion that standing under NEPA may be derived from standing under NFMA [Forest Management Practices Act] because the two statutes are interconnected. Although a provision

> of NFMA does require compliance with NEPA, see 16 U.S.C. § 1604(g)(1) (1988), the statutory schemes are entirely separate. The "zone of interests" inquiry would be meaningless if standing under NEPA could be automatically derived from standing under other statutes which refer to NEPA.

Id. 8 F.3d at 716, n. 2. Likewise, here, Plaintiffs must show how their economic concerns fall within NEPA's zone of interest. Since Plaintiffs have failed to meet the burden of prudential standing, their NEPA claim is dismissed.

C. Remaining MSA claim

Without standing to pursue a NEPA challenge to the Agencies' decision-making, Plaintiffs' MSA claim has no legs. As alleged in Plaintiffs' Amended Complaint, the MSA claim is predicated on the Agencies' violation of NEPA:

> The opinion of Defendants with respect to Amendment 88 that on-shore processing is not included in the terms "fishing" and "fishery" is not in accordance with law and caused the Council and Defendants to approve Amendment 88 and to promulgate the Final Rule which arbitrarily and capriciously excluded a reasonable alternative from analysis and consideration under NEPA, thereby violating the requirement in section 304 of the Magnuson-Stevens Act, 16 U.S.C. §1854, that Amendment 88 and the Final Rule comply with applicable law.

(Dkt. No. 14 at ¶14.) Plaintiffs' briefing on summary judgment confirms the inter-relatedness of the claims, stating "Defendants have violated the MSA by not Complying with NEPA." (Dkt. No. 44 at 9.) Thus, Plaintiffs MSA claim only exists to the extent this Court finds a violation of NEPA. Plaintiffs do not argue the MSA independently required the Agencies to consider reasonable alternatives. Nor do they argue Amendment 88 itself is deficient. Because Plaintiffs lack standing for the NEPA challenge, the MSA claim relating to that challenge also fails.

Conclusion

The Court GRANTS Defendants' motion for summary judgment because Plaintiffs lack standing to bring a NEPA claim. Without this Court finding a NEPA violation, their MSA claim

also fails. Plaintiffs' motion for summary judgment is therefore DENIED. The clerk is ordered to provide copies of this order to all counsel.

Dated this 30th day of November, 2012.

Marsha J. Pechman
Chief United States District Judge

Status of FMP Amendments
Timeline for Current Actions

December 2012
Agenda B-2

FMP Amendment Status: Actions Since October 2012	Date of Council Action	Start Regional Review	Transmittal Date of Action to NMFS HQ for Review	Proposed FMP Amendment Notice of Availability Published in *Federal Register*	Proposd Rule Published *in Federal Register*	Final Rule or Notice of Approval Published in *Federal Register*
Amendments 10, 11, and 12 to the Salmon FMP Approved June 29, 2012	10/09 (A 10) 4/11 (A 11) 12/11 (A 12)	PR: 2/22/12 FR: 8/31/12	PR: 3/27/12 **FR: 11/27/12**	April 2, 2012 77 FR 19605 EOC: 6/1/12	April 11, 2012 77 FR 21716 EOC: 5/29/12	
Amendment 31 (KTC) – C-Share Active Participation/application deadline modification	April 2008	PR: 8/22/11				
Amendment 41 (KTC) – Crab regional emergency relief	December 2010	PR: 4/13/12	**PR: 12/4/12**			
Amendment 42 (KTC) – Crab EDR revisions	February 2012	PR: 9/4/12				
Amendment 43 (KTC) and Amendment 103 (BSAI) Pribilof Island Blue King Crab Rebuilding	June 2012					
Amendment 86 (BSAI) and 76 (GOA) Observer Restructuring Approved: June 7, 2012	October 2010	PR: 12/9/11 FR: 9/21/12	PR: 3/8/12 **FR: 10/23/12**	March 14, 2012 77 FR 15019 EOC: 5/14/12	April 18, 2012 77 FR 23326 EOC: 6/18/12	**November 21, 2012** **77 FR 70062** **Effective: 1/1/13**
Amendment 89 (GOA) Tanner crab protection and trawl sweep revisions	October 2010 April 2012	PR: 9/10/12				

Status of FMP Amendments
Timeline for Current Actions

FMP Amendment Status: Actions Since October 2012	Date of Council Action	Start Regional Review	Transmittal Date of Action to NMFS HQ for Review	Proposed FMP Amendment Notice of Availability Published in *Federal Register*	Proposed Rule Published in *Federal Register*	Final Rule or Notice of Approval Published in *Federal Register*
Amendment 94 (GOA) Revise CQE vessel use caps and implement other CQE-related regulatory amds (CQE Omnibus) 1/	October 2011	PR: 7/20/12	**PR: 12/4/12**			
Amendment 95 (GOA) Halibut PSC management	June 2012					
Amendment 97 (BSAI) – Amd 80 lost vessel replacement Approved: June 6, 2012	June 2010	PR: 1/20/12 FR: 7/2/12	PR: 2/29/12 FR: 9/4/12	March 6, 2012 77 FR 13253 EOC: 5/7/12	April 4, 2012 77 FR 20339 EOC: 5/4/12	**October 1, 2012** **77 FR 59582** **Effective: 10/31/12**
Amendments to all FMPs for EFH omnibus related to 5-year review (98/90/40/15/1) **Approved: October 31, 2012**	April 2011	NOA: 6/15/12	NOA: 8/2/12	August 8, 2012 77FR 47356 EOC: 10/9/12	No regulations	**November 6, 2012** **77 FR 66564**
Amendment 99 (BSAI) Revise Freezer Longline LLP License Maximum Length Overall (Vessel Replacement)	October 2012					
Amendment 102 (BSAI) CQE Program in Area 4B (Adak) and Area 4B Fish-up	February 2012 April 2012					

1/ NMFS is consolidating three Council actions on the CQE Program into Amendment 94 and its associated proposed rule. In addition to the CQE vessel use caps, which are the subject of Amendment 94, this action will include the regulatory amendments to allow Area 3A CQEs to purchase D class halibut QS (Council final action in February 2011) and to add three new CQE communities (Council final action in December 2010).

Status of Regulatory Amendments
Timeline for Current Actions

Regulatory Amendment Status: Actions Since October 2012	Date of Council Action	Start Regional Review	Transmittal Date of Action to NMFS HQ for Review	Proposed Rule Published in *Federal Register*	Final Rule Published in *Federal Register*
Groundfish Regulatory Amendments					
Revisions to MRAs in the BSAI arrowtooth flounder fishery	October 2010	PR: 8/12/11	PR: 8/28/12	September 14, 2012 77 FR 56798 EOC: 10/15/12	
Remove GRS	February 2011	PR: 8/11/11 **FR: 11/30/12**	PR: 9/21/12	**October 15, 2012** **77 FR 62482** **EOC: 11/14/12**	
BSAI 2013/2014 Harvest Specifications	Proposed: October 2012	**PR: 10/18/12**	**PR: 11/20/12**		
GOA 2013/2014 Harvest Specifications	Proposed: October 2012	**PR: 10/18/12**	**PR: 11/20/12**		
Control Date for Central GOA Trawl Fisheries (December 31, 2012)	October 2012	**Notice: 11/22/12**	**Notice: 12/4/12**		

Halibut Regulatory Amendments					
Establish new minimum vessel ownership criteria for using hired skipper of 12 months and 20% interest	December 2007	PR: 1/20/12	**PR: 10/12/12**	**October 31, 2012** **77 FR 65843** **EOC: 11/30/12**	
Revise IFQ hired skipper provisions	April 2011	PR: 9/27/12			
Revised Halibut Catch Sharing Plan for Areas 2C and 3A	October 2012				

Bering Sea Aleutian Islands Catch Report (includes CDQ)

Through: 24-NOV-2012

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting

Bering Sea

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Other Rockfish (includes CDQ)	208	500	292	42%	4
	Pacific Ocean Perch (includes CDQ)	5,590	5,710	120	98%	102
	Sablefish (Hook-and-Line and Pot)	485	892	407	54%	1
	Sablefish CDQ (Hook-and-Line and Pot)	160	223	63	72%	0
	Sablefish (Trawl)	86	948	862	9%	0
	Sablefish CDQ (Trawl)	7	84	77	8%	1
	Greenland Turbot	2,877	5,296	2,419	54%	119
	Greenland Turbot CDQ	128	667	539	19%	0
X	Pollock, AFA Inshore	525,291	529,050	3,759	99%	0
X	Pollock, AFA Catcher Processor	423,161	423,240	79	100%	0
X	Pollock, AFA Mothership	105,384	105,810	426	100%	0
X	Pollock CDQ	121,854	121,900	46	100%	0
	Pollock, Incidental Catch, non-Bogoslof (includes CDQ)	28,864	32,400	3,536	89%	334
	Pollock, Incidental Catch, Bogoslof (includes CDQ)	79	500	421	16%	0

Note: All weights are in metric tons.

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Bering Sea Aleutian Islands Catch Report (includes CDQ)

Through: 24-NOV-2012

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting

Aleutian Islands

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Other Rockfish (includes CDQ)	734	570	-164	129%	0
	Pacific Ocean Perch, Eastern	4,983	5,019	36	99%	0
	Pacific Ocean Perch, Eastern CDQ	536	601	65	89%	0
	Pacific Ocean Perch, Central	4,329	4,456	127	97%	0
	Pacific Ocean Perch, Central CDQ	469	534	65	88%	0
	Pacific Ocean Perch, Western	7,402	7,483	81	99%	0
	Pacific Ocean Perch, Western CDQ	838	897	59	93%	0
	Rougheye Rockfish (includes CDQ) - BS + Eastern	77	231	154	33%	0
	Rougheye Rockfish (includes CDQ) - Central + Western	131	244	113	53%	0
	Atka Mackerel, Eastern (Jig)	0	167	167	0%	0
	Atka Mackerel, Eastern ICA	364	430	66	85%	0
X	Atka Mackerel, Eastern (Trawl)	32,913	33,784	871	97%	1
X	Atka Mackerel, Eastern CDQ	4,037	4,120	83	98%	0
X	Atka Mackerel, Central (Trawl)	9,109	9,511	402	96%	0
	Atka Mackerel, Central ICA	75	100	25	75%	0
X	Atka Mackerel, Central CDQ	1,139	1,152	13	99%	0
X	Atka Mackerel, Western (Trawl)	190	1,300	1,110	15%	0
	Atka Mackerel, Western ICA	0	40	40	1%	0
X	Atka Mackerel, Western CDQ	5	161	156	3%	0
	Sablefish (Hook-and-Line and Pot)	833	1,230	397	68%	0
	Sablefish CDQ (Hook-and-Line and Pot)	221	307	86	72%	0
	Sablefish (Trawl)	144	436	292	33%	0
	Sablefish CDQ (Trawl)	4	38	34	11%	0
	Greenland Turbot (includes CDQ)	1,657	2,430	773	68%	0
X	Pollock	0	5,000	5,000	0%	0
X	Pollock CDQ	0	0	0	0%	0
X	Pollock, Incidental Catch (includes CDQ)	972	1,600	628	61%	0

Note: All weights are in metric tons.

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Bering Sea Aleutian Islands Catch Report (includes CDQ)

Through: 24-NOV-2012

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting

Bering Sea Aleutian Islands

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Alaska Plaice (includes CDQ)	16,445	20,400	3,955	81%	99
	Arrowtooth Flounder	21,495	22,325	830	96%	105
	Arrowtooth Flounder CDQ	1,040	2,675	1,635	39%	15
	Flathead Sole	10,781	30,482	19,701	35%	53
	Flathead Sole CDQ	500	3,652	3,152	14%	8
	Kamchatka Flounder (includes CDQ)	9,629	15,045	5,416	64%	37
	Northern Rockfish (includes CDQ)	2,478	4,700	2,222	53%	0
	Other Flatfish (includes CDQ)	3,517	3,600	83	98%	7
X	Pacific Cod, Catcher Processor (Amendment 80)	27,558	33,232	5,674	83%	82
X	Pacific Cod, Catcher Processor (AFA)	6,330	6,621	291	96%	25
X	Pacific Cod, Catcher Vessel (Trawl)	46,580	47,749	1,169	98%	0
X	Pacific Cod, Catcher Processor (Hook-and-Line)	102,819	118,106	15,287	87%	2,115
X	Pacific Cod, Catcher Vessel (Hook-and-Line >= 60 ft)	0	30	30	0%	0
X	Pacific Cod, Catcher Processor (Pot)	4,201	4,284	83	98%	0
X	Pacific Cod, Catcher Vessel (Pot >= 60 ft)	12,493	13,209	716	95%	0
X	Pacific Cod (Jig)	85	463	378	18%	0
	Pacific Cod (Hook-and-Line and Pot < 60 ft)	8,623	8,880	257	97%	0
	Pacific Cod, Incidental Catch (Hook-and-Line and Pot)	123	500	377	25%	0
X	Pacific Cod CDQ	22,870	27,927	5,057	82%	251
	Rock Sole	69,732	77,691	7,959	90%	53
	Rock Sole CDQ	6,164	9,309	3,145	66%	2
	Shortraker Rockfish (includes CDQ)	342	393	51	87%	2
	Yellowfin Sole	130,276	180,386	50,110	72%	968
	Yellowfin Sole CDQ	13,977	21,614	7,637	65%	212
	Octopus (includes CDQ)	133	900	767	15%	0
	Sculpin (includes CDQ)	5,585	5,750	165	97%	26
	Shark (includes CDQ)	91	200	109	45%	2
	Skate (includes CDQ)	23,291	24,700	1,409	94%	318
	Squid (includes CDQ)	691	700	9	99%	1
Total:		**1,833,185**	**1,994,584**	**161,399**	**92%**	**4,944**

Other flatfish: all flatfish except Pacific halibut, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, arrowtooth flounder, and Alaska plaice.

Other rockfish: all Sebastes and Sebastolobus species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

For changes to the harvest specifications refer to http://alaskafisheries.noaa.gov/2012/hschanges.htm

Note: All weights are in metric tons.

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Gulf of Alaska Catch Report

Through: 24-NOV-2012

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting

Western, Central Pollock

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
X	Pollock, 610 Shumagin	27,893	30,270	2,377	92%	0
X	Pollock, 620 Chirikof	45,074	45,808	734	98%	16
X	Pollock, 630 Kodiak	25,862	26,348	486	98%	38

Western Gulf

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Arrowtooth Flounder	1,257	14,500	13,243	9%	0
	Deep Water Flatfish	5	176	171	3%	0
	Shallow Water Flatfish	153	13,250	13,097	1%	0
	Flathead Sole	277	8,650	8,373	3%	0
	Rex Sole	215	1,307	1,092	16%	0
	Pacific Ocean Perch	2,452	2,102	-350	117%	0
	Rougheye Rockfish	31	80	49	39%	0
	Shortraker Rockfish	96	104	8	93%	0
	Thornyhead Rockfish	187	150	-37	125%	0
	Dusky Rockfish	435	409	-26	106%	0
	Northern Rockfish	1,817	2,156	339	84%	0
	Other Rockfish	255	44	-211	580%	0
	Pacific Cod	18,134	21,024	2,890	86%	31
	Sablefish (Hook-and-Line)	1,336	1,424	88	94%	0
	Sablefish (Trawl)	62	356	294	17%	0
	Big Skate	65	469	404	14%	1
	Longnose Skate	33	70	37	48%	1

Note: All weights are in metric tons.

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Gulf of Alaska Catch Report **Through:** 24-NOV-2012	**National Marine Fisheries Service** **Alaska Region, Sustainable Fisheries** **Catch Accounting**

Central Gulf

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Arrowtooth Flounder	19,036	75,000	55,964	25%	454
	Deep Water Flatfish	269	2,308	2,039	12%	4
	Shallow Water Flatfish	3,752	18,000	14,248	21%	34
	Flathead Sole	1,791	15,400	13,609	12%	51
	Rex Sole	2,120	6,412	4,292	33%	37
	Pacific Ocean Perch	10,777	11,263	486	96%	1
	Rougheye Rockfish	372	850	478	44%	1
	Shortraker Rockfish	286	452	166	63%	0
	Dusky Rockfish	3,565	3,849	284	93%	1
	Northern Rockfish	3,222	3,351	129	96%	0
	Thornyhead Rockfish	344	766	422	45%	0
	Other Rockfish	724	606	-118	120%	0
	Pacific Cod	36,079	42,705	6,626	84%	228
	Sablefish (Hook-and-Line)	4,565	4,608	43	99%	0
	Sablefish (Trawl)	731	1,152	421	63%	1
	Big Skate	1,772	1,793	21	99%	40
	Longnose Skate	747	1,879	1,132	40%	18

Eastern Gulf

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Rougheye Rockfish	169	293	124	58%	0
	Shortraker Rockfish	244	525	281	46%	0
	Thornyhead Rockfish	217	749	532	29%	0
	Pacific Cod	338	1,971	1,633	17%	0
	Big Skate	38	1,505	1,467	3%	0
	Longnose Skate	79	676	597	12%	0

Note: All weights are in metric tons.

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West Yakutat

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Arrowtooth Flounder	32	6,900	6,868	0%	0
	Deep Water Flatfish	4	1,581	1,577	0%	0
	Shallow Water Flatfish	0	4,307	4,307	0%	0
	Flathead Sole	0	4,558	4,558	0%	0
	Rex Sole	0	836	836	0%	0
	Pacific Ocean Perch	1,682	1,692	10	99%	0
	Dusky Rockfish	2	542	540	0%	0
	Other Rockfish	37	230	193	16%	0
	Pollock	2,380	3,244	864	73%	0
	Sablefish (Hook-and-Line)	1,964	1,976	12	99%	0
	Sablefish (Trawl)	66	271	205	24%	0

Southeast

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Arrowtooth Flounder	73	6,900	6,827	1%	0
	Deep Water Flatfish	2	1,061	1,059	0%	0
	Shallow Water Flatfish	0	1,472	1,472	0%	0
	Flathead Sole	0	1,711	1,711	0%	0
	Rex Sole	0	1,057	1,057	0%	0
	Pacific Ocean Perch	0	1,861	1,861	0%	0
	Dusky Rockfish	6	318	312	2%	0
	Other Rockfish	24	200	176	12%	0
	Pollock	0	10,774	10,774	0%	0
	Demersal Shelf Rockfish	178	293	115	61%	0
	Sablefish (Hook-and-Line)	3,191	3,173	-18	101%	0

Entire Gulf

Seasons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Week Catch
	Atka Mackerel	1,187	2,000	813	59%	0
	Octopus	395	1,455	1,060	27%	3
	Sculpin	848	5,731	4,883	15%	5
	Shark	655	6,028	5,373	11%	7
	Other Skates	1,158	2,030	872	57%	11
	Squid	18	1,148	1,130	2%	0
Total:		**230,777**	**438,159**	**207,382**	**53%**	**980**

Note: All weights are in metric tons.

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Deep water flatfish: Dover sole, Greenland turbot, Kamchatka flounder, and deepsea sole.

Shallow water flatfish: flatfish not including deep water flatfish, flathead sole, rex sole, or arrowtooth flounder.

Other rockfish in the Western and Central Regulatory Areas and in the West Yakutat District: slope rockfish and demersal shelf rockfish.

Other rockfish in the Southeast Outside District: slope rockfish.

Slope rockfish: aurora, blackgill, bocaccio, chilipepper, darkblotch, greenstriped, harlequin, pygmy, redbanded, redstripe, sharpchin, shortbelly, silvergrey, splitnose, stripetail, vermilion, widow, yellowtail, and yellowmouth.

In the Eastern GOA only, "slope rockfish" also includes northern rockfish.

Demersal shelf rockfish: canary, china, copper, quillback, rosethorn, tiger, and yelloweye.

For changes to the harvest specifications refer to http://alaskafisheries.noaa.gov/2012/hschanges.htm

Note: All weights are in metric tons.

Gulf of Alaska
Seasonal Non-Sideboard Catch Report

Through: 24-Nov-2012 **Account:** ALL

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting

Western Gulf

WGOA Pcod HAL C/P

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-Jan-2012	10-Jun-2012	2,029	2,257	228	90%
Between A and B	10-Jun-2012	01-Sep-2012	34	0	-34	0%
B	01-Sep-2012	31-Dec-2012	808	1,243	435	65%
Total:			**2,871**	**3,500**	**629**	**82%**

WGOA Pcod HAL CV

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-Jan-2012	10-Jun-2012	129	145	16	89%
Between A and B	10-Jun-2012	01-Sep-2012	30	0	-30	0%
B	01-Sep-2012	31-Dec-2012	36	145	109	25%
Total:			**195**	**290**	**95**	**67%**

WGOA Pcod Jig

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
	01-Jan-2012	10-Jun-2012	117	189	72	62%
B	10-Jun-2012	31-Dec-2012	204	276	72	74%
Total:			**321**	**465**	**144**	**69%**

WGOA Pcod Pot

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-Jan-2012	10-Jun-2012	4,225	4,100	-125	103%
Between A and B	10-Jun-2012	01-Sep-2012	44	0	-44	0%
B	01-Sep-2012	31-Dec-2012	3,604	5,769	2,165	62%
Total:			**7,873**	**9,869**	**1,996**	**80%**

WGOA Pcod Trawl C/P

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-Jan-2012	10-Jun-2012	400	186	-214	215%
Between A and B	10-Jun-2012	01-Sep-2012	165	0	-165	0%
B	01-Sep-2012	01-Nov-2012	0	311	311	0%
After B	01-Nov-2012	31-Dec-2012	0	0	0	0%
Total:			**565**	**497**	**-68**	**114%**

Note: All weights are in metric tons.

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Gulf of Alaska
Seasonal Non-Sideboard Catch Report

Through: 24-Nov-2012 **Account:** ALL

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting

WGOA Pcod Trawl CV

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-Jan-2012	10-Jun-2012	5,752	5,736	-16	100%
Between A and B	10-Jun-2012	01-Sep-2012	92	0	-92	0%
B	01-Sep-2012	01-Nov-2012	466	666	200	70%
After B	01-Nov-2012	31-Dec-2012	0	0	0	0%
Total:			**6,309**	**6,402**	**93**	**99%**

Note: All weights are in metric tons.

Report run on: November 30, 2012 2:12 PM

Gulf of Alaska
Seasonal Non-Sideboard Catch Report

Through: 24-Nov-2012 **Account:** ALL

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting

Central Gulf

CGOA Pcod HAL C/P

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-Jan-2012	10-Jun-2012	1,707	1,736	29	98%
Between A and B	10-Jun-2012	01-Sep-2012	1	0	-1	0%
B	01-Sep-2012	31-Dec-2012	17	422	405	4%
Total:			**1,725**	**2,158**	**433**	**80%**

CGOA Pcod HAL CV <50

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-Jan-2012	10-Jun-2012	4,406	3,938	-468	112%
Between A and B	10-Jun-2012	01-Sep-2012	18	0	-18	0%
B	01-Sep-2012	31-Dec-2012	1,188	2,235	1,047	53%
Total:			**5,613**	**6,173**	**560**	**91%**

CGOA Pcod HAL CV >= 50

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
	01-Jan-2012	10-Jun-2012	2,459	2,372	-87	104%
Between A and B	10-Jun-2012	01-Sep-2012	40	0	-40	0%
B	01-Sep-2012	31-Dec-2012	70	464	394	15%
Total:			**2,569**	**2,836**	**267**	**91%**

CGOA Pcod Jig

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-Jan-2012	10-Jun-2012	274	256	-18	107%
B	10-Jun-2012	31-Dec-2012	129	471	342	27%
Total:			**402**	**727**	**325**	**55%**

CGOA Pcod Pot

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-Jan-2012	10-Jun-2012	7,820	7,538	-282	104%
Between A and B	10-Jun-2012	01-Sep-2012	35	0	-35	0%
B	01-Sep-2012	31-Dec-2012	4,477	5,717	1,240	78%
Total:			**12,333**	**13,255**	**922**	**93%**

CGOA Pcod Trawl C/P

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
	20-Jan-2012	10-Jun-2012	665	847	182	78%

Note: All weights are in metric tons.

Report run on: November 30, 2012 2:12 PM

CGOA Pcod Trawl C/P

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
Between A and B	10-Jun-2012	01-Sep-2012	443	0	-443	0%
B	01-Sep-2012	01-Nov-2012	119	928	809	13%
After B	01-Nov-2012	31-Dec-2012	59	0	-59	0%
Total:			**1,286**	**1,775**	**489**	**72%**

CGOA Pcod Trawl CV

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-Jan-2012	10-Jun-2012	9,186	8,936	-250	103%
Between A and B	10-Jun-2012	01-Sep-2012	494	0	-494	0%
B	01-Sep-2012	01-Nov-2012	1,357	5,218	3,861	26%
After B	01-Nov-2012	31-Dec-2012	126	0	-126	0%
Total:			**11,163**	**14,154**	**2,991**	**79%**

Note: All weights are in metric tons.

Supplemental

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

November 28, 2012

Eric Olson, Chair
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Olson:

In April of 2012, the North Pacific Fishery Management Council adopted a formal policy for Essential Fish Habitat (EFH) consultation. As part of the policy the Council requested regular reports from the National Marine Fisheries Service (NMFS) on EFH consultations that may be of interest to the fishing industry, and/or that may affect habitats of direct concern to the Council. It was established that NMFS should provide these reports on a biannual basis and that the reports should focus on major consultations, with a brief summary of routine activities with minor effects on EFH. Additionally, the Council has requested that NMFS provide advance notice for those activities that could have major effects on EFH, so that the Council can decide whether to consult on the activity. The enclosed documents respond to the Council's request. We look forward to discussing this with the Council during the NMFS Management Report (agenda item B-2) at the December meeting.

Sincerely,

for J/B

James W. Balsiger, Ph.D.
Administrator, Alaska Region

Enclosure

Overview of the Interagency Consultations in FY 2012 of Actions that May Adversely Affect Essential Fish Habitat in Alaska

Prepared for the North Pacific Fishery Management Council
by the National Marine Fisheries Service
Alaska Region, November 2012

Background

In 1996 Congress added new habitat provisions to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Section 303(a)(7) of the amended MSA required that every fishery management plan (FMP) describe and identify EFH[1] for federally managed species, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH. The 1996 amendments to the MSA also directed the Secretary to develop by regulation guidelines to assist the Fishery Management Councils in developing the EFH components of FMPs. NMFS issued an interim final rule with such guidelines in 1997 and a final rule in 2002. The EFH provisions of the MSA were not changed by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

Section 305(b) of the MSA requires federal agencies to consult with the Secretary regarding all actions or proposed actions authorized, funded, or undertaken by the agency that may adversely affect EFH. NMFS is required to provide conservation recommendations regarding any federal or state agency action that would adversely affect EFH. Action agencies do not have to follow NMFS's recommendations. As specified by Section 305(b)(4) of the MSA, federal agencies must respond in writing to any NMFS EFH conservation recommendations, and in the case of a decision that is inconsistent with NMFS's advice, the action agency must explain its reasons for not following the recommendations. The EFH regulations establish the procedures for coordination, consultations, and recommendations regarding proposed actions that may adversely affect EFH (50 CFR Part 600, Subpart K).

Under section 305(b)(3)(A) of the MSA, Councils may comment on and make recommendations to the Secretary and any federal or state agency concerning any activity or proposed activity authorized, funded, or undertaken by the agency that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. In addition, under section 305(b)(3)(B) of the MSA, Councils must provide such comments and recommendations concerning any activity that, in the view of the Council, is likely to substantially affect the habitat, including EFH, of an anadromous fishery resource under Council authority. The EFH regulations at 50 CFR 600.930(a) state that each Council should establish procedures for reviewing federal or state actions that may adversely affect the habitat, including EFH, of a species under its authority.

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1 EFH means "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." "Waters" include aquatic areas and their associated physical, chemical, and biological properties. "Substrate" includes sediment underlying the waters. "Necessary" means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem. "Spawning, breeding, feeding, or growth to maturity" covers all habitat types utilized by a species throughout its life cycle. (50 CFR 600.10)

In April of 2012, the North Pacific Fishery Management Council adopted a formal policy for Essential Fish Habitat (EFH) consultation. As part of the policy, the Council has requested the establishment of a structured process for regular reports from NMFS, and has identified specific criteria that can be used to guide NMFS in determining whether an activity is likely to be of particular interest to the Council. The following criteria should be used to guide the agency in determining whether the activity is likely to be of particular interest to the Council:

- The extent to which the activity would adversely affect EFH;
- The extent to which the activity would adversely affect Habitat Areas of Particular Concern or other areas established by the Council to protect sensitive habitat features;
- The extent to which the activity would be inconsistent with measures taken by the Council to minimize potential adverse effects of fishing on EFH; and
- The extent to which the activity would conflict with Council-managed fishing operations.

EFH Consultations in Fiscal Year 2012

Every year the NMFS Alaska Region receives in the range of 100 to 200 non-fishing actions proposed by federal and state agencies that have the potential to affect living marine resources. The review of hundreds of actions is not feasible due to limited staff; therefore, reviews are focused on only those activities that may adversely affect EFH. In a typical year the actions include a wide range of activities such as harbor redevelopment, navigation dredging, offshore disposal of materials, pollutant discharges, coastal construction, mining, forestry, oil and gas exploration, Naval training exercises, hydropower development, and transportation infrastructure projects (highways, bridges, airport expansions, etc.). Action agencies include the U.S. Army Corps of Engineers (USACE), the Environmental Protection Agency (EPA), the Bureau of Ocean Energy and Management, the Bureau of Land Management, the Federal Energy Regulatory Commission, the Federal Highway Administration, the Federal Aviation Administration, and others.

Over the years NMFS has found that our habitat biologists are most effective at avoiding or minimizing impacts to EFH during pre-consultation coordination with project proponents and action agencies. Additionally, NMFS looks for efficiencies by conducting consultations at the programmatic level. For example, the USACE has a variety of processes they use to authorize activities under their jurisdiction. One such process is the Nationwide Permit Program. The purpose of the Nationwide Permit Program is to streamline the evaluation and approval process throughout the nation for certain types of activities that have only minimal impacts to the aquatic environment. This past year the USACE consulted with NMFS on reissuance of 48 existing permits and two new permits under their Nationwide Permit Program. In FY 2012, the Alaska District of the USACE authorized 494 actions through nationwide permits. Obviously not all of these would adversely affect EFH. However, for those actions that would adversely affect EFH, NMFS coordinated with the USACE to develop regional conditions to avoid and minimize impacts to EFH. Inclusion of these regional conditions into the nationwide permits enabled NMFS to issue a general concurrence so further consultation is not required.

Future Actions of Possible Interest to the Council

In keeping with the criteria laid out by the Council to ensure that activities that are of relevance to the Council are brought to their attention, NMFS has identified the following actions that may be of particular interest to the fishing industry and/or that may affect habitats of direct concern to the Council:

1. Bristol Bay and Mining Issues - In 2009, NMFS staff briefed Council staff on information related to the proposed Pebble Mine and its potential effects to fishery resources in Bristol Bay. Staff jointly determined that the proposal had not yet advanced to the point that it should be brought to the Council, and agreed to keep in communication about this issue in the future. In 2011, EPA requested that NMFS assist EPA with their assessment of the effects of large scale mining in the Bristol Bay watershed. To date NMFS has contributed a synthesis of relevant literature regarding the ecological processes that support spawning and rearing habitat for salmon in these watersheds, and drafted a section discussing the contributions of salmon from the watershed to fish and marine mammal populations in Bristol Bay. NMFS also supported EPA's development of a predictive risk assessment. EPA issued their Draft Bristol Bay Watershed Assessment in May 2012, and intends to take final action late 2012 – early 2013. NMFS will keep Council staff informed as appropriate.

2. Red King Crab and Norton Sound Mining Operations - For many years NMFS has provided EFH conservation recommendations to the USACE on permits for suction dredging operations in Norton Sound, offshore of Nome. NMFS conservation recommendations focused on avoiding and/or minimizing potential adverse impacts to habitat for red king crab. On September 28, 2011 the Alaska Department of Natural Resources conducted a lease sale on a total of 23,000 acres of marine waters in Norton Sound. Combined with previous lease sales, the total acreage open to suction dredging will be approximately 30,000 acres. In the past, the majority of dredge operators worked claims of 1-2 acres. However, AuruMar Alaska, Inc. acquired 26 offshore mining leases, totaling ~ 16,670 acres. AuruMar intends to conduct exploration and project development activities in their lease areas through 2014, with the intent of establishing a full scale mining operation. If AuruMar moves forward they would need a permit from the USACE for the proposed work. In February of 2012, NMFS sponsored an interagency workshop, which included scientists from the Alaska Fisheries Science Center, Kodiak Lab. The purpose of the workshop was to inform the regulating agencies of our concerns regarding the proposed mining operations, the potential impacts to red king crab habitat, and discuss the studies needed to make appropriate conservation recommendations. Since this time, we have heard very little regarding any proposed work. NMFS would appreciate input from the Council, as appropriate.

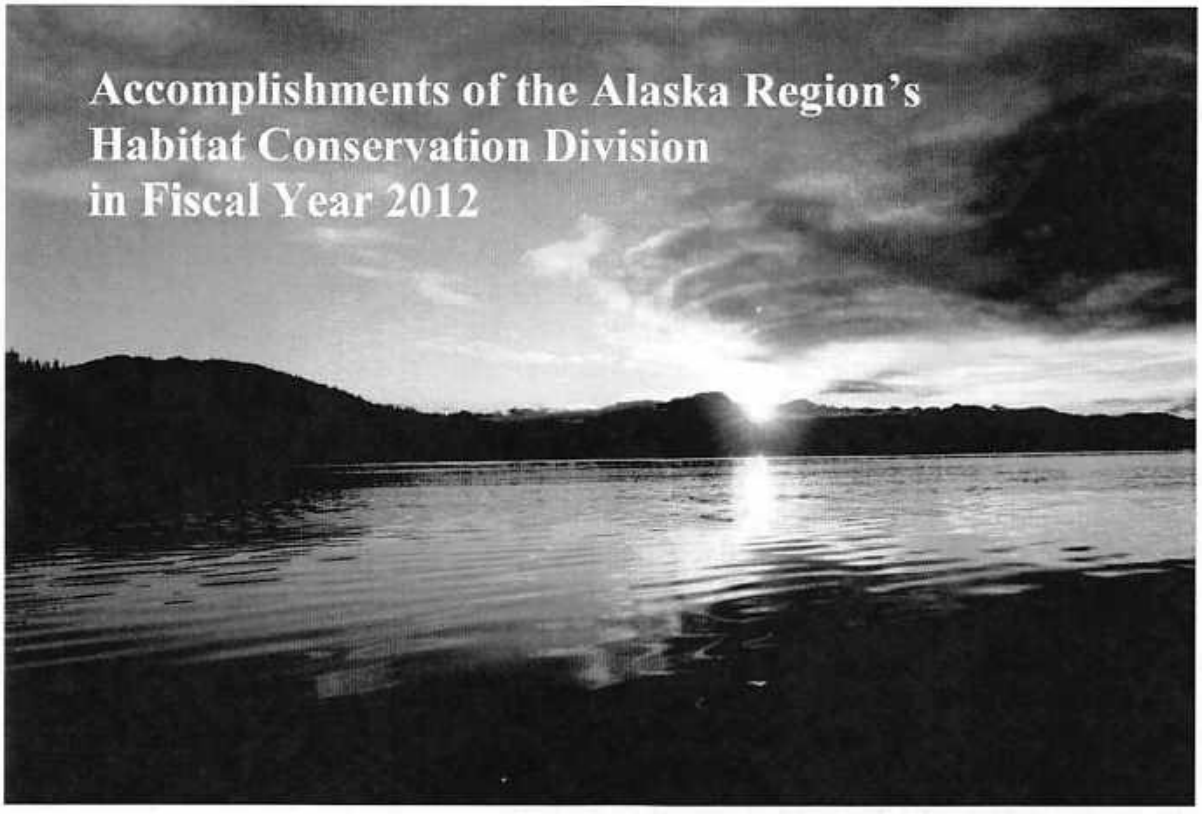
Conclusion

During EFH consultations between NMFS and other agencies, NMFS strives to provide reasonable and scientifically based recommendations for reducing the loss and degradation of habitats that sustain Council managed species. These recommendations are non-binding, as specified by the MSA. The consultations serve to inform agencies with relevant jurisdiction about potential consequences of their actions for EFH and ways to minimize adverse effects to Alaska's valuable fishery resources. Often, consultations must occur within a short timeline (30days) and could fall between Council meeting schedules. Should that be the case, NMFS will ensure any actions of potential interest to the Council are brought forward to Council staff.

Additionally, in any given year, simply providing the numbers of EFH consultations completed does not reflect the actual workload or the complexity of the projects reviewed. The attached report, "Accomplishments of the Alaska Region's Habitat Conservation Division in Fiscal Year 2012," aims to give a better overview of that complexity, and provides highlights on a number of EFH consultations completed during the past year as well as other NMFS Habitat Conservation Division activities. NMFS provides copies of this report to the Council office annually. The annual reports are also available on the internet at www.alaskafisheries.noaa.gov/habitat.

NOAA Fisheries

National Marine Fisheries Service



Prince William Sound; Photo by Matthew Eagleton

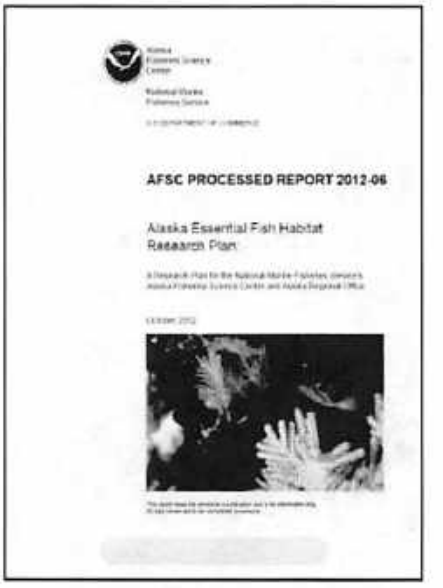
This report provides highlights of Habitat Conservation Division (HCD) activities from October 1, 2011 through September 30, 2012. HCD coordinates extensively with other groups to prioritize resources and activities, make decisions in an ecosystem context, and strengthen the science behind our decision-making. To facilitate habitat conservation, HCD works in closely with our Science Centers, numerous NOAA line offices, the North Pacific Fishery Management Council, other federal and state agencies, non-governmental organizations, local governments, and a variety of industry and conservation groups. This work supports NOAA's Habitat Blueprint by leveraging partnerships to better execute our authorities, tools, and capabilities. HCD carries out NOAA Fisheries' statutory responsibilities for habitat conservation in Alaska under the Magnuson-Stevens Fishery Conservation and Management Act, Fish and Wildlife Coordination Act, National Environmental Policy Act, Federal Power Act, and other laws. HCD has two principal programs:

- identification and conservation of Essential Fish Habitat (EFH) through fishery management; and
- environmental review of non-fishing activities to avoid, minimize, or offset the adverse effects of human activities on EFH and living marine resources in Alaska.

Essential Fish Habitat and Fishery Management

Alaska EFH Five Year Research Plan

The newly prepared Alaska EFH Plan (AFSC Report 2012-06) guides research to meet EFH mandates in Alaska. To meet these mandates, NOAA Fisheries' research must identify habitats that contribute most to the survival, growth and productivity of managed fish species and determine science-based measures to best manage and conserve these habitats from adverse effects of human activities. An experienced group of habitat scientists and managers coordinated and prepared the document. The first step was to review existing plans including the NOAA Fisheries' Habitat Assessment Improvement Plan, the Alaska Fisheries Science Center's science plan, the North Pacific Fishery Management Council and NOAA Fisheries' Alaska Region EFH 5-year review, the proceedings of the first National Habitat Assessment Workshop, and the 2006 EFH Research Implementation Plan. The new plan revises the earlier EFH research plan and will guide EFH-related research over the next several years. (Matthew Eagleton)



Skate Nursery Area Habitat Areas of Concern (HAPC)

HCD collaborated with Alaska Fisheries Science Center stock experts and the North Pacific Fishery Management Council to identify six skate nursery areas in the Bering Sea as HAPCs. Skates lay their eggs in cases they deposit on the sea floor, and development of embryos within the cases can span over three years, making the nursery areas vulnerable to disturbance by bottom-tending fishing gear. Alaska Fisheries Science Center surveys have consistently documented skate egg-case concentrations in six sites located within the Bering, Bristol, Pervenets, Pribilof, and Zhemchug submarine canyons. Within these areas, NOAA Fisheries will establish a means to monitor each HAPC for changes in egg density and the potential effects of fishing. NOAA Fisheries will coordinate these monitoring efforts with the fishing industry.

Skate Nursery HAPCs

NOAA Fisheries has taken recent action to highlight the importance of skate nurseries before the Council including the following: identify six skate nursery HAPCs, hosting special meetings with fishermen to better inform them about the uniqueness of skate biology, developing new strategies with NOAA Office of Enforcement for fishing activities, adding skate nurseries to the Council's Research Priorities list, and working with industry to collect data. The meetings have been highly successful and fishermen have thanked skate scientists for educating them about the HAPCs. The Council has recommended making research and monitoring of skate egg concentrations a high priority on the Council's research list. (Matthew Eagleton and John Olson)

EFH Omnibus Amendments to Fishery Management Plans

The 2010 EFH 5-Year Review amended five fishery management plans (FMPs). These included the Gulf of Alaska and Bering Sea / Aleutian Islands groundfish, weathervane scallops, and Bering Sea / Aleutian Islands crab. HCD coordinated with the Sustainable Fisheries Division, the North Pacific Fishery Management Council, and the Alaska Fisheries Science Center. Specifically, EFH components of FMPs were updated including fishing activities that may adversely affect EFH, non-fishing activities that may adversely affect EFH, habitat areas of particular concern (HAPC), research and information needs, and EFH descriptions of individual species. The amendments will result in relatively minor changes to the EFH provisions, and none of the changes will require regulatory action. On August 8, 2012, NMFS published the notice of availability for the amendments, with a comment period that ended on October 9, 2012 (77 FR 47356). There were no comments received during the public comment period for the FMP amendments. (Matthew Eagleton)

Environmental Review to Minimize Habitat Loss

Point Thomson Project

HCD staff completed consultation for the Point Thomson Project. Point Thomson is the largest discovered undeveloped natural gas field in Alaska. The proposed project is located on Alaska's Arctic Coastal Plain adjacent to the Beaufort Sea, approximately 60 miles east of Prudhoe Bay and 60 miles west of Katktovik, Alaska. Activities and infrastructure needed to bring the field into production includes three drill pads (one includes a facility for hydrocarbon processing), approximately ten miles of infield roads, a gravel mine, airstrip, barge docking facility, navigational structures, dredging, an emergency boat ramp, infield gathering pipelines, and an export pipeline to the Badami facility 23 miles to the west. As a result of pre-application discussions and coordination, our resource concerns were addressed by the applicant in the project design and included in the permit recently issued by the U.S. Army Corps of Engineers. (Jeanne Hanson)

Bristol Bay Watershed Assessment

HCD provided support to help the Environmental Protection Agency conduct a comprehensive assessment of how future large-scale mining development may affect the Bristol Bay watershed, including water quality, salmon fisheries, and indigenous peoples. HCD's primary contribution to that effort has been to address the oceanic range and distribution of Bristol Bay salmon; the contribution of those salmon to marine trophic levels (fish as well as marine mammals); and the ecological links between the watershed, estuary, nearshore, and offshore ecosystems. HCD also provided a synthesis of relevant literature regarding the ecological and hydro-geomorphic processes that support spawning, overwintering, and rearing habitat for salmon, and supported development of a predictive risk assessment. The Environmental Protection Agency expects to release its final watershed assessment in the winter of 2012 to inform its regulatory process. (Doug Limpinsel)

Red King Crab and Norton Sound Mining Operations

HCD partnered with the Alaska Fisheries Science Center, Kodiak Lab, to sponsor an interagency meeting on the potential impacts to red king crab habitat in Norton Sound from offshore mining operations. In September of 2011, the Alaska Department of Natural Resources conducted a lease sale on a total of 23,000 acres of marine waters in Norton Sound. Very little is known about the red king crab populations in Norton Sound and the potential for adverse impacts from mining operations on that population; underscoring the need for studies. NOAA Fisheries personnel were joined by representatives from the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Alaska Department of Environmental Conservation, the Alaska Department of Fish and Game, Alaska Department of Natural Resources, and the University of Alaska Fairbanks. The meeting resulted in identifying the issues, data gaps, and study needs, opening the door for further discussions with permitting agencies. (Brian Lance)

Triennial Review of Alaska Water Quality Standards

HCD provided relevant comments to the Alaska Department of Environmental Conservation's review of state water quality standards for two priority issues: (a) Aquatic Life Criteria for Copper, (b) Outstanding National Resource Waters. HCD provided information on current studies being done at the Northwest Fisheries Science Center on the impacts that dissolved copper can have on various forms of aquatic life and the factors that influence the severity and level of those impacts. Additionally, HCD's comments and references provided stakeholder support in refining the nomination process where by state waters can be nominated to and for protections under Alaska's antidegradation policy. (Doug Limpinsel)

Susitna-Watana Hydropower Project

HCD staff continues to play a lead role in the licensing process for the Susitna-Watana Hydropwer project. The proposed project would be located on the Susitna River in Southcentral Alaska, about 100 miles east of Denali National Park and 200 miles upriver from Cook Inlet and Anchorage. The project would involve the construction of a dam approximately 750 feet high. On May 31, 2012, NOAA Fisheries, Alaska Region, provided the Federal Energy Regulatory Commission (FERC) with Study Requests for the proposed project; including comments on the Pre-Application Document, and Scoping Document 1. HCD also worked closely with the U.S. Fish and Wildlife Service and the State of Alaska to develop a Memorandum of Agreement for the Alaska Energy Authority to provide contractual support to facilitate resource agency involvement through the use of subject matter experts.

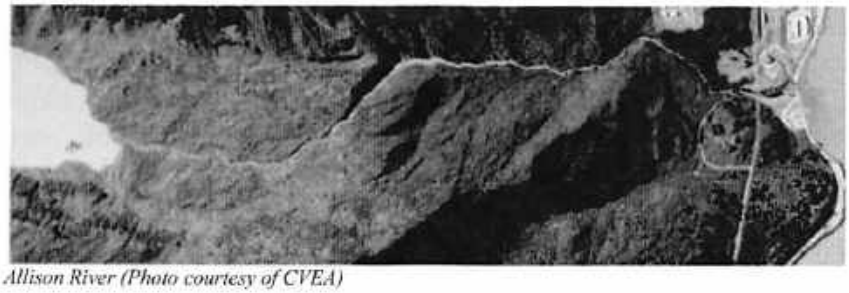
HCD is coordinating our review with experts from other NOAA line offices including NOAA Fisheries, Northwest Region (fish passage engineering); NOAA Fisheries, Southwest Region (General Counsel); and NOAA's National Climate Predictions and Projections, (development of a study request on changing climate conditions). HCD's continued involvement in this project ensures developing sound recommendations towards protection, mitigation and enhancement of fish and wildlife resources affected by construction and operation of the proposed project. (Susan Walker and Eric Rothwell)

Allison River Hydropower Project

Consultation for the Allison Creek Hydropower Project followed FERC's Alternative Licensing Process which allows for an expedited licensing timeline and protection of anadromous fish and their habitat. NMFS was part of an Aquatic Task Force focused on

resolving instream environmental issues. Originally, the project design included a dam and diverting waters from Allison Creek at about the 1300 foot elevation through a penstock to a powerhouse located at 100 foot elevation. This design would have created a fish passage barrier and greatly altered aquatic habitat below the dam.

Through the collaborative efforts of the Aquatic Task Force and HCD's leadership role in facilitating resolution of contentious issues during meetings, the project was modified to eliminate the dam and water storage aspects of the project and instead operate a run-of-river project. Maintenance of the natural flow regime in the salmon bearing reach should ensure the project has little to no instream effects on chum, coho, and pink salmon. This project is exemplary because it protects anadromous fish and their habitat while also producing clean energy, resulting in a non-controversial power source and a cost savings to consumers. FERC will likely grant a license within the next 18 to 24 months, allowing Copper Valley Electric Association to begin construction and start producing power by 2015. (Susan Walker and Eric Rothwell)



Allison River (Photo courtesy of CVEA)

Programmatic EFH Consultations

A programmatic consultation is a mechanism for implementing the EFH consultation requirements (50 CFR 600.920) effectively by including in one consultation many individual actions that may adversely affect EFH. Programmatic consultation allows for the comprehensive review of these actions, their potential adverse effects on EFH, and the development of programmatic EFH Conservation Recommendations to address as many adverse effects as possible. In Fiscal Year 2012 HCD completed one EFH Programmatic Consultation with NOAA's Restoration Center and initiated another with the Bureau of Ocean Energy Management.

Programmatic EFH Consultation for Restoration Center Program Activities in Alaska

As the result of a cooperative effort between HCD and NOAA Restoration Center staff in Alaska, a programmatic consultation that assesses the potential adverse effects of the Community-Based Restoration Program, the Damage Assessment, Remediation and Restoration Program, and other similar restoration activities on managed species was developed. In order to address foreseeable adverse impacts to EFH, HCD and NOAA Restoration staff developed a description of the activities, an analysis of the effects of those activities, and conservation measures to be incorporated into each project in order to avoid and minimize adverse impacts to EFH. If the project plans cannot fully incorporate all the conservation measures, or if additional information becomes available that changes the basis for conservation measures, then supplemental consultation will occur prior to project implementation. (Erika Ammann and Matthew Eagleton)

Programmatic EFH Consultation for the Chukchi Sea Outer Continental Shelf Planning Area

HCD is working with the Bureau of Ocean Energy Management to develop a programmatic EFH consultation to cover seismic surveys, exploratory drilling activities and on-lease ancillary activities on the Outer Continental Shelf (OCS) in the Chukchi Sea Planning Area. The programmatic consultation is being developed in accordance with the Alaska Regional Operating Procedures adopted on February 6, 2012, which guide coordination on environmental analyses and consultations for OCS oil and gas activities in Alaska. When completed, the Chukchi OCS programmatic consultation will have an outlook of five years (2013-2018) and will be subject to re-consultation and supplemental analyses if industry proposes activities outside the scope of the assessment. (Doug Limpinsel and Linda Shaw)

Mitigation Banks and In-Lieu Fee Arrangements

HCD staff continue to play an influential role on the interagency review teams of six mitigation banks and three in-lieu fee organizations. Mitigation banks provide a mechanism for habitats to be restored or protected and then set aside in perpetuity, with the credits to be used in the future to offset losses of similar habitat from development activities. Similarly, in-lieu fee arrangements allow a sponsor to pool fees from Clean Water Act permit applicants to purchase valuable habitats that are then preserved in perpetuity. The arrangements are called "in-lieu fee" because the applicants pay fees in lieu of providing compensatory mitigation (like restoring wetlands) to offset impacts caused by a development project. Of note this year is our work with the Great Land Trust to mitigate for impacts from the Port of Anchorage expansion project, and the Southeast Alaska Land to mitigate for impacts from the Juneau International Airport expansion project.

Great Land Trust In-Lieu Fee Sponsor

HCD worked closely with the Great Land Trust and other interagency review team members, to secure mitigation funds from the Port of Anchorage expansion project to complete the Eklutna Conservation Easement project. The easement protects over 1,400 acres, including eight miles of coastline and five miles of riverfront just north of Anchorage. The lands conserved by the easement; including estuaries along Fire Creek and the mouth of the Eklutna River, contain habitat for all five species of Pacific salmon, beluga whales, and migratory birds. This project builds on the previous use of mitigation funds, (a 60 acre coastal parcel at the mouth of Campbell Creek in 2010, and 4,800 acres at the mouth of the Knik and Matanuska Rivers in 2011) to compensate for impacts from the Port of Anchorage expansion project. (Brian Lance)

Southeast Alaska Land Trust In-Lieu Fee Sponsor

HCD staff, together with other members of an interagency review team, reviewed candidate land parcels and performed functional analyses on those parcels. The purpose of this effort was to determine their suitability to compensate for impacts to the Mendenhall River wetlands as a result of the Juneau International Airport expansion project. The airport is situated in a large marine estuary at the mouth of a glacial watershed that supports all five species of Pacific salmon as well as steelhead and cutthroat trout, and Dolly Varden char. Following consultation with HCD and other members of the interagency review team, an additional six acres of accreted lands in the estuary were added to the 29 acres already secured, with the acquisition of another six acres pending. The newly acquired accreted lands include 2,950 feet of Mendenhall Wetlands State Refuge boundary. (Chiska Derr)

Habitat Protection and Restoration

National Fish Habitat Plan

HCD continues to support the National Fish Habitat Plan in Alaska. In Fiscal Year 2012, HCD staff assisted the Southeast Alaska Fish Habitat Partnership in obtaining a grant from the Alaska Sustainable Salmon Fund to support a coordinator, symposium, and outreach. Also of note is HCD's work with the Kenai Peninsula Fish Habitat Partnership to develop a Conservation Action Plan that addresses both fresh and marine water habitats within the partnerships boundaries. In addition, HCD continued to support the other fish habitat partnerships in Alaska; the Matanuska-Susitna Basin Salmon Habitat Partnership and the Southwest Alaska Salmon Habitat Partnership, through participation on their steering committees, looking for funding opportunities to promote habitat protection and restoration, and recognizing noteworthy outcomes by nominating partners for national awards. NOAA's Restoration Center is also assisting HCD in supporting the National Fish Habitat Partnership in Alaska by working with the U.S. Fish and Wildlife Service to create a statewide umbrella group to coordinate the administrative and data needs of all the Alaska fish habitat partnerships. (Erika Ammann)

SEAKHHP Strategic Planning Meeting participants Fall 2012. L to R Neil Stichert (USFWS), Roger Harding (ADF&G), Jeff Nichols (ADF&G), Christine Woll (TNC), Cindy Hartmann Moore (NMFS), Sheila Jacobson (USDA FS), Kate Jensen (CCTHITA), Jessica Kayser (AWC), Deborah Hart (Partnership Coordinator)

Marine Invasive Species

HCD continues to play an active role in addressing invasive species issues in Alaska. HCD's efforts include outreach and awareness, sampling and monitoring, and providing input on regulations and permitting activities. Additionally, HCD staff serves as lead facilitator of the Marine Subcommittee of the Alaska Invasive Species Working Group. This group partners with other organizations in the State to address issues of mutual concern regarding marine invasive species. The potential for infested marine debris from coastal Japan reaching Alaska as a result of the Japanese Tsunami event of March 2012 is of particular concern. HCD staff attended a workshop with representatives from other west coast state and federal agencies, non-governmental agencies, and others to develop coordinated communications and response protocol. Subsequently HCD coordinated with other agencies to develop a reporting form specific for Alaska. HCD staff also created a rapid response sampling kit, so that in the event of possible infested debris, samples can be obtained and identified using standardized protocols. (Linda Shaw)

Tsunami debris with pelagic gooseneck barnacles

Exxon Valdez Oil Spill Marine Habitat, Harbor Water Quality Improvement Program funding

On behalf of the Exxon Valdez Oil Spill Trustee Council, NOAA's Restoration Center is soliciting proposals for marine habitat restoration, protection, planning and improvement projects in Exxon Valdez Oil Spill affected communities and environments, (http://alaskafisheries.noaa.gov/habitat/restoration/evos/). In Fiscal Year 2012 HCD worked together with NOAA's Restoration Center to identify community partners and run public scoping meetings. It is anticipated that up to $900,000 will be available for selected projects in Fiscal Year 2013. Selected projects must provide ecosystem benefits, have scientific merit, be technically feasible, and be cost-effective. Priority projects will address water quality through improvements to stormwater or wastewater runoff, harbor improvements, and related actions. (Erika Ammann and Eric Rothwell)

Klawock Lagoon Restoration Monitoring

HCD assisted the NOAA Restoration Center in sampling nearshore fish and eelgrass beds as part of the final monitoring portion for the Klawock Lagoon habitat restoration project. The project involved breaching a large causeway on an outlet of Klawock Lagoon to provide fish passage, improve tidal flushing, and enhance eelgrass beds. Monitoring results reveal that juvenile and adult fish passage has been improved by breaching the causeway, which at high tide, allows water and fish through the causeway via a new three-sided cast concrete culvert. A report on the monitoring results is due out this year. (Erika Amman and Cindy Hartmann Moore)

Seining for juvenile fish in Klawock Lagoon

Juvenile Dungeness crab in eelgrass

Other Noteworthy Activities

EFH Research Project in Upper Cook Inlet

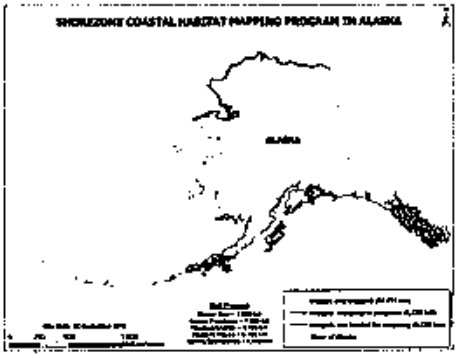
HCD staff accompanied Alaska Fisheries Science Center, Auke Bay Lab scientists to conduct nearshore bottom trawl and intertidal beach seine sampling efforts in two areas of Upper Cook Inlet: Fire Island and Point Mackenzie. Incorporating bottom trawls adds a benthic component to previous sampling efforts (2009-10). In 2012, three separate sampling efforts (June, July, September) focused on the neap tide cycles to update previous efforts, add information to NMFS's newly developed Fish Atlas,

document fish distributions, classify intertidal habitat, and identify potential prey resources for Cook Inlet beluga whales. Fire Island is an alternative site for an ocean-based tidal energy project. Site specific information will help scientists and regional habitat managers assess any changes in fish distributions. (Matthew Eagleton and John Olson)

ShoreZone Mapping

ShoreZone is a coastal habitat mapping and classification system in which georeferenced aerial imagery is collected specifically for the interpretation and integration of geological and biological features of the intertidal zone and nearshore environment. The imagery and mapping data are accessible via an interactive website to provide coastal habitat information to scientists, managers, and the public (http://alaskafisheries.noaa.gov/shorezone/). The web site allows users to virtually "fly" the coast from any computer with internet access, download high resolution photos, and access an extensive database with mapped biological and geological features. To date 59,853 km or approximately 79% of Alaska's shoreline has been imaged, which is an increase of 10% from last fiscal year. Approximately 74% of Alaska's shoreline has been mapped or has mapping in progress.

ShoreZone data collection and web posting is made possible in collaboration with a number of funding partner organizations in which NOAA Fisheries, Alaska Region plays a lead role. The partnership's goal is to image and map the entire coastline of Alaska and to make this data web accessible to all users. During Fiscal Year 2012, HCD staff coordinated the ShoreZone partnership which included organizing the annual meeting and teleconferences; giving presentations at state and national conferences to inform and attract additional users and partners; submission of ShoreZone proposals for work in western Alaska; partnering with the U.S. Fish and Wildlife Service's to secure $134,888 from the Western Alaska Landscape Conservation Cooperative; partnering in the Kotzebue Sound survey which added 3,095 km of shoreline imagery from Wales to Point Hope in the Chukchi Sea and Kotzebue Sound; assisting the National Park Service and Bureau of Ocean Energy Management with their contracting for ShoreZone work; and contracting for ShoreZone mapping and a Coastal Hazards Assessment in Kotzebue Sound and Bristol Bay. HCD continues to work with other agencies and organizations to promote use of ShoreZone data and to fund additional data collection. (Cindy Hartmann Moore)



Wetland Ecosystem Services Protocol for Alaska, Southeast (WESPAK-SE)

HCD worked closely with the Southeast Alaska Land Trust and other interagency review team members to further refine the science-based field method developed to rapidly assess tidal and non-tidal wetlands of Southeast. Assessments of wetland functions and values are used by the interagency review team and others to help determine the "value" of wetlands that are proposed for development, as well as the value of those that may be used for mitigation. WESPAK-SE will be useful to HCD in to rapidly estimate relative functions and values of wetlands, including some tidal wetlands, throughout Southeast Alaska. (Chiska Derr)

Outreach and Education

HCD staff participated as judges in several school science fairs and made presentations in classrooms on fish habitat issues, helping to teach the next generation of stewards for healthy aquatic habitats.

Personnel News

HCD wished "fair winds" to our NOAA Corps officer, LT Amy Cox, who is now Flag Aide to NOAA's Administrator, Dr. Jane Lubchenco. We miss her expertise and her smile, and wish her well in her new assignment.

ENS Larry Thomas has joined our HCD staff in Anchorage. Larry came to us from the NOAA Ship OREGON II. Larry has a degree in marine biology from Jacksonville State University (Alabama). Larry's three year assignment will allow him to get his land legs back and give him exposure to habitat and protected resources management issues.

Allen Butner is on detail to HCD for six months. Allen comes to us from the Region's Restricted Access Management Division. Allen is assisting HCD staff with project reviews and is working on white paper summarizing aquaculture in Alaska, which HCD will use in our EFH consultation with the U.S. Army Corps of Engineers on the Regional General Permit for Aquaculture activities in Alaska. We are enjoying having Allen aboard.

HCD wishes farewell to Jon Kurland. Jon has taken a position as the Assistant Regional Administrator for the Protected Resources Division. We wish him well in his new position.

HCD welcomes Jeanne Hanson as the Assistant Regional Administrator for HCD. Jeanne was formerly the Field Office Supervisor for HCD in Anchorage. Welcome aboard.

Please visit our website: www.alaskafisheries.noaa.gov/habitat

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

October 24, 2012

Eric Olson, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Chairman Olson:

The purpose of this letter is to consult with the North Pacific Fishery Management Council (Council) on the revisions to the proposed rule to implement Amendment 86 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 76 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (Amendments 86/76). The final rule for Amendments 86/76 will restructure the funding and deployment system for observer coverage in North Pacific groundfish and halibut fisheries.

The Notice of Availability (NOA) for Amendments 86/76 published in the *Federal Register* on March 14, 2012 (77 FR 15019), with a 60-day comment period that ended May 14, 2012. The proposed rule to implement Amendments 86/76 published in the *Federal Register* on April 18, 2012 (77 FR 23326). The 60-day comment period on the proposed rule ended June 18, 2012. In compliance with section 313 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS held a public hearing on the proposed rule in each of the affected states—Alaska, Oregon, and Washington—during the comment period for the proposed rule. Eight people provided oral comments on the proposed regulations at the public hearings. In addition, during the public comment periods on the NOA and proposed rule, NMFS received 35 letters. Eighty five unique comments were received in the hearings and letters. These comments are summarized and responded to in the preamble of the final rule.

Section 304(b)(3) of the Magnuson-Stevens Act requires NMFS to consult with the Council before making any revisions to proposed regulations and to publish in the *Federal Register* an explanation of any differences between proposed and final regulations. We are consulting with the Council by letter because the changes we propose to make in the final rule are relatively minor, as described below. In addition, we generally described these changes during our management report at the October 2012 Council meeting.

SUMMARY OF PUBLIC COMMENT ON THE PROPOSED RULE

Although we received a number of letters supporting the restructured observer program in general and specific components of the proposed rule, most of the public comments either

opposed a component of the proposed rule or suggested a revision or addition to the final rule. The primary issues addressed in public comment were concerns about (1) negative impacts on vessels that have not been required to carry an observer in the past, (2) electronic monitoring, (3) safety, (4) how observers would be deployed in the partial observer coverage category, and (5) requests to be exempted from coverage or to be placed in a different coverage category.

CHANGES FROM THE PROPOSED RULE

The final rule for Amendments 86/76 includes changes to the regulatory text and amendatory instructions published in the proposed rule. These changes fall into four categories: (1) changes to the proposed regulations in response to public comment, (2) revisions needed to accommodate changes made to 50 CFR part 679 by a rule published after the proposed rule for Amendments 86/76 was published, (3) additions of existing regulatory text inadvertently excluded in the proposed rule, and (4) minor editorial revisions and minor revisions to amendatory instructions.

The final rule makes two revisions in response to public comment. First, we received a request to add provisions to allow catcher vessels delivering exclusively to tender vessels to obtain observers without having to return to a port to pick up an observer because of the cost and competitive disadvantage to these vessels. NMFS agreed that this operational mode needed to be addressed in the final rule. Therefore, NMFS modified the definition of a "fishing trip" in § 679.2 to include a definition specific to catcher vessels delivering to tender vessels. In addition, § 679.51(a)(1) is revised to include a new paragraph that would require a catcher vessel to make at least one delivery to a tender vessel to be considered eligible for this allowance.

Second, we received a comment about the difficulty of owners of vessels that had not previously fished in groundfish or halibut fisheries complying with proposed requirements to enter their vessel information into the Observer Declare and Deploy System (ODDS) within 30 days of issuance of a new Federal Fisheries Permit (FFP) or within 30 days of embarking on their first halibut fishing trip of the year. NMFS agreed that it was not necessary for these vessels to pre-register in ODDS as NMFS could enter them after we identified new fishing activity by these vessels. Therefore, we removed these requirements in the final rule. Instead of requiring new entrants to register themselves in ODDS, NMFS will monitor new FFPs and landings throughout the year, enter any new FFP holders or new halibut vessels into ODDS, and notify the vessel owner by mail of his or her registration. These vessels will be added to the appropriate selection pool and be available for observer selection in the next selection period.

The final rule incorporates changes in regulatory text that were made through a final rule published after the proposed rule for Amendments 86/76 was published. This recent final rule (77 FR 59053; September 26, 2012) implemented new monitoring requirements for catcher/processors using hook-and-line gear, including new regulations for observer coverage and reductions in some experience requirements for lead level 2 observers. These now existing regulations are reflected in the relevant sections of the final rule for Amendments 86/76.

The final rule includes several paragraphs of existing regulations that are not revised by the final rule, but were inadvertently excluded in the regulatory text of the proposed rule. Section 679.5(l)(7)(i)(E), which defines the reporting period for the IFQ Buyer Report, was inadvertently

omitted from proposed revisions to a paragraph that included this subparagraph. The final rule also includes § 679.5l(e)(1)(iv) through (e)(2)(iii)(B)(2) and § 679.52 (b)(5), which were inadvertently omitted from the renumbering of § 679.51 in the proposed rule.

We anticipate that the final rule will be published before the December 2012 Council meeting, and we will be available to answer questions about the final rule and this letter at that meeting. Please contact us if you have any questions about this consultation letter. We greatly appreciate the Council's longstanding support for improving both the quality of observer data and the distribution of costs for observer coverage. We look forward to continuing to work with the Council to improve the Observer Program in the future.

Sincerely,

James W. Balsiger, Ph.D.
Administrator, Alaska Region

FEDERAL REGISTER

Vol. 77 Wednesday,
No. 225 November 21, 2012

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902
50 CFR Part 679
Groundfish Fisheries of the Exclusive Economic Zone Off Alaska and Pacific Halibut Fisheries; Observer Program; Final Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 110831549–2587–02]

RIN 0648–BB42

Groundfish Fisheries of the Exclusive Economic Zone Off Alaska and Pacific Halibut Fisheries; Observer Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule and notice of approval of an FMP amendment.

SUMMARY: NMFS publishes regulations to implement Amendment 86 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 76 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (Amendments 86/76). Amendments 86/76 add a funding and deployment system for observer coverage to the existing North Pacific Groundfish Observer Program (Observer Program) and amend 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 is necessary to resolve data quality and cost equity concerns with the Observer Program's existing funding and deployment structure. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, the fishery management plans, and other applicable law.

DATES: Effective January 1, 2013.

ADDRESSES: Electronic copies of the March 2011 Environmental Assessment/Regulatory Impact Review/Initial Regulatory Impact Review ("the analysis") and the Finding of No Significant Impact (FONSI) prepared for this action may be obtained from *http://www.regulations.gov*. These documents, the 2013 Observer Program Annual Deployment Plan, and other documents referenced in this final rule also are available from the Alaska Region Web site at *http://alaskafisheries.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and by email to *OIRA_Submission@omb.eop.gov*, or by fax to 202–395–7285.

Inspections for U.S. Coast Guard Safety Decals may be scheduled through the U.S. Coast Guard Web site at *http://www.fishsafe.info/contactform.htm* or by contacting the Seventeenth Coast Guard District safety coordinator at *http://www.uscg.mil/d17/*, or by phone at 907–463–2810 or 907–463–2823.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA) 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), respectively. These fishery management plans are collectively referred to as "the FMPs." The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Management of the Pacific halibut fisheries in and off Alaska is governed by an International agreement, the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), which was signed in Ottawa, Canada, on March 2, 1953, and was amended by the Protocol Amending the Convention, signed in Washington, DC, on March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982.

The Notice of Availability for Amendments 86/76 published in the **Federal Register** on March 14, 2012 (77 FR 15019), with a 60-day comment period that ended May 14, 2012. In compliance with section 313 of the MSA, NMFS held a public hearing on the proposed rule in each of the affected states—Alaska, Oregon, and Washington—during the mandatory 60-day comment period for the proposed rule (77 FR 22753, April 17, 2012; 77 FR 29961, May 2, 2012). The Secretary of Commerce approved Amendments 86/76 on June 7, 2012. The proposed rule to implement Amendments 86/76 published in the **Federal Register** on April 18, 2012 (77 FR 23326). The 60-day comment period on the proposed rule ended June 18, 2012.

North Pacific Groundfish Observer Program

The Observer Program has an integral role in the management of North Pacific fisheries. The Observer Program was created with the implementation of the MSA in the mid-1970s and has evolved from primarily observing foreign fleets to observing domestic fleets. The Observer Program provides the regulatory framework for NMFS-certified observers (observers) to obtain information necessary for the conservation and management of the groundfish fisheries. The information collected by observers provides the best available scientific information for managing the fisheries and developing measures to minimize bycatch in furtherance of the purposes and national standards of the MSA. Observers collect biological samples and information on total catch and interactions with protected species. Managers use data collected by observers to monitor quotas, manage groundfish and prohibited species catch, and document and reduce fishery interactions with protected resources. Scientists use observer-collected data for stock assessments and marine ecosystem research.

Under the current structure, catcher vessels, catcher processors, and processing plant operators enter into direct contracts with observer providers to meet coverage requirements at § 679.50. Existing coverage requirements, based on vessel length and processing volume, are set at 30 percent or 100 percent, and vessels less than 60 ft. in length overall (LOA) and vessels fishing for halibut (halibut vessels) are exempt from observer coverage. Owners of smaller vessels pay observer costs that are disproportionately high relative to their earnings, and owners of vessels less than 60 ft. LOA and halibut vessels do not contribute to observer coverage costs. Furthermore, vessel and plant operators required to have 30-percent coverage determine when to carry

observers, which statistically biases the data collected.

Need for and Objectives of This Action

This action addresses longstanding concerns about statistical bias of observer-collected data and cost inequality among fishery participants with the Observer Program's current funding and deployment structure. The Council's problem statement, reproduced below, identifies the need for this action:

> The Observer Program is widely recognized as a successful and essential program for management of the North Pacific groundfish fisheries. However, the Observer Program faces a number of longstanding problems that result primarily from its current structure. The existing program design is driven by coverage levels based on vessel size that, for the most part, have been established in regulation since 1990 and do not include observer requirements for either the less than 60 ft. groundfish sector or the commercial halibut sector. The quality and utility of observer data suffer because coverage levels and deployment patterns cannot be effectively tailored to respond to current and future management needs and circumstances of individual fisheries. In addition, the existing program does not allow fishery managers to control when and where observers are deployed. This results in potential sources of bias that could jeopardize the statistical reliability of catch and bycatch data. The current program is also one in which many smaller vessels face observer costs that are disproportionately high relative to their gross earnings. Furthermore, the complicated and rigid coverage rules have led to observer availability and coverage compliance problems. The current funding mechanism and program structure do not provide the flexibility to solve many of these problems, nor do they allow the program to effectively respond to evolving and dynamic fisheries management objectives.

This action will replace the existing service delivery model for the partial coverage category of the Observer Program. Under the previous service delivery model, vessels and processors contracted directly with observer providers to meet coverage levels specified in Federal regulations and paid observer providers for observer services. With the new service delivery model, NMFS contracts with observer providers and determines when and where observers are deployed, based on a scientifically sound sampling design. Vessels and processors included in the restructured program will pay a fee (ex-vessel value based or daily fee) to NMFS to fund the deployment of observers in the sectors covered by the new program. In addition, the restructured program will include vessel sectors (the less than 60 ft. LOA groundfish sector and halibut sector) that are not currently subject to any observer requirements.

Summary of the Final Action

This action will reduce bias in observer data, authorize the collection of observer data in sectors that do not currently have any observer coverage requirements, allow fishery managers to provide observer coverage to respond to the management needs and circumstances of individual fisheries, and assess a broad-based fee which reflects the value a vessel or processor extracts from the fishery.

First, this final action expands the Observer Program to include groundfish vessels less than 60 ft. LOA and halibut vessels that have not been previously required to carry an observer.

Second, this final action restructures the observer deployment system by establishing two observer coverage categories: Partial and full. All groundfish and halibut vessels and processors will be included in one of these two categories.

NMFS requires fishing sectors in the full coverage category to have all operations observed. The full coverage category includes catcher/processors, motherships, and catcher vessels participating in a catch share program with a transferrable prohibited species catch (PSC) limit. Owners of vessels or processors in the full coverage category must arrange and pay for required observer coverage from a permitted observer provider. This final rule does not change the observer deployment or funding system for operations in the full coverage category.

The partial observer coverage category includes fishing sectors (vessels and processors) that will not be required to have an observer at all times. The partial coverage category includes catcher vessels, shoreside processors, and stationary floating processors when not participating in a catch share program with a transferrable PSC limit. Small catcher/processors that meet certain criteria will also be in the partial coverage category. NMFS will assign vessels in the partial coverage category to one of two distinct observer coverage selection pools: The trip selection or vessel selection pool.

Each year, NMFS will develop an annual deployment plan that will describe how NMFS plans to deploy observers to vessels in the partial observer coverage category in the upcoming year. The annual deployment plan will describe the sampling design NMFS uses to generate unbiased estimates of total and retained catch, and catch composition in the groundfish and halibut fisheries. The annual deployment plan also will describe how NMFS will deploy observers to shoreside processing plants or stationary floating processors in the partial coverage category. Adjustments to the annual deployment plan would be made each year after a scientific evaluation of data collected under the restructured Observer Program to evaluate the impact of changes in observer deployment and identify areas where improvements are needed to collect the data necessary to conserve and manage the groundfish and halibut fisheries. Any adverse economic impacts and safety-related issues will also be considered through the annual deployment plan process, particularly with respect to expanding coverage to small vessels (less than 40 ft LOA). NMFS will post the annual deployment plan on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

This final rule establishes the Observer Declare and Deploy System (ODDS) as an Internet-based interface that provides information about observer deployment on vessels in the partial coverage category and facilitates communication among the owner or operator of a vessel in the partial observer coverage category, NMFS, and NMFS' contracted observer provider. The ODDS Web site is *https://odds.afsc.noaa.gov*. For those unable to use the Internet, access to ODDS also will be available by calling the NOAA Data Technician Office at 1–800–304–4846 (option # 1) or 907–586–7163.

Owners and operators of vessels in the trip selection pool will enter information about upcoming fishing trips into ODDS and receive information about whether a trip has been selected for observer coverage. Owners and operators of vessels in the vessel selection pool will be notified by letter from NMFS if they have been selected for observer coverage for a particular time period. Only those vessels selected for observer coverage will use ODDS to provide additional information to NMFS about whether they intend to fish in the selected time period and whether they can physically carry an observer on board the vessel.

ODDS was called the "Deployment System" in the preamble to the proposed rule. The preamble to the proposed rule also described the duration of coverage for vessels in the vessel selection pool as 3 months. In response to recommendations from the Council, the 2013 Observer Program Annual Deployment Plan has been adjusted and the duration of coverage in the vessel selection pool will be 2 months for the initial year of the program.

Third, this final rule creates a new observer funding system applicable to all vessels and shoreside processors in the partial observer coverage category. By creating two observer coverage categories with separate funding systems, this action addresses cost inequities with the existing Observer Program without imposing higher costs on operations that already pay for full observer coverage. Moreover, the potential implementation of future management programs with increased monitoring needs will not reduce the funds available to provide observer coverage for the fisheries as a whole.

A fee equal to 1.25 percent of the fishery ex-vessel value will be paid by partial coverage category participants to fund observer coverage in the partial coverage category. This fee is authorized by section 313 of the MSA. Vessels and processors in the full coverage category will continue to arrange and pay for observer services from a permitted observer provider.

NMFS will use Federal start-up funds in the first year of implementation (2013) to transition from the existing industry-funded/direct contract model to one where NMFS contracts with observer providers to deploy observers in partial coverage category sectors. In subsequent years, NMFS will use the observer fee proceeds collected from partial coverage category participants to pay for observer coverage in these sectors.

The proposed rule for this action (77 FR 23326; April 18, 2012) contains a thorough discussion of the history of the Observer Program, the restructured Observer Program, and details of requirements and provisions of the full and partial coverage categories. Those details are not repeated in this final rule unless relevant to a specific public comment. Changes from the proposed rule are detailed in the section "Changes from the Proposed Rule."

Comments and Responses

Approximately 25 people, representing fishery participants and organizations, attended the public hearings. Eight people provided oral comments on the proposed regulations at the public hearings. These eight people represented the Association for Professional Observers, the Yukon-Delta Fisheries Association, fishing companies, processing companies, and a tour operator. In addition, during the public comment periods on the notice of availability and proposed rule, NMFS received 35 letters. The letters were from a wide range of fishery participants including participants that have carried observers and participants new to the Observer Program. NMFS also received letters from observers, observer organizations, and observer providers. NMFS also received letters from conservation organizations and interested members of the public. Eighty-five unique comments were received in the hearings and letters of comment. These comments, including those from the public hearings, are summarized and responded to below.

General Program Comments

Comment 1: The Observer Program is an indispensable component in the successful management of Federal groundfish fisheries off Alaska, though we recognize that some portions of the existing program need adjustment. Thus, we support the approach in Amendments 86/76. This approach is fair and equitable and should facilitate the level of catch data and other information necessary to ensure responsible management and the long-term sustainability of the groundfish resources. The proposed amendments will improve upon a program that is already recognized as one of the most comprehensive and successful observer programs in the world.

Response: NMFS acknowledges this comment.

Comment 2: We applaud the restructured Observer Program that shares the costs of observer-collected catch and bycatch data, and observer deployment across all fisheries and vessel classes. This action will make the program equitable for all fishery participants and provide more statistically robust data.

Response: NMFS acknowledges this comment.

Comment 3: The restructured Observer Program is overdue and necessary for all sectors. We support the intent of the restructured Observer Program to remove bias and gather data from the currently unobserved fleet. We urge NMFS to implement a program that is not unreasonably burdensome, and does not substantially increase costs or interfere with existing business practices. It is imperative that the program respond quickly to the issues that will arise in covering an additional 1,200 vessels that will be included in the new program.

Response: NMFS acknowledges this comment.

Comment 4: On behalf of 300 individuals participating in fisheries in Prince William Sound and the GOA, most of whom operate vessels less than 60 ft. LOA, we oppose the proposed rule to restructure the Observer Program. We support the intent of the proposed rule. However, the proposed rule does not provide clear information on how the Observer Program will apply to small vessels.

Response: The preamble to the proposed rule contained a detailed explanation of how the Observer Program will apply to small vessels, specifically those vessels under 60 ft. LOA. The proposed rule details the instructions for small vessels to follow in order to find out whether and when they will be required to have an observer on board. Each year, the annual deployment plan will describe how observer coverage requirements will apply to small vessels. Small vessels are specifically addressed in the 2013 Observer Program Annual Deployment Plan. For 2013, small fixed gear vessels less that 40 ft LOA are in the "no selection" pool which means that they will not be selected for observer coverage. Based on the relative proportion of catch and fishing trips conducted by vessels less than 40 ft LOA, NMFS is not likely to deploy observers on vessels less that 40 ft LOA in the near future. NMFS would only expand coverage to vessels less than 40 ft. LOA if data collection needs warrant the deploying observers on those vessels. NMFS would make this decision in conjunction with the Council through the annual deployment plan process and after careful consideration of economic impacts and safety-related issues as well as public comments.

Information on the requirements that apply to small vessels is included in the Final Regulatory Flexibility Analysis (FRFA) in this final rule. NMFS has also posted a small entity compliance guide on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*) as a plain language guide to assist small entities, including the small vessels referred to by the commenter, in complying with this rule. In addition, NMFS will conduct outreach via direct mailing and community meetings to continue to communicate as widely as possible how the requirements of the restructured Observer Program apply to small vessels. For more information on NMFS's outreach activities, please see the section below called "Outreach."

Comment 5: The restructured Observer Program is a waste of money and should not be implemented since there are other methods to collect information on bycatch. Halibut vessels are required to retain all rockfish, so there is a record of rockfish bycatch in the Individual Fishing Quota (IFQ) fleet. Halibut IFQ skippers should be required to document bycatch in their logbooks.

Response: NMFS disagrees. Observer coverage is necessary in the halibut

fisheries off Alaska to collect unbiased and representative data on catch and bycatch in the halibut fisheries. The current standard used by NMFS to best obtain unbiased fishery dependent information is to deploy human observers to observe fishing operations. Human observers can collect data (*e.g.*, obtain biological samples and reliably identify species of fish) in an independent manner that currently cannot be collected through other means. NMFS agrees that collecting information through logbooks for vessels not currently required to maintain logbooks may be helpful additional information for NMFS, but such a requirement is outside the scope of this action, and does not directly address the purpose and need for this action.

Comment 6: To address all potential sources of bias in observer-collected data, NMFS needs to control the deployment of observers in both the partial and full coverage categories to completely eliminate the potential conflict of interest between vessel owners/operators and observer providers.

Response: NMFS acknowledges that, despite modifications to the Observer Program through this final rule, sources of bias or uncertainty in observer data will still exist as there are potentially many contributing factors. However, a central component to the purpose and need for this action is to correct one source of potential bias by giving NMFS control over the deployment of observers in the partial coverage category.

The deployment of observers in the full coverage category does not have this same potential bias concern because all fishing trips are observed. In the full coverage category, vessels still choose which of the four currently certified and active observer providers to work with and those providers are prohibited from responding to industry requests for specific observers. NMFS believes that the active observer providers in Alaska are in compliance with this requirement based on available information. Thus, NMFS does not agree that further modifications are needed so that NMFS controls the deployment of observers in the full coverage category.

Comment 7: The charter halibut fleet is unobserved and does not contribute to the cost of managing the fishery. The charter fleet should be monitored with electronic monitoring (EM) to understand the level of halibut mortality associated with charter fishing operations and should be required to pay observer fees.

Response: The Council did not identify the extension of observer fees, observer coverage, or EM to the charter halibut fleet in the purpose and need for the observer restructuring action; therefore, it was not included in the alternatives analyzed. The Council and NMFS will continue to review the data needed to conserve and manage the fisheries under its authority and, if appropriate, may consider developing and analyzing alternatives that would include the charter halibut fleet in the Observer Program.

Comment 8: NMFS should disapprove or delay implementation of the provisions authorizing deployment of observers on vessels in the vessel selection pool until a more detailed deployment plan is made available for full public comment and an EM alternative is sufficiently developed to allow implementation of an integrated EM program. However, NMFS should implement the fee collection and trip selection pool provisions of the proposed rule at this time.

Response: NMFS disagrees. Bifurcating implementation of this final rule is not warranted or necessary to achieve the goals of the commenter. First, this final rule does not preclude public comments on the annual deployment plan. The 2013 Observer Program Annual Deployment Plan is being developed concurrently with this final rule and was available for public comment prior to the publication of this final rule. For example, public comments during the development of the 2013 Observer Program Annual Deployment Plan led NMFS to not require observer coverage for vessels less than 40 ft. LOA in 2013, thereby delaying observer coverage on those vessels in the vessel selection pool. However, all vessels in the vessel selection pool, regardless of size, will contribute to the fee assessment upon implementation of this final rule.

Second, NMFS is providing for the limited use of EM equipment during 2013. In the future, NMFS can integrate EM into the Observer Program. NMFS is committed to continuing to develop EM in an effort to advance technological tools available to collect data about the groundfish and halibut fisheries. For a more complete discussion of EM, please see the subheading below called "Electronic Monitoring."

Comment 9: The analysis fails to address Section 303 of the MSA which requires that each FMP describe the fishery, including "the cost likely to be incurred in management" and the "actual and potential revenues from the fishery."

Response: This section of the MSA refers to requirement for FMPs, and the FMPs do include sections that describe both the fishery revenues (Section 4.3.2) and the costs of management (Section 6.2.1) for the respective groundfish fisheries, as a whole. These sections are periodically updated, generally in conjunction with the programmatic reconsideration of the FMPs, and are intended to provide a programmatic perspective on the groundfish fisheries. An annual report of fisheries revenues is also prescribed in the FMPs, which is included in the Economic Status of the Groundfish Fisheries Off Alaska. This information is a component of the annual Stock Assessment and Fishery Evaluation report (available on the Alaska Fisheries Science Center's Web site at *http://www.afsc.noaa.gov/REFM/stocks/assessments.htm*).

Comment 10: NMFS needs to consider, as a reasonable alternative, 100 percent observer coverage for trawl fisheries as the best available scientific tool to minimize bycatch and bycatch mortality. If the purpose of restructuring the Observer Program is to address problems in the quality of data collected from trawl vessels in the 30-percent coverage category, NMFS should substantially increase observer coverage for the trawl fleet. The goal should not be even coverage across the whole fishing fleet, but to be able to collect more information from fisheries of concern.

This is necessary to comply with National Standards 2 and 9 of the MSA, as well as requirements of the National Environmental Policy Act (NEPA) to consider significant environmental impacts of a proposed action.

Response: The purpose of restructuring the Observer Program is to reduce bias in observer data, authorize the collection of observer data in sectors that do not currently have any observer coverage requirements, allow fishery managers to provide observer coverage to respond to the management needs and circumstances of individual fisheries, and assess a broad-based fee that reflects the value a vessel or processor extracts from the fishery.

The Council and NMFS did consider applying 100 percent observer coverage to the trawl fisheries, and rejected that alternative for the reasons described here and in Section 3.2 of the analysis. Under the restructured Observer Program, vessels will either be in the partial coverage or full coverage category. The Council and NMFS decide which vessels or sectors belong in the full coverage category based primarily on NMFS' inseason management needs, requirements for monitoring and

enforcing limited access privilege programs (LAPPs), or Congressional mandates (described in Section 3.2.7.2 of the analysis, and page 23329 of the preamble to the proposed rule). Based on this information, the Council and NMFS placed trawl catcher vessels that are not fishing with transferable quotas and PSC limits in the partial coverage category. Note that observer coverage levels for the partial coverage category are flexible and not codified in regulation. NMFS can adjust coverage levels for specific sectors as needed, and within budgetary constraints, to best meet the needs of science and management.

NMFS disagrees that 100 percent observer coverage for trawl fisheries is necessary to comply with National Standard 2. National Standard 2 requires that conservation and management measures be based upon the best available scientific information. The analysis that supports this action used the best scientific information available to design the restructured Observer Program.

NMFS also disagrees that 100 percent observer coverage is necessary to obtain unbiased catch and bycatch estimates, and has designed a sampling plan for the partial coverage category to improve the reliability of data collection from vessels within this category (see Section 3.2 of the analysis for additional detail). Each year, NMFS will use the best available scientific information in the annual deployment plan to determine the amount of observer coverage in the partial coverage category. The annual deployment plan process provides flexibility to adjust scientific sampling methods from one year to the next as new information is acquired and management needs change. This flexibility is crucial for employing the best available science for data collection and greatly improves NMFS's ability to collect unbiased information on bycatch. The 2013 Observer Program Annual Deployment Plan, prepared for the initial year of the restructured Observer Program, describes how NMFS will deploy observers on all types of fishing operations. The deployment plan process is described in detail in the proposed rule (77 FR 23330; April 18, 2012), Section 3.2 of the analysis, and the 2013 Observer Program Annual Deployment Plan. These changes in observer deployment are intended to reduce possible sampling bias and thereby represent an important step to provide the best available scientific information to managers. Additionally, by maintaining sampling probabilities equal within the vessel and trip selection pools, over time, observer coverage levels in a given sector will be proportional to the relative magnitude of the fishing effort in that sector.

National Standard 9 requires that management and conservation measures, to the extent practicable, minimize bycatch or bycatch mortality. NMFS disagrees that increased observer coverage, as suggested by the commenter, will, in and of itself, minimize bycatch. The implementation of the restructured Observer Program should reduce bias and improve the statistical reliability of observer data. Better total catch accounting will improve bycatch data and contribute to conservation efforts, such as limiting bycatch to PSC limits. These environmental benefits are evaluated in the analysis (Sections 3.2.6, 4.3, and 6.1).

Comment 11: The environmental assessment (EA) prepared for the proposed rule fails to comply with the requirements of NEPA because (1) beneficial environmental impacts from increased observer coverage are not evaluated, (2) uncertainty in bycatch estimates is not evaluated, and (3) the public does not have meaningful opportunity to comment on aspects of the program that are delegated to the annual deployment plan review process. NMFS needs to establish a clear process that ensures public comment on the annual deployment plan. The proposed approach to have the plan presented to the Council in October of each year limits opportunity for meaningful public participation and does not provide sufficient time to adequately consider and comment on the deployment plan.

Response: NMFS disagrees that the EA fails to comply with the requirements of NEPA. The EA evaluates the environmental benefits of increased observer coverage and an improved scientific sampling design in Section 4.3.1. The EA evaluates the uncertainty in the bycatch estimates and how the restructured Observer Program reduces this uncertainty in Section 3.2. Uncertainty in the bycatch estimates will also be evaluated in the annual deployment plans, as explained in the 2013 Observer Program Annual Deployment Plan. Additionally, the aspects of the program deferred to the annual deployment plan were analyzed in Section 3.2 of the analysis, and the public had the opportunity to comment on that analysis during its development through the Council and rulemaking processes for this action.

The public does have a meaningful opportunity to comment on the annual deployment plans. NMFS has established a schedule for release, review, and discussion of the annual deployment plan that will provide the public with numerous opportunities to provide input to the Council and NMFS on the deployment plan. NMFS will release the annual deployment plan by September 1 of each year so that it is available for public review prior to the Plan Teams' meetings. Each year, the public will also have the opportunity to comment on the annual deployment plan when the Council reviews the annual report and annual deployment plan at its annual October meeting. The 2013 Observer Program Annual Deployment Plan was released for public comment in September 2012 and reviewed by the Council at its October 2012 meeting. Starting in 2013, the public will also have the opportunity to comment when NMFS presents an analysis of the deployment plan and issues raised at the June Council meeting. In addition, the public may comment directly to NMFS in writing on the deployment plan or any other aspect of NMFS' responsibilities or projects at any time.

Safety

Comment 12: A discretionary provision in section 303(b)(8) of the MSA allows FMPs to require that observers be carried on board fishing vessels, unless the facilities of the vessel are "so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized." Most of the small vessels in the fixed gear fleet do not have operable toilets, an extra bunk, or hot water, and may not meet these criteria.

Placing an observer on a small vessel creates safety issues that were not sufficiently addressed in the analysis. Longstanding safety concerns include: (1) Limited deck space on small vessels; (2) hazards created by tight groundline; (3) the observer displacing traditional positions at the rail to assist the roller man; (4) distractions caused by an observer placed in front of the roller man; (5) increased pitch and roll on small vessels leading to seasickness and risk to observers and crew; (6) limited available space in life rafts; and (7) increasing the risk that vessels will fish in marginal conditions in order to avoid losing observer coverage.

Response: NMFS disagrees that the presence of an observer presents an additional risk to the safe operation of small vessels or that the analysis did not adequately address safety concerns associated with this action. This final rule at § 679.51(e)(1) maintains existing regulations that all vessels subject to the requirement to carry an observer maintain safe conditions on the vessel.

This requirement is intended to ensure that safety issues, such as those raised by the commenter, are addressed by the vessel operator. In addition, NMFS trains observers to work safely at sea, and the training addresses the issues noted in this comment.

Section 6.1 of the analysis addressed consistency with National Standard 10 (section 301(a)(10) of the MSA) in general terms. National Standard 10 requires that conservation and management measures shall, to the extent practicable, promote the safety of human life at sea. Section 3.2.7.3 of the analysis considered safety issues and specifically addressed the types of factors that would be considered in determining whether to deploy an observer on a vessel in the vessel selection pool (defined in the 2013 Observer Program Annual Deployment Plan as fixed gear vessels greater than or equal to 40 ft. LOA and less than 57.5 ft. LOA). Vessels in the vessel selection pool are the participants in the fixed gear fleet referred to by the commenter. The analysis determined that the more flexible contracting model allows NMFS to adequately consider safety issues when deploying observers on vessels that may be difficult or dangerous to work on, recognizing that there are cases in which a vessel's deck layout or operations may cause safety and logistical concerns due to lack of suitable workspace. The analysis lists the key factors NMFS would consider in determining whether to place an observer on a vessel in the vessel selection pool. Key factors include, but are not limited to, the amount of available deckspace, the size of the crew, the weather at the time of deployment, and the adequacy of berthing space.

There are many ways in which a vessel can adapt to safely accommodate an observer. However, if a vessel operator believes that the vessel is unsafe to carry an observer, he or she may identify their reasons and request that NMFS release them from carrying an observer. Requests for release from observer coverage would prompt a vessel inspection by NMFS to assess the safety and/or logistical concerns. For a more complete discussion of releasing a vessel from observer coverage, please see the subheading below called "Release from Observer Coverage."

NMFS acknowledges that there is an increased risk to observers due to increased observer days at sea in Alaska and that sea-going vessels engaged in fishing have inherent known workplace risks. Recognizing that some risks to observers may be exacerbated on smaller vessels, NMFS is requiring the observer provider to place only experienced observers on vessels in the vessel selection pool. Specifically, section C.2.2.2.1 of the "Solicitation Request for Proposal AB133F–12–RP–0020" states that "* * * observers deployed to vessels in the vessel selection pool must have prior experience as an observer in the Groundfish Observer Program and must be in good standing with the Groundfish Observer Program; this requirement doesn't apply to observers going to vessels in the trip selection pool." A copy of the entire solicitation is available online at *https://www.fbo.gov/index?s=opportunity&mode=form&id=dc897646db9de61f36682e5d32140c76&tab=core&_cview=1*

Comment 13: Vessels less than 60 ft. LOA were exempted from previous human observer programs, in part because of safety concerns.

Response: NMFS disagrees. The 1990 Observer Plan first established the length-based category of vessels which would not be requested to carry an observer (*i.e.*, vessels less than 60 ft. LOA). Limiting observer coverage to vessels 60 ft. LOA or greater was based on a determination that the information that would be received from observers on these vessels would not justify the costs imposed on vessel operators or the costs that would be imposed on NMFS. This determination was based on an assessment of the costs of deploying an observer using the only available observer procurement method at that time, which required vessels to contract directly with observer providers to meet coverage levels fixed in regulation. The analysis developed for, and the proposed rules to implement, Amendment 18 to the GOA FMP (54 FR 50386; December 6, 1989) and Amendment 13 to the BSAI FMP (55 FR 4839; February 12, 1990) that first established length-based observer requirements specifically assumed that, at a minimum, all vessels greater than 50 ft. LOA would be able to accommodate an observer.

Comment 14: Various sections of the MSA require consideration of safety (*e.g.*, National Standard 10, section 303, section 313). The placement of observers on board vessels causes safety issues by replacing experienced crew members and by interfering with vessel operations and thereby violating National Standard 10. The National Standard 10 guidelines (§ 600.355) identify ways to reduce adverse safety impacts, including "[a]voiding management measures that require hazardous at-sea inspections or enforcement if other comparable enforcement could be accomplished as effectively" (50 CFR 600.355(e)(5)).

Response: NMFS disagrees. National Standard 10 states that conservation and management measures shall, to the extent practicable, promote the safety of human life at sea (Section 303(a)(10) of the MSA). Neither National Standard 10 nor the guidelines preclude the placement of observers, and NMFS does not agree that the placement of observers on board vessels causes safety issues, as there are many ways in which a vessel can adapt to safely accommodate an observer.

Vessels that carry observers are required to have a valid U.S. Coast Guard (USCG) Commercial Fishing Vessel Safety Decal, which ensures the vessel is current and in compliance with USCG safety equipment requirements. Compliance with the safety requirements is not a new requirement of this rule, as all vessels, with few exceptions, must comply with the USCG requirements, regardless of whether they carry an observer (see Section 3.2.8 of the analysis). Observers inspect the vessel when they board to ensure that the required safety equipment is in place, and they will not remain on board a vessel where the decal is absent or the equipment is no longer present or current.

During and after a trip on a vessel, observers will report safety concerns to NMFS and the USCG and will document any marine casualties that have occurred, following the USCG definition of marine casualty. NMFS' experience through observer programs has been that the presence of an observer has improved safety awareness within the observed fleets, increased the issuance of USCG safety inspections, improved reporting of marine casualties, and rarely, but importantly, brought manifestly unsafe vessel conditions to the attention of USCG personnel who were authorized to take corrective action. Additionally, observers board vessels with their own safety gear, including a currently inspected survival suit and personal locator beacon.

Comment 15: The proposed rule may reduce safety if vessels in the trip selection pool are prompted to fish marginal or un-safe weather to avoid losing their observer for that trip to another vessel. This impact on safety is contrary to previous Council actions and National Standard 10 of the MSA.

Response: The selection for observer coverage does not compel an operator to fish in bad weather. NMFS expects that vessel operators will continue to make prudent decisions regarding fishing in weather regardless of the observer coverage requirement.

NMFS recognizes that weather may delay fishing trips and factored that into the design of the deployment system balanced with the knowledge that some operators will attempt to avoid meeting the required coverage. For vessels in the trip selection pool, if the operator has complied with the notification requirements at § 679.51(a)(1), this final rule at § 679.51(a)(1)(ii)(C)(*4*) provides a 48-hour window for delaying a trip from scheduled departure. If a departure must be delayed beyond 48 hours, that trip could be cancelled in coordination with the observer provider and an observer will be required on that vessel's next trip.

Comment 16: Small boat operations in the GOA and BSAI are constrained by weather. During the spring and fall, halibut vessels often wait in port for 7 to 10 days for good weather and often leave on short notice to take advantage of favorable weather. Failure to take advantage of a weather window can be costly. Additionally, flights to remote ports in Alaska are routinely canceled and delayed due to poor weather conditions. As such, deploying observers on vessels in the vessel selection pool will be extremely problematic and may cause costly interruptions to fishing operations. The proposed rule is silent relative to accommodating the small boat fleet on this issue.

Response: NMFS recognizes that weather delays in fishing do occur, and the Council and NMFS considered this in the design of the program and in the proposed and final rule. NMFS expects that small boat operations will be more susceptible to weather delays, and that there will be a subsequent cost to the overall program as a result. NMFS also agrees that flights to ports in Alaska can be challenging due to weather. This challenge is most acute in remote areas. However, NMFS does need data from remote areas and small vessels and will attempt to observe remote locations when a vessel or trip operating out of a remote area is selected.

The proposed rule and final rule establish a process to address small vessel weather delays. Vessels in the vessel selection pool that are selected for observer coverage will coordinate with the observer provider to ensure that observers are available when and where vessels are departing for fishing. The process of coordinating directly with the observer provider will enable flexibility for vessels and observer providers to work together regarding weather delays. This process is similar to the process that vessels in the full coverage category currently undergo with observer providers. Based on that experience, NMFS does not anticipate costly interruptions to fishing operations or releases from observer requirements due to weather delays. If no observer is available, the observer provider will coordinate with NMFS Fisheries Monitoring and Analysis Division. NMFS Fisheries Monitoring and Analysis Division may release the vessel from the observer coverage requirement for that trip under § 679.51(a)(1)(iii) of this final rule.

Standardized Bycatch Reporting

Comment 17: Amendments 86/76, the proposed rule, and the analysis are not consistent with the requirements of section 303(a)(11) of the MSA that the FMPs establish a standardized bycatch reporting methodology.

Response: NMFS disagrees. The standardized reporting methodology is unaffected by this action and is outside the scope of this rulemaking. MSA section 303(a)(11) requires that an FMP establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery. Bycatch in the BSAI and GOA groundfish fisheries is estimated through the Catch Accounting System (CAS), which is described in Section 3.2.4.2 of the BSAI FMP and the GOA FMP. The CAS is the NMFS Alaska Region's standardized bycatch reporting methodology. The methods NMFS uses to estimate bycatch through the CAS are further described in "Cahalan, J., J. Mondragon, and J. Gasper. 2010. Catch Sampling and Estimation in the Federal Groundfish Fisheries Off Alaska. U.S. Dep. Commer., NOAA Tech. Memo. *NMFS–AFSC–205*, 42 p." This publication is available on the NMFS Alaska Region's Web site (*http://www.afsc.noaa.gov/Publications/AFSC-TM/NOAA-TM-AFSC-205.pdf*).

In addition, NMFS' estimates of bycatch in the groundfish fisheries managed under the FMPs are reported on the NMFS Alaska Region's Web site (*http://www.alaskafisheries.noaa.gov/sustainablefisheries/catchstats.htm*) and in periodic reports such as: "National Marine Fisheries Service. 2011. U.S. National Bycatch Report. W. A. Karp, L. L. Desfosse, S. G. Brooke, Editors. U.S. Dep. Commer., NOAA Tech. Memo. NMFS–F/SPO–117E, 508 p." (This publication is available online: *http://www.nmfs.noaa.gov/by_catch/bycatch_nationalreport.htm*).

As described in the FMPs, the CAS uses observer data and data submitted by the fishing industry to estimate prohibited species catch and at-sea discards, which are two components of bycatch. The use of observer data is further described in Section 3.2.4.1 of the BSAI FMP and the GOA FMP, which were amended by Amendments 86/76 to reflect restructuring of the observer program. The purpose of Amendments 86/76 is to improve the quality of data collected by observers in the groundfish and halibut fisheries off Alaska. Observer data are the primary source of information used by NMFS to estimate bycatch. Therefore, Amendments 86/76 and this final rule improve NMFS' ability to estimate bycatch, strengthen the standardized bycatch reporting methodology, and support the intent of section 303(a)(11) of the MSA.

Comment 18: A poorly designed standardized bycatch reporting methodology could result in significant environmental harm by failing to identify bycatch issues and the implications for at-risk populations such as halibut and Chinook salmon. The proposed rule does not adequately address these concerns, and the potential for significant environmental harm must be considered in an Environmental Impact Statement (EIS) rather than an EA.

Response: NMFS agrees that the standardized bycatch reporting methodology is integral to identifying bycatch issues and implications of groundfish fisheries for at-risk populations and has spent considerable effort in developing the methodology. However, as explained in the response to Comment 17, the standardized bycatch reporting methodology for the groundfish fisheries off Alaska is a separate matter from this observer restructuring action. Amendments 86/76, as implemented by this final rule, reduce bias and improve the quality of data collected by observers in the groundfish and halibut fisheries off Alaska. NMFS will use these data in the standardized bycatch reporting methodology to improve bycatch estimates.

NMFS prepared a FONSI (see ADDRESSES) for restructuring the Observer Program that describes in more detail why NMFS determined that the action will not significantly impact the quality of the human environment. Based on this FONSI, an environmental assessment is the appropriate NEPA analysis for this action and preparation of an EIS is not warranted.

Comment 19: Bycatch reporting methodologies under National Standard 9 of the MSA require a detailed analysis of data collection needs from different fisheries. However, the analysis exhibits a "one-sized-fits-all approach" to bycatch reporting and does not demonstrate that NMFS took a hard look at specific fishery sectors. NMFS should

provide further supporting analysis to discuss and compare data gaps and uncertainties from each fishery, define specific research objectives, and then assess what monitoring methods are most appropriate. If NMFS had adequately analyzed and prepared a bycatch assessment methodology, the inescapable conclusion would be that an EM program would best achieve data collection objectives for the small boat fixed gear fleet. The failure to consider fishery-specific needs is a major flaw of the proposed rule and its supporting analysis.

Response: NMFS disagrees. NMFS has conducted a detailed analysis of bycatch reporting methodologies, as described in response to Comment 17. The restructured Observer Program will improve the data collected and the analysis prepared for this action considers the fishery-specific data collection needs. Further consideration of fishery-specific data collection needs will also be addressed each year in the annual deployment plan.

NMFS disagrees that EM in its current form would best achieve data collection objectives for the small boat fixed gear fleet. NMFS is committed to continuing to develop EM in an effort to advance technological tools available to collect data about the groundfish and halibut fisheries. For a more complete discussion of EM, please see the subheading below titled "Electronic Monitoring."

Comment 20: Develop and implement a method to obtain statistically reliable catch and bycatch estimates, particularly the bias in catch and bycatch estimates that would result from not observing the exempted vessels and gear types (*i.e.*, those using jig gear or those less than 40 ft. LOA using pot or hook-and-line gear).

Response: The scope of this action is limited to the funding and deployment of observers. The methods through which these data are used to make estimates are not part of Amendments 86/76 or this final rule. Therefore, this action does not prescribe how NMFS uses observer information to estimate bycatch, such as the use of specific statistical estimators, as discussed in the response to Comment 17.

However, NMFS agrees that it is important to understand bias associated with not selecting particular types of vessels in the partial coverage stratum. Chapter 3 and Appendix 10 of the analysis, and the 2013 Observer Program Annual Deployment Plan, describe the rationale for designating vessels in the partial coverage category that will not be observed in the initial year(s) of the program (vessels less that 40 ft LOA). The designations would likely change over time and bias would be one of the elements that NMFS will likely evaluate to make these decisions in the future. The analysis also provides a detailed description of bias in Chapter 3 and Appendix 8, and describes how NMFS will deploy observers to improve the data on fishing operation. These changes in observer deployment are intended to reduce possible sampling bias and thereby represent an important step to provide the best available scientific information to managers.

Annual Deployment Plan

Comment 21: The Council should have an opportunity to review and encourage consideration of its priorities for observer coverage through the annual deployment plan. The Council should not be constrained to only influencing the observer coverage through subsequent rulemaking as implied in the proposed rule preamble.

Response: As described in the Council's motion and the preamble to the proposed rule, each year NMFS will prepare a report that reviews the progress of the Observer Program, describes the financial aspects of the program, and includes a plan for observer coverage rates for the partial coverage category for the upcoming year (the annual deployment plan). The Council will review the annual deployment plan, monitor the program's progress, provide input to the annual deployment plan, and recommend appropriate adjustments to the program that would be implemented through rulemaking. The Council may also request that the Observer Advisory Committee (OAC), Groundfish and Crab Plan Teams, and Scientific and Statistical Committee review and comment on the annual deployment plan.

NMFS will release the annual deployment plan by September 1 of each year so that it is available prior to the September meetings of the Groundfish and Crab Plan Teams. NMFS will then present the annual deployment plan to the Council at its October meeting. Starting in 2013, NMFS also will prepare an annual report that analyzes the prior year's annual deployment plan and present that report at the June Council meeting. The time between June and October will allow the Council, public, and NMFS the opportunity to evaluate deployment methods for the upcoming year using information from the prior year's deployment.

Some aspects of observer deployment can be adjusted through the annual deployment plan, including the assignment of vessels to the selection pools or the allocation strategy used to deploy observers in the partial coverage category. To adjust the annual deployment plan, NMFS will analyze the scientific data collected and identify areas where improvements are needed to (1) collect the data necessary to manage the groundfish and halibut fisheries, (2) maintain the scientific goals of unbiased data collection, and (3) accomplish the most effective and efficient use of the funds collected through the observer fee. In addition, the Council may provide NMFS input on the priority of particular data collection goals and NMFS will consider adjustments to observer deployment that achieve those goals.

Some adjustments to observer coverage will require regulatory amendments. For example, moving vessels or processors from the partial coverage category to the full coverage category, or vice versa, will require a regulatory amendment because the assignment of vessels to the full coverage category is specified in regulation based on criteria developed by the Council. The assignment of vessels or processors to a particular coverage category has economic impacts on the vessel owner or processor industry members, on the amount of fees available to fund the partial coverage category, and on the contract NMFS has established for observer deployment. The rulemaking process allows for these impacts to be analyzed and for the public to comment prior to implementation of a change in coverage categories.

Comment 22: We support the approach described in the proposed rule for vetting the annual deployment plan. The Council would have an opportunity to provide input on the annual report and the annual deployment plan, but would not formally approve or disapprove it.

Response: NMFS acknowledges this comment.

Comment 23: NMFS should establish observer coverage performance standards based on (1) precision targets for protected species catch estimates, which are no lower than a coefficient of variation (CV) of 30 percent; and (2) desired strata variances (CVs), rather than uniform coverage prescriptions that are driven by NMFS' budget. Budget constraints may limit NMFS' ability to meet its performance standards, but NMFS should be mindful of those standards and establish a prioritization process to achieve them even when funding is limited.

Response: NMFS agrees that performance standards, such as the

acceptable amount of error (precision), represent an important and necessary step towards a fully optimized deployment of observers and is an appropriate goal. However, performance standards are not part of this final rule and are not required to implement a restructured Observer Program or achieve the purpose and need for this action.

However, NMFS will be able to use the information collected through this restructured Observer Program to develop performance standards after examining the data resulting from observer deployment under this final rule. As specified in Section 3.2.10 of the analysis, there are three obstacles towards implementing a fully optimized Observer Program: A lack of prior data, the definition of adequately ranked (weighted) performance standards, and the prioritization of objectives. The analysis also recognized the fact that the level of sampling necessary to generate a desired level of precision in an estimate varied widely depending on (among other things) the rarity of the item in question. Until NMFS has defined performance standards, NMFS plans to assign observers with equal probability to vessels or trips within a pool. This gives NMFS the ability to estimate the "observer deployment" effect, increase the accuracy of catch estimates, and increase the effectiveness of observer deployment and catch estimation processes. Please see the 2013 Observer Program Annual Deployment Plan for more information on this issue (see ADDRESSES).

Comment 24: The Council recently passed a motion to require 100 percent observer coverage to improve estimates of Tanner crab (*Chionoecetes bairdi*) bycatch in two areas of the GOA. Although the GOA catcher vessel trawl fleet is in the partial observer coverage category, NMFS must develop a method to have higher observer coverage in these areas.

Response: In October 2010 and April 2012, the Council recommended Amendment 89 to the GOA FMP. NMFS is preparing the notice of availability and proposed rule for that action. If approved, Amendment 89 would close an area northeast of Kodiak Island to nonpelagic trawl gear and require gear modifications for nonpelagic trawl gear to reduce bycatch of Tanner crab in the GOA.

The Council's October 2010 motion on Amendment 89 also included a recommendation to increase observer coverage to 100 percent for vessels using pot and nonpelagic trawl gear in areas of the Central GOA identified as important Tanner crab habitat. The Council did not know at the time it passed its final motions on Amendment 89 and this action which of the Council's recommendations might be approved and implemented first. The Council included the increased observer coverage requirements in Amendment 89 in case a restructured Observer Program was not approved.

The Council did not include 100 percent observer coverage requirements for special management areas in its recommendations for restructuring the Observer Program, recognizing that NMFS would make decisions about the deployment of observers in the partial coverage category through the annual deployment plan.

Therefore, this final rule does not establish observer coverage requirements for special management areas, like the areas identified in Amendment 89, and it does not direct that these areas be established in the annual deployment plan. Rather, this final rule provides NMFS with the ability to use a deployment plan to address deployment bias and therefore improve the underlying data used for estimating bycatch and discards of all species in the groundfish and halibut fisheries. Addressing this source of bias will improve the accuracy of data used to estimate Tanner crab bycatch in the GOA groundfish fisheries as a whole. In the future, the Council can request an analysis of the data used to estimate Tanner crab bycatch in the GOA groundfish fisheries. Based on that analysis, the Council could recommend adjustments to the deployment plan to improve these estimates.

Comment 25: Gathering the best available scientific information to manage all North Pacific fisheries should be the goal of the annual deployment plan based on the available funds. Monitoring objectives should be the nexus for the annual deployment plan and not a means of bassling a particular gear type or particular fishery within a geographic area due to the latest political advocacy or media rhetoric. The ability to change the deployment plan annually allows for adjustments based on observer data needs if warranted.

Response: NMFS acknowledges this comment.

Deploying Observers on Vessels in the Partial Coverage Category

Comment 26: We support the proposed approach that NMFS would auto-enter all partial coverage category vessels that are designated on an Federal Fisheries Permit (FFP) and all catcher vessels that are not designated on an FFP but that land sablefish IFQ or halibut IFQ or halibut Community Development Quota (CDQ) in a fishing year into ODDS. Since the vast majority of fishery participants are the same each year, the auto-selection removes the burden that everyone must register each year and narrows the registration focus to new participants only. The other positive for this approach is that NMFS will notify, in writing, operators of vessels that are auto entered into ODDS for the upcoming fishing year to indicate the applicable selection pool for his or her vessel (trip or vessel) and instructions for communicating with the Observer Program for the upcoming year. Because NMFS is selecting the participants and communicating directly with those selected, this is a great method for outreach to fishing vessels.

Response: NMFS acknowledges this comment. Note that, in the proposed rule, NMFS called this system the "Observer Declaration and Deployment System (Deployment System)." In this final rule, NMFS has changed the name of the system to the "Observer Declare and Deploy System (ODDS)."

Also, note that NMFS is removing the requirement for new participants to register themselves in ODDS in this final rule; see also response to Comment 27.

Comment 27: It is not feasible to require a vessel owner who has not previously fished halibut or sablefish IFQ to enter his or her information into ODDS at least 30 days prior to embarking on a fishing trip. Under the proposed regulations, a vessel operator would be constrained to using a vessel already entered into ODDS if his or her vessel breaks down close to the end of the halibut season and he or she has remaining quota to harvest.

Response: NMFS agrees and removes the proposed requirements at § 679.51(a)(1)(ii)(B) and (C), and § 679.7(g)(7) from this final rule. The proposed regulations at § 679.51(a)(1)(ii)(B) and (C) would have required holders of FFPs issued after December 1 and operators of vessels fishing for IFQ or CDQ on vessels that had not landed groundfish or halibut in the previous year to enter their vessel information into ODDS within 30 days of issuance of a new FFP or within 30 days of embarking on his or her first fishing trip of the year. The proposed regulations at § 679.7(g)(7) would have prohibited a person from embarking on a fishing trip without registering with ODDS.

NMFS expects new entrants each year to be a relatively small group. In addition, the goal of the proposed rule was to have information about new

entrants in the partial observer coverage category entered into ODDS so that these vessels are considered for observer coverage as soon as possible. NMFS can identify these new entrants relatively quickly by monitoring the issuance of new FFPs and landings throughout the year and entering vessel information into ODDS as soon as the new entrants are identified. With these revisions to the final rule, NMFS will be making the initial registration of all vessels into ODDS based on information on FFPs or activity of vessels fishing for IFQ or CDQ, and no vessel owner or operator will be required to complete the initial registration of their vessel in ODDS. In addition, by NMFS undertaking the initial registration task, it may result in faster and more efficient entry of a new entrant's vessel information into ODDS.

Once NMFS enters a new entrant into ODDS, NMFS will send the new entrant a letter with the vessel's assigned selection pool. For a vessel in the trip selection pool, the letter will provide instructions for registering fishing trips in ODDS. For a vessel in the vessel selection pool, the letter will notify the new entrant if the vessel has been selected for observer coverage.

Comment 28: NMFS should monitor how permit holders designate their vessels in ODDS since permit holders will take measures to avoid being in the full coverage category. NMFS should include information on any avoidance measures that are detected in the annual report.

Response: NMFS does not anticipate significant problems with permit holders incorrectly designating catcher/processors as catcher vessels on their FFPs to avoid observer coverage. NMFS can verify vessel operational information through data collected about catch and production and from other permits, such as License Limitation Program (LLP) permits and IFQ permits. NMFS will prepare and present the annual report for the Council on the performance of the restructured Observer Program in June of each year. The report will include any documented incidents of vessel operators taking actions to avoid observer coverage requirements.

Comment 29: Placing observers on vessels in the partial coverage category at the proposed rate will be logistically impossible and more expensive than the funding will cover.

Response: NMFS has not proposed a specific rate in this final rule at which the fishing fleet in the partial coverage category will be covered. As explained in Section 3.2 of the analysis, NMFS will deploy observers in the partial coverage category at a rate that available funding will allow. Each year, NMFS will determine the deployment rate for observers in this category in the annual deployment plan. NMFS expects that the observation of the fleet will be expensive and logistically challenging, but possible. The Observer Program has nearly three decades of experience deploying observers in remote locations throughout Alaska.

This final rule establishes several provisions that allow NMFS to accommodate specific logistical challenges that are likely to occur, as explained in the section below called "Release From Observer Coverage." Costs of deploying observers are discussed in the section below called "Observer Fees and Costs."

Comment 30: Observers should be stationed in strategic communities throughout Alaska. This approach would greatly reduce program costs by eliminating unnecessary and expensive travel from deployment centers.

Response: NMFS will make every effort to have observers available for trips selected for observer coverage and to work with vessel operators to minimize the disruption to vessel activities. NMFS agrees that strategic placement of observers in particular ports in advance of known fishing effort will more efficiently deploy observers with available funds.

Comment 31: It is not a good use of limited funds to place an observer in small, remote processing plants that take low volumes of groundfish and infrequent deliveries.

Response: As described in the 2013 Observer Program Annual Deployment Plan and the contract with the observer provider, NMFS determined that the priority for observer coverage in shoreside processing plants in the partial coverage category in 2013 is to collect genetic samples from salmon bycatch in pollock deliveries to plants in Kodiak. NMFS and the contracted observer provider will coordinate with the Kodiak plants about this observer coverage. NMFS does not intend to place observers in any other shoreside processing plant in the partial observer coverage category in 2013. In future years, NMFS, in consultation with the Council, will assess the priorities for observer coverage and available funds to determine if observers should be deployed to other processing plants in the partial coverage category.

Comment 32: To maximize efficiency and reduce costs for deploying observers, NMFS should allow observers to observe vessels in the partial and full coverage categories without having to be debriefed between assignments in the different coverage categories.

Response: NMFS disagrees. Section 3.2 of the analysis identified the potential for conflicts in interactions between the rules implemented to manage observers in the full coverage category and the contracts employed to manage observers in the partial coverage category. NMFS intends to ensure the financial integrity of the partial and full coverage categories by managing them separately so that such that costs are not transferred inappropriately between the two. Therefore, section C.3.3.14 of the "Solicitation Request for Proposal AB133F–12–RP–0020" states that "[t]he Contractor must not: * * *. (d) assign an observer to vessels in the partial-coverage and full-coverage sectors within the same deployment." This provision of the contract will avoid a broad suite of potential conflicting overlaps between the two coverage categories as described in Section 3.2 of the analysis, while maintaining flexibility for observers and industry between deployments. A copy of the entire solicitation is available online at *https://www.fbo.gov/index?s=opportunity&mode=form&id=dc897646db9de61f36682e5d32140c76&tab=core&_cview=1*.

Vessel and Trip Selection Pools

Comment 33: NMFS proposes that vessels in the vessel selection pool, which have never carried observers, will initially be required to carry an observer for all trips in a 3-month period. Vessels in the trip selection pool that have a history of successfully accommodating human observers have a less burdensome coverage level. NMFS notes that the vessel selection pool was developed to reduce the volume of trip notifications received by ODDS. No further explanation is given for the more burdensome observer coverage requirements for operations in the vessel selection pool. This is evidence that NMFS has not considered how operators of small vessels will notify NMFS of their trips or the cost effectiveness of deploying human observers on these vessels.

Response: NMFS disagrees that the observer coverage requirements are more burdensome for vessels in the vessel selection pool. Section 3.2.7.2 in the analysis outlines the rationale for distinguishing between trip selection, vessel selection, and no selection. NMFS notes that most small fixed gear vessels are in the "no selection" pool in the initial year of the restructured program, as detailed in the 2013 Observer Program Annual Deployment

Plan. Based on the relative proportion of catch and fishing trips conducted by vessels less than 40 ft LOA, NMFS is not likely to deploy observers on vessels less that 40 ft LOA in the near future. NMFS would only expand coverage to vessels less than 40 ft. LOA if data collection needs warrant the deploying observers on those vessels. NMFS would make this decision in conjunction with the Council through the annual deployment plan process and after careful consideration of economic impacts and safety-related issues as well as public comments.

Vessels in the vessel selection pool are selected for observer coverage for all trips that occur during a specific time period. Therefore, these vessels are relieved from the potential of being selected for observer coverage on a trip by trip basis. The preamble to the proposed rule described the duration of coverage for vessels in the vessel selection pool as 3 months. The initial duration of coverage was informed by industry members who commented through the Council's OAC that the duration needed to be long enough to prevent operators from avoiding coverage by simply not fishing for the period selected. However, comments on the proposed rule, the Council's OAC feedback, and Council recommendations on the 2013 Observer Program Annual Deployment Plan indicated that in the initial year of the program this duration of coverage could be burdensome for vessels that have never had observer coverage. In response, NMFS has adjusted the duration of coverage in the vessel selection pool to 2 months. Note that the duration of coverage is set through the annual deployment plan process and is not part of the implementing regulations. Therefore, no changes were necessary in the final rule.

In the vessel selection pool, NMFS will notify by letter owners and operators of vessels that have been selected for observer coverage for all groundfish and halibut trips during a specified period of time. This design allows more time for coordination between the vessel owner or operator and the observer provider to ensure that an observer is available for all trips in the time period selected for observer coverage. NMFS built flexibility into the process for vessels selected for coverage in the vessel selection pool by providing instructions through ODDS for operators to coordinate with observer providers for required observer coverage rather than having the details of this process specified in regulation. This approach is similar to the process currently used for observer deployment in the full coverage category, where vessel operators coordinate directly with observer providers to obtain observers to meet their required coverage requirements without regulatory notification time frames.

Operators in the vessel selection pool that are not selected for observer coverage will not be required to notify NMFS prior to each trip. In other words, for the initial year, the operators not selected will know they can fish for 2 months without an observer or notification requirements. Operators in the trip selection pool, on the other hand, are required to notify NMFS of each trip and they may be selected for observer coverage for any trip.

Comment 34: The proposed rule lacks information about the responsibilities of operators in the vessel selection pool to obtain an observer, which indicates that NMFS has not adequately considered the operational aspects of placing observers on the currently unobserved fleet.

Response: The proposed rule described the responsibilities for operators of the vessel selection pool, specifically that (1) NMFS would notify vessel owners or operators by mail if they were selected for observer coverage, (2) ODDS would provide instructions for operators of vessels selected for observer coverage to contact a NMFS-contracted observer provider to discuss logistics for obtaining observer coverage, and (3) regulations at § 679.51(a)(1)(ii)(B) require the owner or operator of a vessel selected for observer coverage to follow all instructions set forth by ODDS. Owners and operators of vessels in the trip selection pool are responsible for logging each trip individually and are notified through ODDS if a trip is selected for observer coverage. More detail is included in the regulations for specific steps and time limits associated with logging fishing trips.

As described in the response to Comment 33, NMFS will notify by letter owners and operators of vessels in the vessel selection pool that have been selected for observer coverage and provide instructions for contacting the observer provider. This process allows more time for coordination between the vessel owner or operator and the observer provider to ensure that an observer is available for all trips in the time period selected for observer coverage.

Comment 35: The regulations governing observer providers at § 679.52(b)(8) allow the provider to lodge an observer on the vessel prior to the vessel's initial departure from port and for 24 hours after return if at least one member of the vessel's crew is aboard. It is not clear how this regulation applies to vessels in the vessel selection pool or if NMFS' observer provider is authorized to require that the vessel operator remain aboard the vessel with the observer. Council discussion indicated that the observer provider would provide accommodation for observers before and after observed fishing trips.

Response: Regulations at § 679.52 of this final rule apply to observer providers for vessels requiring full coverage. This section includes § 679.52(b)(8)(iv), which requires that "[d]uring all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard." NMFS has included a similar provision in its contract with the observer provider providing observers to vessels in the partial observer coverage category. Section C.3.3.4 of the "Solicitation Request for Proposal AB133F–12–RP–0020" states that the "Contractor is responsible for all travel arrangements and expenses, appropriate lodging, and all expenses associated with deploying Observers to assigned vessels." Further, the solicitation states that the "Contractor can house an Observer on a vessel to which he or she is assigned prior to departure or disembarkation for a period not to exceed twenty-four hours. During all periods an observer is housed on a vessel, the Contractor must ensure that the vessel operator or at least one crew member is aboard." This contract provision does not give the contractor the authority to require a vessel operator to house an observer on board a vessel. It only provides the conditions that must be met if an observer provider and vessel operator choose to house an observer on board a vessel. A copy of the entire solicitation is available online at *https://www.fbo.gov/index?s=opportunity&mode=form&id=dc897646db9de61f36662e5d32140c76&tab=core&_cview=1*.

Comment 36: Small vessels can reasonably take observers and should be required to do so.

Response: NMFS acknowledges this comment.

Comment 37: The presence of an observer on a small vessel will bring about changes on vessel operations. The small boat fleet has minimal accommodations for skipper and crew. Where vessels are family operations, the presence of an observer will be intrusive. In consequence, vessel operators are likely to take shorter trips, fish closer to town, operate in marginal weather, and make other operational

changes to mitigate the observer's impact. These operational changes have been identified in public testimony provided to the Council during the development of Amendments 86/76. Vessels with observers on board will not operate in ways typical of other, similar, vessels that are not carrying observers, and thus observer reports will provide a biased picture of overall fleet activity, and will affect the statistical reliability of the data. This should be discussed in the analysis.

Response: NMFS acknowledges that the presence of an observer can be intrusive on any vessel and would not place an observer on board without a need for information necessary to support fisheries management. NMFS cannot control a vessel operator's behavior while a vessel is observed, but NMFS can monitor and evaluate the observed vessel and fleet activity to assess whether observations are representative of the fleet.

NMFS considered this potential "observer effect" in the analysis (Section 3.2.7.1 and Appendix 8) and in the 2013 Observer Program Annual Deployment Plan. In the 2013 Observer Program Annual Deployment Plan, NMFS selected the initial 3-month coverage period in the vessel selection pool as a way to mitigate the potential for the "observer effect." In essence, the period of observation is long enough such that abnormal fishing when observed would not be practical.

A second solution to the potential "observer effect" noted by other commenters is to require 100 percent observer coverage on all vessels. NMFS disagrees. One hundred percent observer coverage on all vessels is not necessary to achieve the fishery management needs and would be costly and highly intrusive for small vessels.

Comment 38: NMFS should consider expanding the vessel selection pool to larger vessels to ease logistical issues with trip selection. This would result in fewer vessels being monitored for longer periods.

Response: NMFS will determine the size categories for the vessel selection and trip selection pools in the annual deployment plan process. For the 2013 Observer Program Annual Deployment Plan, NMFS analyzed landings data and identified groups of vessels with trips with similar total weights that could be identified by characteristics known before a trip begins. In addition, the vessel size categories took into consideration the nature of fishing trips undertaken by smaller vessels, which would place logistical constraints on observer deployment. NMFS plans to evaluate each year's coverage and make changes as necessary to best meet information needs. NMFS will make adjustments to which vessels are in which selection pool each year through the annual deployment plan.

Comment 39: Operators need the ability to register more than one trip at a time, especially as many trips can be less than a day in duration.

Response: NMFS agrees and has designed ODDS to allow up to three trips to be logged in the system, and up to six trips can be logged if they all will occur within a 72 hour period. NMFS demonstrated this system to industry members during the June 2012 Council meeting. Participants acknowledged that the system was able to effectively handle multiple trips. NMFS will monitor ODDS during the first year of implementation and can adjust the system in response to user comments.

Comment 40: This final rule should provide a method for catcher vessels that deliver exclusively to tender vessels to obtain observers for trips selected for observer coverage. Over 70 percent of the Western GOA trawl pollock and fixed gear Pacific cod landings are delivered to tenders. Fishery participants need to be able to obtain an observer for required coverage without having to transit back to Sand Point or King Cove, Alaska, while vessels are in a race for fish; otherwise, NMFS will create a set of winners and losers based on whether a vessel is selected to carry an observer. One solution would be to adopt a common practice used in Kodiak where observers are transported to and from the fishing grounds by tenders to be deployed on fishing vessels.

Response: NMFS agrees that requiring catcher vessels that deliver to tender vessels to return to port to obtain an observer would significantly impact the vessels' operations. Thus, NMFS modified the final rule in response to this comment to permit catcher vessels in the trip selection pool to remain on the fishing grounds while delivering to tender vessels. This modification is not required for vessels in the vessel selection pool because those vessels will be required to carry an observer on all trips for the required duration. Regulations at § 679.51(a)(1)(ii)(C)(*5*) require that vessels selected for observer coverage in the trip selection pool carry an observer for the duration of the fishing trip. NMFS amended the definition of a "fishing trip" at § 679.2 to add a definition specific to catcher vessels delivering to tender vessels. NMFS also revised the regulations at § 679.51(a)(1) to include a new paragraph that requires a catcher vessel to make at least one delivery to a tender vessel to be subject to the fishing trip definition for catcher vessels delivering to tender vessels. Under this final rule, a fishing trip period would be defined as the period from the time the vessel departs from port until the vessel returns to port and requires that the catcher vessel make at least one delivery to a tender during the fishing trip.

Comment 41: For the trip selection pool, ODDS needs to allow for changes to registered trip departures and times.

Response: Trip departure information cannot be amended directly in ODDS for trips that have been selected for observer coverage. If the trip departure times need to be changed, the vessel owner or operator must contact the observer provider by email or phone, using the contact information provided in ODDS. This is necessary because the observer provider will start to make arrangements to get an observer to the vessel when they ODDS notifies then that the trip has been selected for observer coverage. Thus, changes or cancellation of a trip that has been selected for coverage must be coordinated directly with the observer provider to avoid unnecessary work and expense for all parties.

Comment 42: Many combination troll and longline vessels harvest halibut near the end of a salmon trip. These trips are efficient and distribute longline effort away from coastal communities. If these vessels are required to carry an observer for the extent of the salmon trip, or to return to port to obtain an observer for the halibut portion of the trip, fleet costs will be increased substantially. Local depletion and conflict with the charter fleet will intensify. These costs are not evaluated in the analysis or mitigated in the proposed rule.

Response: This issue was discussed during the development of the analysis, at the OAC, and at the Council. NMFS notes that many of the vessels at issue are less than 40 ft. LOA; these vessels will not be required to have an observer in the first year of the program under the 2013 Observer Program Annual Deployment Plan. In the 2013 Observer Program Annual Deployment Plan, fixed gear vessels greater than or equal to 40 ft. LOA and less than 57.5 ft. LOA will be in the vessel selection pool, and they may be selected for observer coverage for a 3-month period. If selected for coverage, the vessel owner or operator must notify the observer provider prior to each trip for which the vessel will be used to participate in fisheries in the partial observer coverage category (directed fishing for groundfish in federally managed or parallel fisheries

or fishing for sablefish IFQ or halibut IFQ or CDQ) in that period.

NMFS expects that, as under the status quo, some trips will have low catch and/or bycatch and some will have high catch and/or bycatch. While it may not be the most efficient use of an observer to sample on these trips, it is necessary to include all trips in the pool to provide a representative sample. The sample design can only be based on variables that are known before a trip starts (*i.e.*, whether a person decides to set gear for halibut mid-trip cannot be known before the trip begins).

Release From Observer Coverage

Comment 43: In the proposed rule, NMFS described a customized coordination process for vessels in the vessel selection pool including the ability for operators in the vessel selection pool to indicate whether an observer could be accommodated on his or her vessel. The proposed rule includes an option for the Observer Program to release the vessel from the observer requirement if warranted. A similar option should be extended to all vessels in the trip selection pool that are new to the Observer Program.

Response: The final rule at § 679.51(a)(1)(iii) allows the Observer Program to release a selected trip or a selected vessel from observer coverage on a case by case basis. This provision is unchanged from the proposed rule.

Comment 44: NMFS should have a defined process to release vessels from the requirement to carry an observer when observers are not available. My crew and I once sat out a fishery due to the inability to get an observer. In advance of the fishery we invested a lot of time and money gearing up for the fishery. We contacted three observer companies about our intent to fish prior to publication of the final rule authorizing the fishery. When the rule published, we notified the observer companies and none were able to provide us with a qualified observer. We chose not to violate the law and sat tied up at the dock though we had a license and the season was open.

Response: The NMFS Fisheries Monitoring and Analysis Division has discretion to release a selected trip from observer coverage. If observers are unavailable for any trip where observer coverage is required, the observer provider will coordinate with NMFS to request the release of the trip from the observer coverage requirement.

Comment 45: The proposed rule says that vessel owners may petition NMFS for release from the observer coverage requirement, but it does not explain how the waiver process would accommodate different issues that might arise. The proposed rule does not indicate whether the waiver would be issued at the discretion of NMFS staff or the observer provider. NMFS, rather than the observer provider, should decide whether to release a selected vessel from the obligation to carry an observer. It is unclear what demands the release process will place on the vessel operator, or how much time it would take.

Response: The final rule at § 679.51(a)(1)(iii) authorizes the NMFS Fisheries Monitoring and Analysis Division to release a selected trip or a selected vessel from observer coverage on a case-by-case basis. NMFS would release a vessel from the required coverage only where an issue clearly warrants release. NMFS will document the decision to release vessels from the required coverage to ensure consistency in the exercise of its discretion. NMFS will coordinate with any vessel operator who indicates they are unable to accommodate an observer to schedule a visit to the vessel to evaluate the operators claim. The NMFS Fisheries Monitoring and Analysis Division has expertise in evaluating whether a vessel is safe for an observer and whether an observer could work effectively on the vessel. NMFS expects most vessel operators will be able to comply with the observer requirements. NMFS recognizes that many participants in the currently unobserved fleet may not want to take an observer, but that is not a valid reason for releasing vessels from required coverage. NMFS will report on the conditions the agency found warranted release from observer coverage and the number of releases it issued in its annual report to the Council. This information can help guide the Council and NMFS to modify regulations in a subsequent action, if warranted.

Comment 46: NMFS's proposal to release vessels that are not suited to carrying an observer from monitoring requirements is not a solution to generating the data NMFS needs. NMFS will not be able to meet the monitoring goals of the halibut and sablefish fixed gear sector because the majority of the vessels will need to be released from the requirement to carry an observer. EM is the solution and releasing vessels is not an appropriate alternative.

Response: NMFS agrees that releasing vessels from observer requirements is not a means to generate the data that NMFS needs for fisheries management and that excessive use of the authority to release vessels could compromise data integrity.

NMFS expects that vessels selected for observer coverage will adapt and accommodate an observer when required. Many of the vessels in the halibut and sablefish IFQ sector are of a comparable size and configuration to other fixed gear vessels that currently carry observers. In addition, NMFS has considerable experience in other regions of the United States placing observers on small vessels. The National Observer program Web site at *http://www.st.nmfs.noaa.gov/st4/nop/* provides links to regional observer programs with examples of small boat fleets that have been successfully and routinely observed. NMFS's experience is that most vessels are able to accommodate an observer when required.

For NMFS's response to the EM portion of the comment and a more complete discussion of EM, please see the section below called "Electronic Monitoring."

Comment 47: While the proposed trip selection design is statistically robust, we have concerns that individual fishing operations may be affected if observers cannot be acquired in a timely manner for faster paced fisheries such as GOA pollock and GOA and BSAI Pacific cod. Vessels still compete in a "race for fish" for a portion of the available quota in these open-access groundfish fisheries. The pollock and Pacific cod fisheries are extremely faced paced and can be completed in a matter of days. Any slow down due to observer deployments will impact a vessel's ability to maximize profits during these short pulse fisheries.

The suggestion in the proposed rule that a vessel can be released from a selected observer trip when an observer provider is unable to deploy an observer to the vessel within a day of the intended fishing trip departure is totally unacceptable. A vessel should be released from observer coverage requirements if an observer is not available by the time the vessel is ready to redeploy to the fishing grounds in fisheries where participants are racing for a portion of the quotas.

We recommend a different deployment system than the proposed trip call-in method for the trawl sector. NMFS should identify the number of participants in these short pulse fisheries and acquire, in advance, the appropriate number of observers for the target observed rate.

Response: It will be incumbent upon the observer provider to anticipate the level of observer effort required to monitor these fast-paced fisheries and to have a sufficient pool of observers available in the key ports for rapid deployment. The ability for vessel

owners or operators to register multiple trips with ODDS will allow the observer provider to know, with ample notification, the trips for which a vessel will be required to carry an observer to ensure that an observer is available when the vessel is ready to embark. NMFS anticipates that the observer provider and vessel operator will be in continuous communication so that observer deployments can be as efficient and seamless as possible.

Comment 48: Lack of a USCG Safety Decal or required safety equipment should not be an excuse to release a selected vessel from observer coverage.

Response: NMFS will not consider the lack of a USCG Safety Decal or the required safety equipment as valid criteria to release a vessel from coverage. Vessels selected for coverage are responsible for obtaining the USCG Safety Decal in advance of the required coverage and for maintaining the safety equipment during the observer deployments (see § 679.51(e)(1) of this final rule). Observers will not be placed on vessels that do not have a valid USCG Safety Decal. The inability of NMFS to place an observer on a vessel selected for observer coverage due to the lack of a valid USCG Safety Decal will not release the vessel owner and operator from the observer coverage requirement.

Comment 49: Vessels that are released from carrying an observer should be required to carry a backup monitoring system such as vessel monitoring systems (VMS) or cameras.

Response: This action restructures the funding and deployment system for the Observer Program. NMFS and the Council would need to pursue a separate rulemaking action to require VMS or cameras on vessels that cannot accommodate an observer. Alternate monitoring technologies may provide useful information for fisheries management and NMFS will work with the industry to further develop the potential for video monitoring to be a required monitoring element at a future time. For a more complete discussion of EM, please see the section below called "Electronic Monitoring."

Allowances for Catcher/Processors

Comment 50: NMFS should modify the exceptions for small catcher/processors or vessels that operate as both catcher vessels and catcher/processors to be in the partial observer coverage category because the cost of full coverage for these small catcher/processors is a relatively high proportion of their income. Specific suggestions include (1) eliminate or extend the qualifying period for catcher/processors less than 60 ft. LOA to elect their observer coverage category in § 679.51(a)(2)(v); (2) increase the processing limit in § 679.51(a)(2)(iv)(B) from 1 metric ton (mt) per day to 1,000 mt per year or to 4.5 mt per day (1,600 mt per year); or (3) eliminate the 100 percent observer coverage requirement for catcher/processors carrying a maximum crew of 7.

Response: NMFS acknowledges that the costs of observer coverage will increase for all catcher/processors that currently are required to carry observers less than 100 percent of their fishing days but that will be required to carry an observer 100 percent of their fishing days under the final rule. As described in the proposed rule, full coverage for all catcher/processors was recommended by NMFS and supported by the Council to improve the accuracy of accounting for catch by these vessels. Full coverage will allow NMFS to collect independently verifiable estimates of both retained catch and bycatch from each catcher/processor in the full coverage category instead of using industry reports to estimate retained catch by catcher/processors.

The Council was aware of the increased cost of this provision of the final rule when it recommended the restructured observer program, and information about these costs is discussed in the analysis. Specifically, Appendix 7 provides a summary of the estimated costs of the preferred alternative (Alternative 3) by vessel category. These estimated costs do not necessarily reflect the actual cost increases to individual operations. Actual costs will vary depending on the number of observer days currently required versus those that will be required for these vessels under the full coverage category in the restructured Observer Program.

In recognition of the relatively high cost of full coverage for smaller catcher/processors and the limited amount of catch and bycatch by these vessels, the final rule includes three allowances for catcher/processors to be included in the partial observer coverage category rather than the full coverage category. First, under § 679.51(a)(2)(v), catcher/processors less than 60 ft. LOA with a history of catcher/processor and catcher vessel activity in a single year from January 1, 2003, through January 1, 2010, may make a one-time election as to whether the vessel will be in the full coverage or partial coverage category. Second, also under § 679.51(a)(2)(v), any catcher/processor with an average daily groundfish production of less than 5,000 pounds round weight equivalent in the most recent full calendar year of operation from January 1, 2003, to January 1, 2010, may make a one-time election as to whether the vessel will be in the full coverage or partial coverage category. Third, under § 679.51(a)(2)(iv)(B), a catcher/processor that processes no more than one metric ton round weight of groundfish on any day (up to a maximum of 365 mt per year) may choose to be in the partial coverage category in the upcoming year.

The first two exceptions allow a one-time choice of observer coverage category. The Council developed these two exceptions to provide an allowance to small catcher/processors that had already been operating in the groundfish and halibut fisheries off Alaska to select to be in the partial coverage category. The allowance was recommended in recognition of the relatively high cost of full coverage for the small catcher/processors and the relatively low amounts of catch taken by these operations. This exception is provided to vessel owners with a history of operations in the fishery to limit the number of small catcher/processors that are allowed to select to be in the partial coverage category and to limit this exception to vessels that were purchased or converted before the Council's final action in 2010.

The third exception will be available for any catcher/processor that meets the threshold in any future year. NMFS added this exception to recognize an existing provision of the LLP (§ 679.4(k)(3)(ii)(D)) that allows vessels less than or equal to 60 ft. LOA that process no more than 1 mt of round weight equivalent license limitation groundfish or crab on any day to be defined as a catcher vessel under the LLP. NMFS discussed this proposed provision with the Council and the OAC prior to publication of the proposed rule and there was no objection to the provision.

Consideration of additional exceptions to the requirement for catcher/processors were not presented to the Council when it recommended Amendments 76/86 and were not considered in the analysis supporting this final rule. Proposed modifications to coverage requirements for catcher/processors should be addressed to the Council and, if the Council so recommends, be analyzed and subject to public comment and rulemaking.

Comment 51: The proposed rule at § 679.51(a)(2)(iv)(B) that allows catcher/processors that process no more than one metric ton round weight of groundfish on any day of a calendar year (up to a maximum of 365 mt in a calendar year) to be in the partial observer coverage category in the

following year will result in unnecessary regulatory discards. Vessel owners will discard catch to stay within the limit that allows them to be in the partial observer coverage category.

Response: NMFS acknowledges that there is potential for vessels trying to meet the criteria for this allowance to discard catch. This allowance was created to provide catcher/processors with limited catch to be in the partial observer coverage to help control the costs of observer coverage for these vessels. Unfortunately, whenever a threshold is created that provides economic incentives to stay within the threshold, regulatory discards may occur. Although it is difficult to predict the number of vessels that may operate within the one metric ton processing limit, NMFS expects that only a few vessels will be qualified for this allowance and that the amount of regulatory discards will be limited. However, these vessels will be subject to partial observer coverage. NMFS will monitor the catch from these vessels and assess the impacts of this allowance. This information will be presented in the annual reports to the Council about the performance of the restructured Observer Program. The Council could choose to recommend an amendment to the Observer Program to address this concern.

Comment 52: The regulations should allow American Fisheries Act (AFA) eligible catcher vessels participating in the Bering Sea cod fishery to select annually whether to participate in the full coverage category for all of their groundfish fisheries. The Bering Sea cod fishery for AFA eligible catcher vessels fits within the Council's intent for the fisheries that should be included in the full coverage category because they participate in a voluntary Intercooperative Agreement allocating cod and halibut PSC on an individual catcher vessel basis.

As proposed, these catcher vessels are in the full coverage category while directed fishing for pollock in the Bering Sea, but in the partial observer coverage category for all of their other groundfish fishing. Many vessels that currently are in the 30 percent coverage category have voluntarily taken 100 percent observer coverage during the BSAI cod fishery so that observer data from a vessel can be used to estimate its halibut bycatch. The ability of these vessels to maintain 100 percent observer coverage is necessary to continue to improve on the conservation of halibut bycatch by this fleet through their Intercooperative Agreement.

Response: NMFS acknowledges this comment, but such a revision to the proposed rule is beyond the scope of this action. As noted by the commenters, NMFS recommended and the Council agreed that catcher vessels should be in the full coverage category while they are fishing under a catch share program that has prohibited species catch limits. However, the analysis did not address proposals to include any other requirements for full coverage for catcher vessels or an allowance for voluntary participation in the full coverage category. Such additions to the full coverage category should be made through an amendment to regulations after further consideration of the purpose and need for such an action, consideration of alternatives, and an analysis of the impacts. The assignment of vessels to a particular coverage category has economic impacts on the vessel owner, on the amount of fees available to fund the partial coverage category, and on the contract NMFS has established for observer deployment. The rulemaking process allows for these impacts to be analyzed and for the public to comment prior to implementation of a change in coverage categories.

Exemptions From Observer Coverage

Comment 53: The regulations should set a poundage threshold, such as 3,000 lbs, under which a vessel is exempt from observer coverage.

Response: NMFS interprets this comment to recommend that vessels that land less than a certain amount of fish per year be exempt from the requirement to carry an observer. The Council did not recommend exemptions to observer coverage for specific vessel size classes or annual landings. However, some decisions about which vessels in the partial observer coverage category are excluded from observer deployment can be made through the annual deployment plan. NMFS analyzed landings information to arrive at minimum vessel length for inclusion in the vessel selection pool for the initial year of the program. Through its analysis, NMFS concluded that vessels less than 40 ft. LOA was the break point below which the amount of harvest per trip differed from the amount of harvest per trip for vessels longer than 40 ft. LOA. NMFS concluded that extending observer coverage to vessels less than 40 ft. LOA would not be necessary during the first year(s) of implementation to provide adequate fishery data. NMFS also would not place observers on catcher vessels using jig gear in the first year of the restructured program due to the low weight of fish harvested annually by this gear type relative to other gear types. Based on the relative proportion of catch and fishing trips conducted by vessels less than 40 ft LOA, NMFS is not likely to deploy observers on vessels less that 40 ft LOA in the near future. NMFS would only expand coverage to vessels less than 40 ft. LOA if data collection needs warrant the deploying observers on those vessels. NMFS would make this decision in conjunction with the Council through the annual deployment plan process and after careful consideration of economic impacts and safety-related issues as well as public comments.

NMFS and the Council can consider additional options for exclusions from observer coverage under future annual deployment plans. However, any such exclusions would be made after analysis of the impacts of specific exclusions from observer coverage on the data necessary to conserve and manage the groundfish and halibut fisheries.

Comment 54: NMFS should permanently exempt vessels less than 36 ft. LOA from the requirement to carry an observer. The restructured Observer Program is unacceptably onerous, expensive, and dangerous for the small vessel fleet. There is no space for an additional person, or their survival gear and personal kit, to work or sleep on these vessels. As well, most of these vessels do not have a bathroom.

As the operator of a 33-ft. hook-and-line vessel, we cannot afford another tax to our bottom line. Moreover, the halibut quota has been reduced such that our vessel makes one trip per year. Thus, it would not be economically or statistically valuable to monitor our vessel with an observer or video monitoring. NMFS should use observation skiffs to monitor this fleet if a permanent exemption is not possible.

Response: This final rule does not exempt any groundfish or halibut vessels from observer requirements based on vessel length. NMFS and the Council make observer deployment decisions through the annual deployment plan process. For 2013, NMFS will not require vessels less that 40 ft. LOA to take observers. Therefore, a 33-ft. hook-and-line vessel will not be required to carry an observer in the first year of the program, but could be required to carry one in subsequent years. Note that while vessels less than 40 ft. LOA will not be required to take observers in 2013, all vessels, regardless of size, will be assessed fees.

Based on the relative proportion of catch and fishing trips conducted by vessels less than 40 ft LOA, NMFS is not likely to deploy observers on vessels less that 40 ft LOA in the near future. NMFS would only expand coverage to

vessels less than 40 ft. LOA if data collection needs warrant the deploying observers on those vessels. NMFS would make this decision in conjunction with the Council through the annual deployment plan process and after careful consideration of economic impacts and safety-related issues as well as public comments.

NMFS agrees that space issues are exacerbated as vessel size decreases. If it is determined through the process that observer coverage should be expanded to small vessels, NMFS expects that vessels required to carry an observer will adapt to this requirement and ensure that the observer is adequately accommodated. NMFS has experience observing small vessels in other regions of the United States. The National Observer Program Web site (*http://www.st.nmfs.noaa.gov/st4/nop/*) provides links to regional observer programs with examples of small boat fleets that have been successfully and routinely observed. NMFS' experience is that vessels have adapted to an observer requirement in a variety of ways. Some have built additional accommodations, some have cleared off equipment from existing accommodations to make them available, and some have elected to leave crew ashore. NMFS also has experience where vessels have removed accommodations in an attempt to gain an exemption from observer coverage. Observers are trained to adapt to the conditions of the vessels which, at times, includes adapting to non-functional restrooms. Placing observers on smaller vessels requires accommodation by both vessel operators and observers.

Observer Fees and Costs

Comment 55: The government is burdening us with the most expensive observer program possible.

Response: NMFS acknowledges that observation is costly, but it is a necessary cost in an effective fisheries management program. Chapter 2 of the analysis (see **ADDRESSES**) provides information on the costs associated with each of the alternatives considered. The restructured Observer Program is a well-reasoned approach providing a full coverage component paid directly by industry combined with a partial coverage component paid by fees assessed on partial coverage participants in an equitable manner. Section 313 of the MSA specifically limits the maximum amount of fees that may be assessed on industry participants at 2 percent of the ex-vessel value of the fish harvested by vessels subject to partial coverage. This final rule establishes a fee of 1.25 percent of the ex-vessel value of the fish harvested by vessels subject to partial coverage, which is below the maximum permissible. As noted in Chapter 2 of the analysis, the fee percentage established by this final rule was developed after weighing the potential costs on industry participants with the need to provide reliable and useful data.

NMFS sought to reduce the costs of providing observers by creating a competitive and open bid process for observer providers to encourage efficient pricing for observer services. This process is described in Section 3.1 of the analysis and in the 2013 Annual Deployment Plan (see **ADDRESSES**). Federal contributions fund agency costs necessary to manage the restructured Observer Program. Therefore, NMFS has reduced costs for participants in the partial coverage category to the extent possible.

Comment 56: The misleading assumptions in the economic analysis cause it to be inadequate. NMFS should update the economic analysis to address uncertainties about relying on halibut fisheries to supply half the funding for observer coverage in the partial coverage category. The value of the halibut IFQ fishery has changed since the analysis was prepared due to large declines in the halibut resource, and this undermines NMFS' ability to adequately fund the program.

Response: The analysis provides historical data as a basis for analyzing and comparing the impacts of the alternatives and does not need to be updated to implement this final rule (see Chapter 2 of the analysis). The assumptions used in the economic analysis were developed through the analytical process, and reviewed and approved by the Council's Scientific and Statistical Committee.

The Council accepted that variability will occur in the fee and cost components of the program and established a process to incorporate the best available scientific information on an annual basis to determine the observer coverage. Each year, the best available scientific information will be used to develop the annual deployment plan. Updates to the projected fee collection, observer costs, and number of observer days that can be obtained with the budget will be presented to the Council in the annual deployment plan or annual report.

This final rule at § 679.55 establishes the fixed fee percentage, the method for annually determining the ex-vessel value of groundfish and halibut landings, and the process for fee collection.

The analysis recognized that ex-vessel values will vary, and the Council considered variability in annual ex-vessel gross revenues when recommending Amendments 86/76. This final rule at § 679.55(d)(3)(A) establishes a three-year rolling average annual ex-vessel price to even out annual price changes in the groundfish and halibut fisheries.

This final rule at § 679.55(e) establishes a methodology to determine the ex-vessel prices for the halibut fishery that is similar to the methodology employed for the Halibut IFQ cost recovery fee at § 679.45. Data gathered through this methodology were determined to be the best available for the fee collection component of this program.

The number of observer days in the budget for an upcoming year is determined not just by the annual ex-vessel prices, but also the cost per observer day. This cost is determined by NMFS' contract with the observer provider and will be included in each year's annual deployment plan. The analysis also notes that the estimated costs per observer day used in the analysis will also vary over time.

If NMFS and the Council determine that the fees collected pursuant to this final rule do not provide sufficient funding for an adequate number of observer days to collect data to monitor and enforce regulations imposed on these fisheries, the Council will review the fee percentage. Consideration of fee adjustment would result from information provided in the annual reports.

Comment 57: The proposed action is not consistent with section 313 of the MSA, which authorizes the Council to prepare a "fisheries research plan" that can require observers on board fishing vessels, including vessels participating in the North Pacific halibut fishery. Specifically, the proposed action is not consistent with the requirements that the fisheries research plan must be fair and equitable and take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

Halibut and sablefish IFQ vessels harvest 12 percent of the groundfish in the GOA. The proposed rule would implement a fee collection system levying 67 percent of program costs on halibut and sablefish IFQ fishermen which is not "fair and equitable" to this fleet, unless an adequate portion of the funds collected from the fee are dedicated to integrating EM with the Observer Program.

Response: NMFS disagrees. Under the previous pay-as-you-go system or daily

fee system, some smaller vessel operators faced observer costs that were disproportionately high relative to their revenue. Section 5.9 of the analysis explains that the Council was very concerned with minimizing impacts to small entities from including small vessels and halibut vessels in the observer program for the first time. The structure of the new fee system minimizes the impacts to small entities compared to the previous pay-as-you-go or daily fee systems.

The intent of the new fee system is to fund coverage equitably and distribute coverage as needed to meet the information needs of NMFS and the Council for the fishery conservation and management. Section 313 of the MSA requires that the system of fees established to support a fisheries research plan to deploy observers in the North Pacific fisheries must be fair and equitable to all participants in the fisheries and may be expressed as a percentage of the unprocessed ex-vessel value of the fish and shellfish.

The ex-vessel based fee is fair and equitable because it is based on a standard measure of the value of the fishery resource harvested or processed by the participants and it applies regardless of whether a vessel or processor is required to carry an observer. Section 2.9.2.2.5 of the analysis notes that an ex-vessel value fee is the most equitable method of funding observer coverage because it is based on the value of the resource each operation brings to market. An ex-vessel value fee is commensurate both to each operation's ability to pay and the benefits received from the fishery. The ex-vessel value of the catch is expected to fluctuate, as are the catch quotas.

While the MSA authorizes the Council to vary the fee by fishery, management area, or observer coverage level, the Council recommended that a fixed fee percentage of 1.25 percent of ex-vessel value of landings was the most fair and equitable method to distribute the observer fee across the vessels and processors subject to the fee. Section 2.9.2.1 describes how the new fee system accomplishes one primary objective of Observer Program restructuring, that user fees not be directly linked to actual coverage levels when levels are less than 100 percent. Consistent with fee program principles described in Section 2.9.2.2 of the analysis, fees collected from any particular fishery would not be spent monitoring that particular fishery.

NMFS is committed to continuing to develop EM in an effort to advance technological tools available to collect data about the groundfish and halibut fisheries. For a more complete discussion of using observer fees to develop EM, please see the section below called "Electronic Monitoring."

Comment 58: The observer fee should be based on gross revenues rather than ex-vessel value of landed catch. Specifically, the observer fees should start at 1.25 percent for vessels with low gross revenues and increased to a maximum of 2.5 percent for vessels with high gross revenues.

Response: Section 313(b)(2)(E) of the MSA requires that the observer fee "be expressed as a fixed amount reflecting actual observer costs as described in subparagraph (A) or a percentage, not to exceed 2 percent, of the unprocessed ex-vessel value of the fish and shellfish harvested * * *." While the MSA does not require that the observer fee be based on ex-vessel value of the catch, it does require that if it is expressed as a percentage, that it not exceed 2 percent of the ex-vessel value of the catch. The Council had the option to vary the fee by fishery, management area, or observer coverage level. It considered an option for a lower fee percent for smaller vessels. However, it chose to initially apply a single fee percentage of 1.25 percent of ex-vessel value to all landings subject to the observer fee. The rationale for an equivalent fee across all industry sectors was to be equitable to all participants impacted by the fee assessment. The Council will review the observer fee in the future and may decide to recommend modifying the fee percentage through subsequent notice-and-comment rulemaking to adjust the fee percentage or how it is applied.

Comment 59: Halibut and sablefish fisherman already pay the IFQ cost recovery fee. Adding another fee to our fleet for observer coverage is unacceptable.

Response: The MSA authorizes NMFS to collect two distinct fees from participants in the fixed gear halibut and sablefish fisheries. The IFQ cost recovery fee and the observer fee support different management and information needs of NMFS and are not duplicative. For example, NMFS assesses a cost recovery fee for the Central GOA Rockfish Program and requires 100 percent observer coverage for catcher vessels participating in that program, and 200 percent observer coverage for catcher/processors to ensure adequate data collection in that LAPP (see the final rule for the Central GOA Rockfish Program (76 FR 81248; December 27, 2011)).

The management fee referred to by the commenter is the IFQ cost recovery fee required under MSA section 304(d)(2)(A) to recover the actual costs directly related to the management, data collection, and enforcement of the IFQ Program. Furthermore, MSA section 304(d)(2)(C)(i) notes that fees collected under this paragraph shall be in addition to any other fees charged under the MSA.

The new fee implemented with this final rule is authorized by MSA section 313. The fee may be assessed at up to 2 percent of the ex-vessel value of the unprocessed fish harvested under the jurisdiction of the Council, including the North Pacific halibut fishery. This fee is to be used to pay the combined costs of stationing observers, or EM equipment, on board fishing vessels and U.S. fish processors and inputting collected data. Through the fees, owners and operators compensate the Federal Government for the costs associated with managing fishery resources. Section 2.10.3 of the analysis described the potential effects of Observer Program fees on participants in the Halibut and Sablefish IFQ Program.

Comment 60: The owner of a 48 ft. longline/troll combination vessel stated that he supports paying observer fees to improve the Observer Program if EM, the only viable option for his fleet, is included in the final rule.

Response: Consistent with the proposed rule and the Council's recommendations for restructuring the Observer Program, the observer fee will be assessed on all halibut IFQ landings. Vessels in this fleet will be subject to observer coverage as determined by the annual deployment plan. For a complete discussion of EM, please see the section below called "Electronic Monitoring."

Comment 61: Use a 3-year average price for groundfish to smooth out short term price fluctuations.

Response: This final rule at § 679.55(d)(3)(A) specifies that the groundfish standard ex-vessel prices will be calculated as a 3-year rolling average of standard prices for each species, port or port-group, and gear. This provision is unchanged from the proposed rule.

Comment 62: NMFS did not analyze the economic and social costs of deploying human observers in the small boat fleet or of carrying observers for vessel operators in the vessel selection pool (*e.g.*, feeding an observer, insurance, displacing a crew member, or disrupting the character of family operations). These additional costs will lead to operations leaving the fishery, halibut and sablefish IFQ consolidation, and elimination of crew jobs.

NMFS also did not assess the impacts on fishery revenues of deploying human observers in the small boat fleet. The economies of Alaskan fishing

communities will be hurt as the fleet contracts, and revenues to state and Federal governments would be reduced.

Response: The analysis prepared for this action assesses the economic and social cost of deploying human observers in the small boat fleet and its impact on revenues in the fishery. Sections 2.10.6 and 2.10.7 of the analysis evaluate impacts on fishery costs and revenues. NMFS acknowledges in Section 2.10.7 of the analysis that there may be negative impacts to specific fishing operations, crew members, communities, and state and Federal revenues, as described in the comment. In addition, the analysis notes that in some instances, harvesters' trip costs may increase, which may affect the ability of marginally profitable operations to remain in the fishery. Additionally, the number of crew positions could be reduced, and family operations may be disrupted, due to compliance with observer coverage requirements. This may also contribute to the likelihood that some operations will choose to leave the fishery. These changes may affect communities, specifically as some communities are negatively impacted by the potential redistribution of harvesting effort. While these issues are generally discussed, the analysis also notes that these costs or concerns will affect some members of industry and not others, and information is not available to determine the impacts of each situation. As a result, quantitative estimates of the impacts were not generated, and it is unlikely that quantitative data will be available in the future to estimate the value of changes in the character of family fishing operations that may occur as a result of carrying an observer.

These concerns were presented to the Council, in the analysis and in public testimony, and the Council recommended removing vessels less than 40 ft. LOA from the vessel selection pool, at least for the first year of the program, under the 2013 Observer Program Annual Deployment Plan. The preamble to the proposed rule provides the specific rationale for limiting observer deployment to vessels less than 40 ft. LOA (77 FR 23336; April 18, 2012). Based on the relative proportion of catch and fishing trips conducted by vessels less than 40 ft LOA, NMFS is not likely to deploy observers on vessels less that 40 ft LOA in the near future. NMFS would only expand coverage to vessels less than 40 ft. LOA if data collection needs warrant the deploying observers on those vessels. NMFS would make this decision in conjunction with the Council through the annual deployment plan process and after careful consideration of economic impacts and safety-related issues as well as public comments.

Through the annual deployment plan process, industry participants can provide feedback directly to NMFS, the OAC, and the Council concerning the effects of observer coverage on their operations. These comments can be considered, as they were in the 2013 Annual Deployment Plan, when recommending coverage on specific vessel sizes in an annual deployment plan.

Note that observers will be insured by their employer, as required in regulation for full coverage vessels and in the contract between NMFS and the observer provider for the partial coverage category. Observers are also covered by the Federal Employees Compensation Act, as identified in the analysis. This insurance coverage does not prevent any observer or observer provider from filing a suit for injuries that occur on a vessel. Thus, industry members may choose to protect themselves from lawsuits by obtaining additional liability insurance.

Outreach

Comment 63: NMFS should conduct as much outreach as possible to the fishing and processing sectors that will be affected by the restructured Observer Program. As noted in the proposed rule, a total of 1,775 entities (including catcher vessels, catcher/processors, motherships, shorebased processors, stationary floating processors, and CDQ groups) are estimated to be directly regulated by the proposed action. Extensive outreach is needed to build awareness and understanding among the regulated community of the new requirements.

Response: NMFS agrees that outreach to the fishing industry will be helpful in implementing the restructured Observer Program. NMFS has already conducted outreach meetings or public hearings in Kodiak AK, Sitka AK, Petersburg AK, Sand Point AK, Juneau, AK, Homer AK, Seattle WA, and Newport OR, in the process of developing this action with the Council, and to solicit comments on the proposed rule (77 FR 22753, April 17, 2012; 77 FR 29961, May 2, 2012). NMFS continued outreach efforts to industry participants and fishing communities prior to publication of the final rule through direct mailings to vessel owners in the partial observer coverage category. In addition, with the publication of the final rule, NMFS will conduct additional meetings in fishing communities to explain the program requirements, demonstrate ODDS, and answer questions. NMFS outreach is in addition to outreach by the Council and the activities of the OAC.

Comment 64: NMFS should reach out to observers to explain how the restructured Observer Program will impact their work environment. This outreach should occur outside of the four-day briefings to ensure a smooth transition to the new program.

Response: This action does not change the basic duties of observers when they are on board vessels. It does, however, expand the observer program to new, previously unobserved vessels. NMFS plans to address those work related issues either in existing training sessions or in trainings specifically required under the contract with the selected observer provider.

Observer Issues

Comment 65: Adequate pay and professional treatment of observers from observer providers and NMFS is critical to the success of this program. NMFS should find a mechanism to link the agency with the welfare and professional standards of its observers.

Response: Adequacy of observer pay is outside the scope of this action. Observers pay will be established in both the partial and full coverage categories by the observer providers, subject to other Federal and state laws, and in negotiation with their observer employees and unions, if applicable.

Professional treatment of observers and professional behavior by observers is important to maintain high standards in the observer workforce. NMFS has established educational standards for all observers in the workforce and provides initial and recurrent job training to them. NOAA's Office of Law Enforcement provides support for a harassment free workplace for observers when deployed in Alaska. Observer provider companies have policies related to professional behavior and mechanisms for counseling, when appropriate, and/or progressive discipline for infractions of their policies. This action does not change the standards for professional treatment of observers.

Comment 66: NMFS needs to be diligent about addressing observer harassment in previously unobserved fleets.

Response: NMFS agrees that harassment of observers is not acceptable and will not be tolerated. Existing regulations at § 679.7(g) expressly prohibit observer harassment. These regulations are applicable to previously unobserved vessels that will now be required to carry observers. Harassment prevention is a top priority for NOAA's Office of Law Enforcement

as observers are essential to NMFS management efforts, but are in a vulnerable position by being placed as the lone NMFS representative on fishing vessels. NMFS has been placing observers on fishing vessels in Alaskan waters for over 30 years. NMFS' experience is that most observers are treated well by vessel owners and crew. However, exceptions occur and NMFS has law enforcement capacity to respond to reports of harassment and will continue to keep this as a priority. NMFS is also planning outreach efforts to newly observed fleets to ensure the participants are informed of the rules, including prohibitions against observer harassment.

Comment 67: Standards of behavior that apply to observers fulfilling duties for operations in the full coverage category should be mandatory for observers assigned to vessels in the partial coverage category. This is necessary to protect the confidentiality of the data collected.

Response: The regulations outline the standards of behavior that govern observers in the full coverage category. NMFS incorporated these standards into the contract that will govern the observers in the partial coverage category. All observers will continue to be required to protect the confidentiality of the data collected.

Electronic Monitoring

Comment 68: NMFS failed to comply with the requirements of the Regulatory Flexibility Act to analyze an alternative of EM, which would have minimized the impact of the alternatives on small entities.

Response: The Regulatory Flexibility Act (RFA) requires NMFS to prepare an initial regulatory flexibility analysis (IRFA) to describe the economic impact of the proposed rule on small entities, such as fishing vessel operations. The IRFA is required to include, among other things, "a description of any significant alternatives to the proposed rule which accomplish the stated objectives of the applicable statutes and which minimize any significant economic impact of the proposed rule on small entities." The Council considered and fully analyzed alternatives, including the one that would have had the least cost on currently unobserved vessels, which was to make no changes in the current observer program. This alternative would have continued to require no observer coverage on vessels less than 60 ft. LOA or on the halibut fleet. This alternative does not meet the purpose and need for this action because it would not provide observer information from those vessels. Compliance with the RFA also requires preparation of a Final Regulatory Flexibility Analysis, which is included in the Classification section of this final rule.

NMFS disagrees that EM in its current form is a reasonable alternative to a human observer that would accomplish the objectives for this action. NMFS is committed to continuing to develop EM in an effort to advance technological tools available to collect data about the groundfish and halibut fisheries.

NMFS also notes that, under some circumstances, EM may not minimize costs to the industry. Current operational EM systems are in place in Alaska to meet specific objectives. However, the degree of burden existing EM systems can place on vessels can be considerable. For example, NMFS requires EM systems on many trawl catcher/processor vessels in Alaska where the system is designed to support compliance monitoring of crew sorting catch before it is sampled by the observer (see regulations at § 679.28(i) and (j)). These EM systems serve as an aid to the observers on board, and can be used to document problems should follow-up enforcement action be necessary.

In situations where EM is currently required, it places a burden on industry to ensure the EM systems are in place and continuously functional. If an EM system on board a trawl vessel fails, the system must either be repaired on board or the vessel must modify their operations to prohibit specific crew activities that sort catch, or the vessel must return to port to have the system repaired. Trawl vessels that fish without required EM are in violation of regulations and are subject to enforcement action. In these cases, industry carries the full cost of the EM systems and their maintenance.

Comment 69: An electronic monitoring program is not included in the alternatives compared in the analysis, though it is noted that EM may be an option under a separate, future process. The Council approved a motion in June 2010 requesting that EM be developed and implemented as a tool for fulfilling observer coverage requirements in the restructured program. The analysis fails to consider how an at-sea monitoring program integrated with shore side observers, human observers on survey vessels, and EM can resolve the limitations of the existing Observer Program. Because other countries are using EM to collect at-sea monitoring data in fisheries similar to the halibut and groundfish fisheries off Alaska, NMFS' failure to include EM as an alternative for monitoring the vessel selection pool results in an unreasonable range of alternatives under NEPA.

Response: The Council explicitly chose to not include EM as an alternative or option in Section 2.5 of the analysis prepared to support this action. The scope of this analysis, consistent with Council's problem statement, addresses specific problems with the existing Observer Program (1) there are no observer requirements for either the less than 60 ft. LOA groundfish sector or the commercial halibut sector, (2) coverage levels and deployment patterns cannot be effectively tailored to respond to current and future management needs and circumstances of individual fisheries, (3) fishery managers cannot control when and where observers are deployed, (4) many smaller vessels face observer costs that are disproportionately high relative to their gross earnings, and (5) complicated and rigid rules have led to observer availability and compliance problems. Consequently, the analysis examined alternative fee structures for various regions (BSAI or GOA) and fishing sectors to remedy the problems identified in the problem statement.

The Council did provide guidance on the use of EM in June 2010, based on public testimony concerning the limited ability for some smaller vessels to carry an observer. Recognizing that section 313 of the MSA allows fees to be used for EM systems, the Council decided to actively explore EM as a potential alternative to human observers for specified types of vessels with the intent of having it available in the first year of implementation of the restructured Observer Program. The Council recognized that EM could be an alternative to a human observer only at such time as NMFS has the capability to deploy EM and effectively use the resulting data to meet sampling objectives. Section 2.5 of the analysis stated that implementing an EM system for specific fisheries would likely require new Federal regulations, and would be addressed in a separate, subsequent analysis. Thus, this final rule does not implement an EM program as an alternative to human observers. The final rule includes an option for a vessel to indicate its willingness to carry EM equipment to help NMFS collect data. NMFS will continue to work to develop an EM program that is supported by performance standards and regulations over the longer term.

Comment 70: National Standard 7 requires that conservation and management measures shall, where practicable, minimize costs. If there is

an alternative that accomplishes the same purposes for which an observer would otherwise be placed aboard a vessel and that alternative minimizes costs, then NMFS must either select that alternative or provide a substantive rationale for why that alternative was not selected. In the proposed rule, NMFS identifies that EM could reduce the economic burden of the restructured Observer Program on small entities. By failing to provide EM as an alternative to observers in the proposed rule, NMFS violates National Standard 7.

Response: This action complies with National Standard 7 in that no other viable alternative minimizes costs while accomplishing the action's purpose. Although the Initial Regulatory Flexibility Analysis for Amendments 86/76 stated that EM "could serve to reduce economic impacts on small entities by providing an alternative to carrying a human observer," EM in its current form is not a reasonable alternative to a human observer, for reasons described in more detail in the response to Comment 71. Therefore, EM was not included in the alternatives analyzed by the Council for this action.

Comment 71: NMFS should reinstate the language in the draft proposed regulations, reviewed and approved by the Council in October 2011, which would have required vessels selected for observer coverage in the vessel selection pool to have either an observer or EM system on board, with the final determination to be made by NMFS. In the proposed rule, § 679.51(a)(1)(ii)(F)(*2*) was modified relative to the draft regulations to allow NMFS discretionary authority to provide EM equipment to a vessel owner or operator upon releasing the owner or operator from the requirement to carry an observer. Under the proposed regulations, there is no longer an obligation or an incentive for the vessel owner or operator to accept or use the EM equipment. This is a significant deviation from the Council's intent with respect to the implementation of this provision of the Observer Program. The development of EM has been an important element of this program for several years, both as an immediate priority for vessels greater than or equal to 40 ft. LOA and less than 57.5 ft. LOA that fish halibut and sablefish individual fishing quotas, as well as an independent tool in the long-run in the research plan.

The use of EM is an important alternative to observers on smaller vessels that, because of logistical and economic challenges with accommodating an observer on board, may otherwise be released from observer coverage. NMFS should allow a vessel selected for coverage in the vessel selection pool that would otherwise be required to take an observer, to use an EM system instead (at NMFS' discretion). NMFS should include language in the final rule that would meet the Council's intent and avoid concerns identified by NMFS after the proposed rule was reviewed and approved by the Council.

Response: NMFS agrees that EM is an important alternative for vessels that are physically impractical for human observation. NMFS also agrees that the Council's intent has been to implement an EM system in the first year of implementation of the restructured Observer Program. However, the Council and NMFS have recognized that NMFS must have the capability to deploy EM and effectively use the resulting data to meet sampling objectives before an EM system can be available as an alternative to a human observer. NMFS agrees the initial draft regulations reviewed by the Council in October 2011, would have allowed vessels selected for observer coverage in the vessel selection pool to have either a human observer or EM equipment on board for the duration of the selection. As explained in the preamble to the proposed rule as published in the Federal Register on April 18, 2012 (77 FR 23326), NMFS reviewed the initial draft rule and determined the rule should not require EM since NMFS has not yet developed performance standards or technical specifications for EM. Therefore, and as explained in the preamble to the proposed rule, NMFS proposed that the only observer requirement for a vessel selected for coverage would be that an observer be on board for the duration required.

NMFS agrees that there may be scenarios where monitoring via video may provide helpful information to NMFS. However, NMFS has identified limitations with the existing EM technology and, at this point, has determined that the EM technology available is not an equivalent substitute to a human observer. These limitations have been discussed at the OAC over several years and are documented in OAC minutes that have been presented to the Council. For example, EM does not provide the biological information that human observers collect. Species identification can be difficult with EM and there are longer time lags until data are available for management relative to data collected by observers (e.g., observers summarize their results and transmit them to NMFS as needed, often daily). Electronic monitoring system reliability and susceptibility to tampering are other issues that need to be resolved. While pilot work is underway to resolve some of these issues, NMFS expects that the establishment of a comprehensive electronic data generating system supported by enforceable regulations could require several years.

In October 2011, the Council recommended that the initial phase of an EM program focus on halibut and sablefish hook-and-line vessels from 40 ft. LOA to 57.5 ft. LOA. Despite the limitations noted above, NMFS agrees that EM may be a helpful tool for gathering data to generate estimates of at-sea discards on previously unobserved vessels, particularly in the hook-and-line IFQ fisheries. Thus, as described in the response to Comment 71, NMFS is developing the capacity to deploy EM equipment on some vessels at the outset of the restructured Observer Program.

NMFS is working to implement EM for use on hook-and-line vessels less than 57.5 ft. LOA on a voluntary basis, as well as to incorporate EM as an integrated component of the Observer Program over the longer-term where technically and economically feasible. Lessons learned from prior fishery EM projects demonstrate the need to match the sampling objective with the system capabilities. The first-look at discards on small hook-and-line vessels where there is not a need for rapid data transmission is a good starting point. In 2013, NMFS will deploy EM equipment on those small hook-and-line vessels in the vessel selection pool that have indicated a willingness to carry EM equipment. NMFS recognizes the importance of industry support for an EM program. NMFS intends to continue to work collaboratively with industry and the Council to develop an EM program with detailed specifications and apply it where it meets information needs for effective fisheries management.

In response to this comment, NMFS has revised the process for deploying EM equipment on vessels. In the 2013 Observer Program Annual Deployment Plan, NMFS may select small hook-and-line vessels from the pool of vessels fishing out of key ports, such as Kodiak, Homer, Sitka, and Petersburg, if the owner has indicated a willingness to carry EM equipment. Industry members conducting initial EM feasibility work recommended focusing EM efforts out of a few key ports. Any vessel operator who has indicated a willingness to carry EM equipment out of a key port may be selected for EM. However, given the developing state of EM and NMFS' current EM capacity, not all operators who indicate a willingness to carry EM

equipment will be provided EM equipment. NMFS expects that vessels selected for EM will work cooperatively with NMFS, as many members of the fleet view EM as the preferred tool for information gathering. Those vessels that are selected to carry EM equipment and that cooperate with NMFS and assist in meeting data quality standards will be eligible to carry EM equipment. At any time, vessel operators may retract their stated willingness to carry EM equipment. Conversely, NMFS may determine at any time that a vessel is not suited for carrying EM equipment.

Comment 72: We oppose the restructured Observer Program until EM is provided as the preferred option for collecting at-sea catch and bycatch data on fixed gear halibut and sablefish vessels. We support the goals of the restructured Observer Program and are willing to pay a fair share of the future observer coverage costs. We are willing to provide at-sea data, but need a system that works for the fixed gear fleet. EM should be the preferred monitoring option for the fixed gear halibut and sablefish fleet starting in 2013.

Response: The current standard within NMFS for obtaining unbiased fishery dependent information from fisheries is to deploy human observers to observe fishing operations and sample the catches brought on board. Observers provide many types of information to NMFS including catch and effort, catch composition in numbers and weights of species, biological samples, length frequency data, interactions with protected species, and information on compliance with regulations such as streamer line deployment. The observer information allows NMFS to meet multiple agency objectives. At this time, EM may assist NMFS in meeting some but not all of these objectives. See response to Comment 71 for more information about the limitations of EM in its current state. While EM has limitations, NMFS recognizes the potential for EM development. The use of this technology in observation has been addressed by the Council with input from the OAC. The OAC requested that NMFS continue to develop EM with a focus on small boat hook-and-line fisheries where NMFS has no current in-season management responsibility. For 2013, NMFS has dedicated $200,000 for continued development of EM in Alaskan fisheries management and expects to deploy EM systems on cooperating vessels in 2013, the first year of the program.

Comment 73: The pilot project conducted by industry in collaboration with NMFS from 2010 through 2012 demonstrates that there is substantial information available to NMFS to fully evaluate an effective EM alternative, develop necessary performance standards, resolve any outstanding issues with video data extraction, and include EM as an integrated alternative under the restructured Observer Program.

Response: NMFS has worked with the Alaska Longline Fisherman's Association (ALFA) in its National Fish and Wildlife Foundation funded pilot work on EM. ALFA was able to demonstrate and gain experience with the practical aspects of deploying EM camera systems. They have demonstrated the ability to deploy these systems on the small boat Alaskan fleet, and they have resolved some reliability issues experienced by NMFS in past EM studies. However, the existing systems continue to have known limitations relative to NMFS' information needs. For example, none of the EM systems currently deployed in the North Pacific are able to collect biological data at-sea that are essential for assessing the biological condition of fishery resources.

Comment 74: NMFS should resolve issues to fully utilize EM on vessels of any length due to safety, economic, and logistical concerns with deploying observers on fishing vessels. Fishermen work under perilous conditions but they have the choice about which vessels, fisheries, and weather conditions they will work in. Observers do not get that choice. An observer was lost at-sea off the coast of Washington in 2012. Some vessels less than 60 ft. LOA may be able to safely accommodate observers, however the conditions are highly variable among vessels. The Council did not adequately address the safety of human lives in designing this restructured Observer Program. Safety issues associated with the action may be alleviated through EM.

Response: While NMFS disagrees that there are significant safety concerns with the proposed action, the agency acknowledges the inherent risk involved in the at-sea monitoring of fisheries by observers. An observer was lost off the coast of Washington in 2012, and two were lost in the domestic Observer Program in Alaska, one in 1990 in a vessel sinking, and one in 2008 in a fall and drowning while boarding a vessel alone at night. NMFS agrees that EM in lieu of an observer would reduce all risk to observers. However, EM in its current state does not provide the same reliable suite of timely fisheries dependent information which NMFS needs for fisheries management. Therefore, EM is not an acceptable substitute for fisheries observers at this time.

Comment 75: EM must be available as a voluntary choice for any vessel selected for coverage.

Response: NMFS and the Council did not envision that industry members would choose the type of observation on their vessels. NMFS has fishery dependent information needs from the commercial fisheries and this rule establishes the infrastructure to fund, and the requirement to take, an observer. After reviewing draft proposed regulatory language in October 2011, the Council reiterated its intent that NMFS determine which vessels may be afforded the opportunity to take EM. The preamble to the proposed rule makes it clear that EM may not be available to all vessels who request EM. Under this final rule, owners of vessels in the vessel selection pool will be given the opportunity to express their interest in taking EM. However, given the developing state of EM and NMFS' current EM capacity, not all operators who indicate a willingness to carry EM equipment will be provided EM equipment.

Comment 76: The present EM technology is not a perfect fit for monitoring all vessels. However, with effort, cooperation, and funding the technology could be developed within a year to cover hook-and-line vessels. Fisheries with the need for real time management data may not be immediately suitable for EM but it is an obtainable goal for the hook-and-line sector. The proposed rule discussed general implementation of EM in the vessel selection pool, however a definitive timeline for executing EM is the only sufficient approach to ensure that NMFS develops this crucial management technology. In addition, because EM must be part of the Observer Program for the program to be successful, NMFS should build enough flexibility into the final rule so that the EM program can grow and develop through the annual deployment plan.

Response: NMFS is taking a thoughtful and methodical approach to developing EM in Alaska and nationally. EM must provide information that is useful to fishery management in a cost effective manner. In Alaska, NMFS has conducted studies comparing EM and observer information that revealed the limitations of the existing technology. For example, please see "Cahalan, J. A., B. M. Leaman, G. H. Williams, B. H. Mason, and W. A. Karp. 2010. Bycatch characterization in the Pacific halibut fishery: A field test of electronic monitoring technology. U.S. Dep. Commer., NOAA Tech. Memo.

NMFS–AFSC–213, 66 p.," available on the Alaska Fisheries Science Center Web site (*http://www.afsc.noaa.gov/Publications/AFSC-TM/NOAA-TM-AFSC-213.pdf*).

NMFS will be conducting additional work in Alaska in 2013 to advance the technology to make it more useful. Some objectives will never be met with EM (*e.g.*, collecting biological samples at-sea, or identifying some species may not be reliable or cost-effective using video technology) so a combined approach of EM and observers may be the result. While NMFS is developing EM capacity in the initial year of the program, the agency will also provide a strategic planning document outlining ways that EM might be fully integrated into the Observer Program in the future and the steps that would be necessary to accomplish that. This document was requested by both the Council's OAC and the Council. Establishing a fully integrated EM system that would replace many tasks of a human observer would require subsequent rule making, the timing of which cannot be determined at this time.

Comment 77: NMFS should develop an implementation plan for EM on groundfish vessels, including (1) a means for assessing both those protected species that are brought on board and those that are not, and (2) a means for analyzing the effectiveness of the EM at identifying the species, estimating the numbers, and characterizing the severity of injuries to protected species, whether they are or are not brought on board.

Response: Protected species offer particular challenges for EM because interactions can be rare, the interaction can occur at or on various parts of the vessel, the interaction may not break the surface of the water, and identifying the species and any injuries to it may be difficult. When events are rare, large samples of EM footage, and possibly all footage, would need to be reviewed to detect rare events. For example, the British Columbia (BC) model of "EM only" reviews a small portion of the retrieved video as a validation check on required logbooks. Neither the logbooks nor the video check may be helpful to assess rare protected species interactions in the BC model. Of equal concern is where the interaction occurs. In hook-and-line operations, most video systems are focused on the line retrieval. If the interaction is outside the field of view of the camera, it will go undetected. It is possible to install wide angle cameras to increase the field of view, but it is unknown if wide angle cameras will provide the quality of images necessary to detect the interaction and identify the species encountered. Further work is needed to assess the ability of cameras to detect and identify protected resource interactions with fishing vessels. NMFS will consider protected resource interactions as one of the objectives to consider for EM observation.

Comment 78: If EM is effective for monitoring small vessels, then cameras should be used to monitor all halibut vessels, including catcher/processors with existing 30 percent observer coverage requirements. This would reduce the cost and burden for vessel owners relative to carrying observers.

Response: NMFS disagrees. The rationale for requiring full observer coverage on catcher/processors is outlined in the preamble to the proposed rule (77 FR 23329; April 18, 2012). This final rule includes three allowances for small catcher/processors to elect to be in the partial observer coverage category. Please see the section above called "Allowances for Catcher/Processors" for more information. Outside of these allowances, NMFS did not consider establishing a length threshold to distinguish between full and partial coverage categories.

Comment 79: If funding is limited for observers in the partial coverage category, it would be appropriate to maximize observer coverage on vessels using trawl gear and defer implementation of the program for most fixed gear vessels until EM is available to meet additional data collection needs form those fisheries.

Response: NMFS disagrees. Funding will always be limiting in the partial coverage sector for some objectives. Focusing observer coverage on trawl vessels in the partial coverage category would fail to meet the purpose and need of this action to obtain data from fisheries that are not otherwise available. Focusing observer coverage on trawl vessels would directly counter the clear intent of the Council to extend observer coverage to previously unobserved portions of the fleet, and reduce bias in those portions of the fleet that are subject to partial coverage under the previous Observer Program.

It is not clear if EM can meet most NMFS' objectives, or if it can do so in a cost effective manner. Currently, EM does not provide the information required to accurately assess discards at-sea or protected species interactions in a timely fashion, or have the ability to collect biological data. Deferring implementation of this final rule for the fixed gear fishery would not meet the purpose and need established for this action. Specifically, adopting the commenter's recommendation would not allow fishery managers to control when and where observers are deployed and would result in potential sources of bias that could jeopardize the statistical reliability of catch and bycatch data.

Comment 80: NMFS should dedicate a portion of the observer fees collected from the halibut and sablefish fleet to fund the development and implementation of EM. Some commenters asserted that 15 percent of the fees should be dedicated to the implementation of EM.

Response: NMFS is authorized to use observer fees collected under the authority of section 313 of the MSA for stationing observers and EM systems on board fishing vessels and U.S. fish processors. Observer fees across all fisheries will be pooled in one account and allocation of the fees between observers and EM will depend on the ability of observers or EM to meet information needs, and the respective cost of each. The amount dedicated may vary by year and could be less than or greater than the 15 percent allocation suggested by some commenters. NMFS may also add Federal appropriations to fund observers or EM and has done so with a fiscal year 2012 contribution of $4,200,000 for observers and $200,000 for EM development in Alaska. Development of EM in other NMFS regions also will help inform efforts in Alaska.

Comment 81: NMFS should use Federal tax dollars instead of observer fees to fund the development and implementation of EM.

Response: See response to Comment 81.

Comment 82: EM is a very promising technology that has obvious applications in the partial coverage category. However, it is appropriate that NMFS is not proposing to replace observers with EM at this time. More information is needed about how EM will collect the data that currently is collected by observers.

Response: NMFS acknowledges this comment.

Comment 83: NMFS should expand the proposed definition of EM to include other technologies that could be used on vessels that are incapable of carrying an observer. Electronic options to observers such as VMS, electronic logbooks, and various electronic data loggers have proven to be effective monitoring tools in other fisheries and are often less expensive, more readily available, and easier to maintain than camera-based systems. Data from such alternative systems could also assist the agency in its efforts to develop or refine observer deployment strategies to ensure that observer sampling in the

partial coverage category is representative of total effort.

Response: While NMFS did not propose a definition for "electronic monitoring" in the proposed rule, NMFS specifically referred to "electronic video monitoring" in the preamble to the proposed rule, which was intended to imply that "electronic monitoring" was synonymous with video monitoring. However, NMFS agrees that EM is a broad topic and a range of electronic tools exist that can be used to meet monitoring objectives. These tools range from simple position recording, to electronic logbooks, to camera systems integrated with other vessel sensors. The right combination of electronic and human observation tools will depend on the information needs of NMFS in any particular application balanced by costs. NMFS is investing in EM systems in 2013 and is considering a range of technologies.

Comment 84: VMS should be required on all vessels so that (a) NMFS knows where the entire fleet is fishing, not just the observed vessels; (b) vessel position is known enabling rescuers to better respond in the event of a vessel emergency; and (c) NOAA Office of Law Enforcement can cross-reference vessel position with observer reports.

Response: NMFS disagrees that VMS requirements should be added to this final rule. VMS requirements were not part of the restructured Observer Program recommended by the Council and are not necessary to meet the purpose of the restructured Observer Program. NMFS requires VMS on a number of vessels, and the Council and NMFS may consider expansion of VMS requirements in a future action.

Comment 85: The proposed rule defines "observer" as a human meeting certain qualifications; EM is completely missing from the definition. As a result, effective integration of EM will require additional Council action, analysis, and amendment of the Observer Program.

Response: NMFS acknowledges this comment.

Changes From the Proposed Rule

This final rule includes changes to particular sections of the regulatory text and amendatory instructions published in the proposed rule. These changes fall into four categories: (1) Changes to the proposed regulations in response to public comment, (2) revisions needed to accommodate changes made to 50 CFR part 679 by a rule published after the proposed rule for Amendments 86/76 was published, (3) additions of existing regulatory text inadvertently excluded in the proposed rule, and (4) minor editorial revisions and minor revisions to amendatory instructions.

NMFS reviewed the regulatory changes proposed by public comment and determined that the following 2 changes are a logical outgrowth from the proposed rule and, while relatively minor, these changes improve the functioning of the restructured Observer Program. Additional detail on why NMFS has made each change from proposed to final rule is provided in the response to the applicable comment. This final rule includes the following 2 changes to the proposed regulations in response to public comment:

1. For reasons explained in the response to Comment 40, NMFS amended the final rule to expand the "fishing trip" definition at § 679.2 to include a definition specific to catcher vessels delivering to tender vessels. A fishing trip for a catcher vessel delivering to a tender will start when the vessel departs from a port until that vessel returns to a port in which a shoreside processor or stationary floating processor with a valid FPP is located. The provision specifying return to a port where a processor with a valid FPP is located is added to ensure that, if the vessel is observed, the vessel operator returns that observer to a port from which transportation is available. NMFS also revised § 679.51(a)(1) to include a new paragraph that requires a catcher vessel to make at least one delivery to a tender vessel to be subject to the fishing trip definition for catcher vessels delivering to tender vessels.

2. For reasons explained in the response to Comment 27, NMFS removed the proposed requirements at § 679.51(a)(1)(ii)(B) and (C) and § 679.7(g)(7) from this final rule. These deletions remove proposed regulations that would have required holders of FFPs issued after December 1 and operators of vessels fishing for IFQ or CDQ on vessels that had not landed groundfish or halibut in the previous year to enter their vessel information into ODDS within 30 days of issuance of a new FFP or within 30 days of embarking on his or her first fishing trip of the year. Removing § 679.51(a)(1)(ii)(B) and (C) required renumbering of § 679.51(a)(1)(ii) and correction of cross references to this paragraph in § 679.7(g)(7) and subpart E.

This final rule includes minor organizational changes that incorporate the Freezer Longline Monitoring and Enforcement (FLL M&E) final rule (77 FR 59053, September 26, 2012). The FLL M&E final rule modified equipment, operational, and observer coverage requirements for vessels named on an LLP license with a Pacific cod catcher/processor hook-and-line endorsement for the Bering Sea, Aleutian Islands, or both the Bering Sea and Aleutian Islands. The FLL M&E final rule revised §§ 679.5, 679.7, 679.28, 679.32, and 679.50 and added a new § 679.100. The FLL M&E final rule was published after the Observer Program proposed rule. This Observer Program final rule restructures the Observer Program regulations and therefore must re-number applicable paragraphs from the FFL M&E final rule. If these changes were not made in this final rule, then the regulations would be inconsistent with the FFL M&E final rule, which would undermine the intent of that final rule and would be confusing to the regulated public. The revisions made in this Observer Program final rule to incorporate regulations implemented under the FLL M&E final rule are as follows:

1. Paragraph (a)(2)(vi)(E) is added to § 679.51. This paragraph includes the new observer coverage requirements for the longline catcher/processor subsector, which include a vessel option to carry two observers, or add flow scales and carry one observer. Text also is added to § 679.51(a)(2)(vi)(A)(3) to reflect the requirement, implemented in the FLL M&E final rule, that these same observer coverage requirements apply while these vessels are groundfish CDQ fishing.

2. In § 679.53(a)(5)(v)(C), the number of sets is changed from 60 to 30 to reflect the reduction in the minimum number of sets required for lead level 2 certification that was implemented by the FLL M&E final rule.

3. The proposed redesignation of § 679.32(c)(3)(ii)(G) is removed because this paragraph was removed by the FLL M&E final rule.

4. Associated cross references are revised.

This final rule adds the following regulatory text that currently exists in part 679 but was inadvertently omitted in the proposed rule. These omissions were not described in the proposed rule preamble because they were inadvertently omitted. NMFS received no comments on the omitted regulations, indicating that the public did not notice that the proposed rule proposed to remove these paragraphs of regulatory text. Therefore, regulated entities should expect that the inadvertently omitted paragraphs remain in Federal regulations. Failure to correct these omissions would remove regulations that NMFS intends, and the public expects, to remain in effect. Failure to correct these omissions would undermine the effectiveness of the Observer Program and create confusion for the regulated entities. In addition, if these omitted regulatory provisions are not included at this time, this final rule will be incorrect and NMFS would have to publish a correction notice. The revisions made in this Observer Program final rule to replace inadvertently omitted regulatory text are as follows:

1. § 679.5 (l)(7)(i)(E) was inadvertently omitted from the proposed revisions to § 679.5(l)(7)(i). This existing regulation defines the reporting period of the IFQ Buyer Report. No changes were proposed to this

paragraph in the proposed rule for Amendments 86/76.

2. Requirements that currently exist at § 679.50(c)(6)(i)(A) and (c)(7)(i)(C) state that at least one of the two observers required on Amendment 80 vessels, non-AFA trawl catcher/processors, and catcher/processors participating in the Rockfish Program be certified as a lead level 2 observer. These requirements for a lead level 2 observer in these fisheries were inadvertently excluded in the proposed rule. The proposed rule for Amendments 86/76 indicated that these requirements were intended to be included in the proposed rule. Specifically, on page 23329 of the proposed rule NMFS stated that "[t]he proposed rule would not modify observer coverage, experience, or workload requirements at 50 CFR part 679.50 for * * * Amendment 80 vessels and non-AFA trawl catcher/processors, and Rockfish Program vessels." This is also consistent with Section 2.10.3 of the analysis that notes that these vessels continue to be subject to existing management requirements, these include the need for at least one lead level 2 observer. Therefore, in this final rule, NMFS adds the lead level 2 requirements in newly renumbered §§ 679.51(a)(2)(vi)(C) and (D).

3. In § 679.51, paragraphs (e)(1)(iv) through (e)(2)(iii)(B)(*2*), which are in current regulations as § 679.50(g)(1)(iv) through (g)(2)(iii)(B)(*2*), were inadvertently omitted from the renumbering of § 679.51 in the proposed rule. These paragraphs address responsibilities of vessel operators and shoreside processor or a stationary floating processor operators required to carry observers or maintain observer coverage. The proposed rule for Amendments 86/76 indicated that these requirements were intended to be included in the proposed rule. Specifically, on page 23345 of the proposed rule, NMFS stated that "Regulations that are substantively unchanged by this proposed rule include responsibilities for vessels and shoreside and stationary floating processors required to carry an observer or maintain observer coverage* * *." Page 23345 of the preamble to the proposed rule also stated that "many of the existing regulations in subpart E to 50 CFR 679 (subpart E) would not be modified by this proposed rule. However, revisions and additions under this proposed rule would result in the renumbering of all sections at Subpart E. As such, subpart E as it would be revised by this proposed rule is presented in its entirety in the regulatory text section. However, NMFS does not propose to amend regulations that are not within the scope of this proposed rule." This correction is consistent with the clear intent of the proposed rule, and corrects an error made when renumbering of Subpart E.

4. In § 679.52, paragraph (b)(5), which is in current regulations as § 679.50(i)(2)(v), was inadvertently omitted from the proposed rule. NMFS added paragraph (b)(5) to the final rule, renumbered paragraphs (b)(6) to (b)(13), and corrected associated cross references. This paragraph addresses the requirement for observer providers to respond to industry requests for observers.

5. This final rule corrects the removal of § 679.50(g)(2)(iv) from the Code of Federal Regulations (CFR) sometime between the October 2006 and October 2007 editions. This paragraph requires the manager of a shoreside processor or stationary floating processor to "[a]llow observers free and unobstructed access to the shoreside processor's or stationary floating processor's holding bins, processing areas, freezer spaces, weight scales, warehouses, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time." These requirements were implemented in 1990 (55 FR 4839; February 12, 1990). The paragraph appears in the October 2005 edition of the CFR. However, in the October 2007 edition of the CFR, § 679.50(g)(2)(iv) no longer appears. No final rules implemented between October 2006 and October 2007 removed or revised this paragraph. Therefore, NMFS reinstates this paragraph to the CFR in this final rule as § 679.51(e)(2)(iv).

This final rule includes the following minor editorial revisions and revisions to amendatory instructions:

1. The proposed rule at § 679.51(a)(1)(ii) defined a system for the registration and notification of observer deployment and called this system the "Observer Declaration and Deployment System (Deployment System)." In this final rule, NMFS has changed the name of the system to the "Observer Declare and Deploy System (ODDS)."

2. The amendatory instructions in the proposed rule would have incorrectly removed paragraph (3) of the definition of mothership. This final rule has the correct amendatory instructions to remove and reserve paragraph (2) of the definition of "Mothership."

3. The amendatory instruction in the proposed rule for § 679.32(c)(3)(i)(A) proposed removing only the introductory text, but it should have proposed removing the entire paragraph. This paragraph contained operational requirements for catcher vessels without observers while groundfish CDQ fishing. As reflected in the proposed rule, the observer coverage requirements for these vessels is in new § 679.51, and the retention requirements are in new § 679.32(c)(3)(i)(A) and (D).

4. The correction to NMFS' Web site address in § 679.32(e) in the proposed rule is not included in the final rule because the Web site address has been revised.

Finally, regulations at 15 CFR 902.1(b) are amended to display the control number assigned by the Director of the Office of Management and Budget (OMB) for the collection-of-information imposed by this rule. Section 3507(c)(B)(i) of the Paperwork Reduction Act requires that agencies inventory and display a current control number assigned by the Director, OMB, for each agency information collection. 15 CFR 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued.

Classification

The Administrator, Alaska Region, NMFS determined that this final rule is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the MSA, the Northern Pacific Halibut Act of 1982, and other applicable laws.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis (FRFA) addresses the requirements of section 604(a) of the Regulatory Flexibility Act. An initial regulatory flexibility analysis (IRFA) was prepared and summarized in the Classification section of the preamble to the proposed rule (ADDRESSES). Pursuant to Section 604(a), A FRFA must contain:

1. A succinct statement of the need for, and objectives of, the rule;

2. A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

3. A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

4. A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

5. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The "universe" of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (*e.g.*, user group, gear

type, geographic area), that segment would be considered the universe for purposes of this analysis.

In preparing a FRFA, an agency may provide either a quantifiable or numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

Need for and Objectives of This Final Action

The need for, and objectives of, this action are described in an earlier section of the preamble titled "Need for and Objectives of the Action," and this description is not repeated here.

Summary of Significant Issues Raised During Public Comment

The proposed rule was published on April 18, 2012 (77 FR 23326), and was accompanied by an IRFA prepared pursuant to Section 603 of the Regulatory Flexibility Act. The comment period on the proposed rule ended on June 18, 2012. In addition, pursuant to section 313 of the MSA, NMFS conducted public hearings on the proposed rule in Oregon, Washington, and Alaska during the public comment period on the proposed rule.

NMFS received 85 unique comments on the proposed rule and the analysis. The comments and NMFS' responses are summarized earlier in this final rule. Comments with reference to the impact of the proposed action on directly regulated small entities, or to the IRFA, cover the following topics: (a) Integrating small entities into the program (Comment 4); (b) safety concerns for small vessels (Comments 12 through 16); (c) using electronic monitoring as an alternative because of cost, safety, or other benefits to small entities, or to comply with the Regulatory Flexibility Act (Comments 19, 68, 70 through 73, 76, and 78); (d) releasing or exempting vessels from observer coverage (Comments 43 through 45, 47, 53, and 54); (e) applying reduced observer coverage requirements to small catcher/processors (Comments 50, and 51); (f) analyzing and modifying the action to reduce costs for small entities (Comments 37, 40, 42, and 62); (g) relating the size of the observer recovery fee to vessel gross revenues (Comment 58); and (h) considering the impact of vessel selection pool observer coverage requirements on small vessels (Comments 33 through 35). None of these comments required NMFS make changes from the proposed to the final rule.

NMFS is addressing the majority of the concerns expressed by small entities through outreach and communication about the restructured Observer Program. Additionally, NMFS addressed many of the concerns expressed in public comments in the 2013 Observer Program Annual Deployment Plan. Specifically, through the annual deployment plan process, NMFS removed small fixed gear vessels from the vessel selection pool and reduced the amount of time a vessel in the vessel selection pool will be required carry an observer from 3 months to 2 months. NMFS made these changes in direct response to concerns by small entites.

This final rule includes changes to the regulatory text and amendatory instructions published in the proposed rule. These changes fall into four categories: (1) Changes to the proposed regulations in response to public comment, (2) revisions needed to accommodate changes made to 50 CFR part 679 by a rule published after the proposed rule for Amendments 86/76 was published, (3) additions of existing regulatory text inadvertently not included in the proposed rule, and (4) minor editorial revisions and minor revisions to amendatory instructions. These changes are described in detail in the section of this preamble titled "Changes from the Proposed Rule" which immediately precedes this classifications section; that description is not repeated here.

Number and Description of Directly Regulated Small Entities

For purposes of an FRFA, the U.S. Small Business Administration has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business "involved in fish harvesting" is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates), and if it has combined annual receipts not in excess of $4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation (including affiliates) and employs 500 or fewer persons, on a full-time, part-time, temporary, or other basis, at all its affiliated operations, worldwide. A more detailed explanation of the size criteria may be found in the IRFA prepared for this action (**ADDRESSES**).

This final action would directly regulate entities that harvest or process groundfish and halibut in Federal waters of the BSAI and GOA and vessels holding an FFP and harvesting groundfish in State waters that are accounted for under a Federal TAC. This specifically includes landings of (1) groundfish in the parallel fisheries in State waters, as that term is defined at § 679.2, (2) groundfish incidental to harvest in State Guideline Harvest Level fisheries (Pacific cod, pollock, sablefish), and (3) groundfish incidental to harvest of halibut or sablefish IFQ in State waters. The six CDQ groups in the BSAI will also be directly regulated by this action. Refer to the RIR for detailed descriptions of each fishing sector by area, gear type, and program (see **ADDRESSES**).

A total of 1,775 entities (including catcher vessels, catcher/processors, motherships, shoreside processors, stationary floating processors, and CDQ groups) are estimated to be directly regulated by this final action. Of the directly regulated entities, 80 are estimated to be large. The table below (Table 1) summarizes all of the potentially directly regulated small entities, by sector, under this final action. Table 1 uses data from 2008, the same year used to assess the impact on directly regulated entities in the IRFA. Table 1 likely overestimates the number of directly regulated small entities. NMFS does not have access to data on ownership and other forms of affiliation for most segments of the fishing industry operating off Alaska. Absent these data, a more precise characterization of the size composition of the directly regulated entities impacted by this action cannot be offered. A more detailed description on the information and methods used to estimate the number of small entities is also provided in the IRFA prepared for the proposed rule and is not repeated here (see **ADDRESSES**).

Table 1. Estimated number of small entities potentially directly regulated by this final action based on 2008 landings data. The total number of entities is additive such that a vessel or processor cannot appear in more than one category.

Sector	Estimated number of small entities
Halibut & sablefish IFQ [1]	1,411
Groundfish catcher vessels [2]	125
Groundfish catcher/processors [2]	6
Motherships [2]	1
Shoreside processors & stationary floating processors	146
CDQ groups	6

[1] Includes any vessel that fished halibut IFQ, sablefish IFQ, or halibut CDQ. An estimated 761 of these vessels also fished groundfish.

[2] Groundfish catcher vessel and catcher/processor data represent an estimate of the number of vessels that fished groundfish and did not fish halibut or sablefish IFQ.

[3] Catcher/processors that acted as a catcher/processor and a mothership during 2008 are included in the catcher/processor category. The mothership category includes vessels that only operated as a mothership in 2008.

Recordkeeping and Reporting Requirements

This final rule requires operators of vessels subject to the trip selection pool in the partial observer coverage category to register with ODDS at least 72 hours prior to embarking on a fishing trip to fish for halibut or directed fish for groundfish (see regulations at § 679.51(a)). Operators of vessels in the vessel selection pool are required to coordinate with NMFS' observer provider as described in the instructions provided by the ODDS to arrange for observer coverage when the vessel is selected for coverage. No new reporting requirements apply to operators of vessels in the full observer coverage category or operators of shoreside processors and stationary floating processors to obtain required observer coverage.

Landings information submitted by managers of shoreside processors and stationary floating processors under existing recordkeeping and reporting regulations are used to assess the observer fee liability for each landing. Managers of shoreside processors and stationary floating processors can access reports generated by NMFS' web-based application for a statement of the observer fee liability associated with each landing.

This final rule modifies § 679.5 to add a reporting requirement for IFQ Registered Buyers. Registered buyers who purchase CDQ halibut are required to report annually, the monthly total weight of CDQ halibut landed and purchased by the Registered Buyer, the monthly total price paid for CDQ halibut purchased by the Registered Buyer, and the monthly total amount paid for any retro-payments of CDQ halibut. Existing recordkeeping and reporting requirements for IFQ Registered Buyers continue to apply.

This final rule modifies reporting requirements applicable to IFQ Registered Buyers at § 679.5(l)(7)(i). This final rule requires that the IFQ Register Buyer submit the information instructed on the report form, instead of listing all of the data fields at § 679.5(l)(7)(i)(C)(*1*). This final rule revises regulations at § 679.5(l)(7)(i) to instruct a Registered Buyer to submit his or her completed report to the address provided on the report form. This final action removes the mailing address listed in regulation at § 679.5(l)(7)(i)(D) to allow for current address information to be provided on the form, rather than in regulation.

This final rule requires that all vessels selected for observer coverage pass a USCG Commercial Fishing Vessel Safety Examination and document that process with a U.S. Coast Guard Safety Decal prior to an observer boarding the vessel. A partial exemption may be allowed for vessels less than 26 ft. LOA in remote locations. This inspection is a new requirement for vessels less than 60 ft. LOA. These requirements are detailed in U.S. Coast Guard Regulations at 33 CFR Chapter I and 46 CFR Chapter I.

No professional skills are necessary for the vessel or trip selection requirement or for scheduling the safety inspection. Limited professional skills would be necessary for preparation and submittal of the ex-vessel fees to NMFS, as NMFS would invoice the processor with the total amount.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

The Council considered five alternatives for this action, one no-action and four action alternatives, and two options that could apply to the action alternatives. A complete description of these alternatives and the impacts of these alternatives is provided in the analysis prepared for this final action and is briefly summarized here (see **ADDRESSES**). Alternative 1 is the status quo; Alternative 2 restructured observer coverage for vessels and processors in the GOA, and for vessels less than 60 ft. LOA and those fishing halibut IFQ in the BSAI; Alternative 3 restructured observer coverage for those vessels and processors that were required to have less than 100 percent observer coverage, and retained the existing management system for those vessels and processors required to have 100 percent or greater coverage; Alternative 4 restructured coverage requirements for all vessel and processor operations, required a daily fee for those operations required to have 100 percent or greater coverage, and an ex-vessel value fee for those operations required to have less than 100 percent coverage; Alternative 5 restructured coverage for all vessels and processors, and established an ex-vessel fee to fund the program.

The Council also considered two options under the four action alternatives to establish fees. The first option considered establishing a 1.25 percent ex-vessel fee on vessel revenues to fund the program, the second option would have established a 1.25 percent ex-vessel fee, but provide that smaller vessels would be subject to a lesser fee.

The preferred alternative, Alternative 3, was determined to best meet the purpose and need for the proposed action, and the objectives of the restructured program outlined in the problem statement. Alternative 3 modifies observer deployment for all operations currently receiving less than 100 percent observer coverage, including vessels participating in the less than 60 ft. LOA groundfish sector and the halibut sector. The analysis clearly identifies those sectors as the sectors with the most acute data quality concerns, lack of adequate data, and disproportionate costs for observer coverage relative to other fishing sectors. By comparison, Alternative 2 only restructures the observer program for the GOA groundfish and halibut fisheries and the vessels in the less than 60 ft. groundfish sector and halibut sector in the BSAI. Under this alternative, the 30 percent coverage requirements would still apply for vessels operating in the BSAI that are currently subject to the 30 percent requirement. Thus, Alternative 2 does not capture all of the sectors that have less than 100 percent observer coverage requirements as is the case under Alternative 3. Alternative 4 is similar to Alternative 3, except that it increases costs to vessel operators, relative to Alternatives 2 and 3 by requiring they pay a daily fee to NMFS, instead of observer providers. The analysis indicates that Alternative 4 does not provide additional observer coverage compared to Alternative 3 for this additional cost. Alternative 5 does not appear to provide sufficient revenue to meet the same level of observer coverage that is estimated to be provided under Alternative 3.

All of the action alternatives included assessing a fee and deploying observers on halibut vessels and vessels less than 60 ft. LOA in the GOA and the BSAI, which are likely to comprise the majority of the small entities affected by this rule. Impacts of this fee and observer coverage on small entities are described in Section 5 of the analysis (see **ADDRESSES**). During deliberations on the preferred alternative implemented by this final rule (Alternative 3), the Council was concerned with minimizing impacts to small entities, providing equity within the program, and increasing data quality, by including small vessels and halibut vessels in the Observer Program for the first time. No significant alternatives to this final action that meet the purpose and need and objectives for the action have been identified. This final rule and the 2013 Observer

Program Annual Deployment plan include several provisions that are intended to reduce economic impacts on small entities.

Observer deployment among vessels in the partial coverage category differs for the smallest vessels. In the initial year(s) of the restructured program, NMFS proposes that catcher vessels using jig gear and catcher vessels less than 40 ft. LOA using pot or hook-and-line gear would not be selected to carry an observer. NMFS estimates that all of these vessels are likely to be small entities. Catcher vessels greater than or equal to 40 ft. LOA but less than 57.5 ft. LOA using pot or hook-and-line gear would be in the vessel selection pool. Vessels in the vessel selection pool could be randomly selected to carry an observer for a specified period of time. Vessels in the "no selection" pool would be required to pay the fee for landings subject to the new program, though they would not incur other direct or indirect costs of carrying an observer to the same extent as operators of vessels with higher probability of selection.

This final rule includes a provision that limits observer coverage requirements, and associated costs, for some small catcher/processors. Under the preferred alternative implemented by this rule, all catcher/processors would be placed in the full coverage category and operate under the status quo system funding and deployment system. Thus, groundfish and halibut catcher/processors less than 60 ft. LOA that have not been subject to observer coverage requirements would now be required to have 100 percent coverage under direct contracts with observer providers. An exception to this requirement to allows operators of catcher/processor vessels less than 60 ft. LOA with a history of operations as a catcher/processor and catcher vessel in a single year, or any catcher/processor vessel with an average daily production of less than 5,000 pounds in the most recent full calendar year of operation prior to January 1, 2010, to make a one-time election to be in the partial observer coverage category with the ex-vessel revenue fee structure or the full observer coverage category with the status quo funding system. This limited exemption to the full coverage requirements could reduce costs on these catcher/processors, so long as they elect to be in the partial coverage category.

The Council selected a 1.25 percent ex-vessel fee for all vessels and processors subject to the new funding and deployment system. Under the authority of section 313 of the MSA, the Council could have recommended a maximum of a 2 percent fee on all vessels and processors subject to a fee under the Observer Program. The Council chose a fee of 1.25 percent of ex-vessel value to balance the costs of vessel and processors operations with the amount necessary to collect adequate data in the partial coverage category.

The Council considered, but did not adopt, an option that would establish an ex-vessel value fee equal to half of that selected under the preferred alternative to be assessed on all halibut IFQ landings and on groundfish landings from vessels less than 40 ft., less than 50 ft., or less than 60 ft. LOA. An estimated 61 groundfish catcher vessels less than 60 ft. LOA and almost the entire IFQ fleet (great than 1,400 vessels) would have been assessed a reduced fee under this option, based on 2008 data. However, the Council chose to apply the same fee percentage to all sectors in the partial observer coverage category, to develop a fair and equitable fee program across all sectors subject to the new funding and deployment system. Because the Council selected, and this final rule implements, a 1.25 percent ex-vessel fee for all vessels and processors subject to the new funding and deployment system, all small entities, regardless of the sector in which they participate, will benefit from a reduced fee relative to the maximum 2 percent fee that was under consideration.

With the exception of the provisions discussed above, there do not appear to be significant alternatives to the proposed action that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize the economic impact of the proposed rule on small entities. The Council recognized that costs of observer coverage could be minimized or eliminated for small entities (indeed, entities of all sizes) through a Federal subsidy program for observer coverage in the North Pacific, similar to federally funded observer subsidy programs in other regions of the United States. However, because the Council cannot appropriate Federal funds, an alternative for full Federal funding of observer coverage in the North Pacific was not included by the Council.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules.

NMFS has posted a small entity compliance guide on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*) as a plain language guide to assist small entities in complying with this rule. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements have been approved by OMB. The collections are listed below by OMB control number.

OMB Control No. 0648–0206

Public reporting burden per response is estimated to average 21 minutes for Federal Processor Permit application; and 21 minutes for Federal Fisheries Permit application.

OMB Control No. 0648–0272

Public reporting burden per response is estimated to average 30 minutes for Registered Buyer Permit application.

OMB Control No. 0648–0318

Public reporting burden per response is estimated to average 30 minutes for Observer Fee and receipt of the observer fee liability generated with each landing; 2 hours for registration with the Observer Declare and Deploy System; 4 hours for appeals; 60 hours for Application for an observer provider permit; 30 minutes for Industry request for assistance in improving observer data quality issues; 60 hours for Application for an observer provider permit;15 minutes for Update to provider information; 15 minutes for Observer candidates' college transcripts and disclosure statements, observer candidate; 15 minutes for Observer candidates' college transcripts and disclosure statements, observer provider; 5 minutes for Notification of observer physical examination, Observer Providers; 7 minutes for Projected observer assignments; 7 minutes for Observer briefing registration; 40 hours for Observer Conduct and Behavior policy; 15 minutes for Copies of contracts; 30 minutes for Copies of invoices; 7 minutes for Observer deployment/logistics reports; 7 minutes for Observer debriefing registration; 12 minutes for Certificate of insurance; 2 hours for

Other reports concerning observer harassment, safety concerns, or other factors that may affect the completion of an observer's duties.

OMB Control No. 0648–0398

Public reporting burden per response is estimated to average 2 hours for Registered Buyer Ex-vessel Value and Volume Report (Buyer Report).

Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 15, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

TITLE 15—COMMERCE AND FOREIGN TRADE

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry "50 CFR:"

■ a. Add an entry in alphanumeric order for "679.7(a)(3)";

■ b. Add an entry in alphanumeric order for "679.7(g)";

■ c. Remove entry for "679.32(c) and (e)";

■ d. Add an entry in alphanumeric order for "679.32(c)(1) and (2)";

■ e. Add an entry in alphanumeric order for "679.32(c)(3)";

■ f. Revise entry for "679.32(d)";

■ g. Add an entry in alphanumeric order for "679.32(e)";

■ h. Remove entry for "679.50";

■ i. Add an entry in alphanumeric order for "679.50(a)"; and

■ j. Add entries for "679.51"; "679.52"; "679.53"; "679.54"; and "679.55."

The additions and revisions read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * *	* * *
50 CFR:	
* * * *	* * *
679.7(a)(3)	–0318
* * * *	* * *
679.7(g)	–0318
* * * *	* * *
679.32(c)(1) and (2)	–0318
679.32(c)(3)	–0269 and –0318
679.32(d)	–0269, –0318, and –0330
679.32(e)	–0269
* * * *	* * *
679.50(a)	–0206, –0269, and –0272
679.51	–0206, –0269, –0272, –0318, –0401, –0513, –0545, –0565
679.52	–0318
679.53	–0318
679.54	–0318
679.55	–0206, –0272, –0318
* * * *	* * *

TITLE 50—WILDLIFE AND FISHERIES

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108–447.

■ 4. In § 679.1, revise paragraph (f) to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(f) *Groundfish and Halibut Observer Program.* Regulations in this part govern elements of the Groundfish and Halibut Observer Program.

* * * * *

■ 5. In § 679.2,

■ a. Remove the definitions for "Fishing day" and "Legal proceedings";

■ b. Remove and reserve paragraph (2) of the definition for "Mothership";

■ c. Revise the definitions for "Catcher/processor (C/P)," "Decertification," paragraph (3) of "Fishing Trip," and "Observer"; and

■ d. Add a definition for "Parallel groundfish fishery" in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Catcher/processor (C/P) means, with respect to groundfish recordkeeping and reporting and subpart E of this part, a vessel that is used for catching fish and processing that fish.

* * * * *

Decertification, as used in § 679.53(c), means action taken by a decertifying official under § 679.53(c)(3) to revoke certification of an observer or observer provider. An observer or observer provider whose certification is so revoked is decertified.

* * * * *

Fishing Trip means: * * *

* * * * *

(3) *Groundfish and Halibut Observer Program.* With respect to subpart E of this part, one of the following periods:

(i) For a catcher vessel delivering to a shoreside processor or stationary floating processor, the period of time that begins when a catcher vessel departs a port to harvest fish until the offload or transfer of all fish from that vessel.

(ii) For a catcher vessel delivering to a tender vessel, the period of time that begins when a catcher vessel departs from port to harvest fish until the vessel returns to a port in which a shoreside processor or stationary floating processor with a valid FPP is located.

* * * * *

Observer means any

(1) Individual employed by a permitted observer provider or a NMFS observer provider for the purpose of serving in the capacity of an observer aboard vessels and at shoreside processors or stationary floating processors under this part; or

(2) NMFS employee deployed at the direction of the Regional Administrator or individual authorized by NMFS, aboard a vessel or at a shoreside processor or stationary floating processor for the purpose of serving in the capacity of an observer as required for vessels, shoreside processors, or stationary floating processors under § 679.51(a) or (b), or for other purposes of conservation and management of marine resources as specified by the Regional Administrator.

* * * * *

Parallel groundfish fishery. With respect to subpart E of this part, parallel groundfish fishery means a fishery that occurs in waters of the State of Alaska (from 0 to 3 nm) adjacent to the BSAI or GOA management areas and opens concurrently with Federal groundfish fisheries such that groundfish catch is deducted from the Federal Total Allowable Catch.

* * * * *

■ 6. In § 679.4,

■ a. Redesignate paragraphs (d)(3)(iv) and (d)(3)(v) as paragraphs (d)(3)(v) and (d)(3)(vi), respectively;

■ b. Revise paragraph (d)(3)(iii), newly redesignated (d)(3)(v), and paragraphs (f)(1) and (f)(2); and

■ c. Add a new paragraph (d)(3)(iv) to read as follows:

§ 679.4 Permits.

* * * * *

(d) * * *

(3) * * *

(iii) A Registered Buyer permit is issued on an annual cycle defined as March 1 through the end of February of the next calendar year, to persons that have a Registered Buyer application approved by the Regional Administrator.

(iv) For the Registered Buyer application to be considered complete, all fees due to NMFS under § 679.55 at the time of application must be paid.

(v) A Registered Buyer permit is in effect from the first day of March in the year for which it is issued or from the date of issuance, whichever is later, through the end of the current annual cycle, unless it is revoked, suspended, surrendered in accordance with paragraph (a)(9) of this section, or modified under § 600.735 or § 600.740 of this chapter.

* * * * *

(f) * * *

(1) *Requirement.* No shoreside processor of the United States, stationary floating processor, or CQE floating processor described at paragraph (f)(2) of this section may receive or process groundfish harvested in the GOA or BSAI unless the owner obtains a Federal processor permit (FPP) issued under this part. An FPP is issued without charge.

(2) *FPP application.* To obtain, amend, or renew an FPP, the owner must complete an FPP application per the instructions at *http://alaskafisheries.noaa.gov/ram*.

(i) For the FPP application to be considered complete, all fees due to NMFS under § 679.55 at the time of application must be paid.

(ii) *Signature.* The owner or authorized representative of the owner of the shoreside processor, stationary floating processor, or CQE floating processor must sign and date the application, certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an authorized representative, proof of authorization must accompany the application.

* * * * *

■ 7. In § 679.5, revise paragraph (l)(7)(i) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(l) * * *

(7) * * *

(i) *IFQ Registered Buyer Ex-vessel Volume and Value Report (IFQ Buyer Report)*—(A) *Applicability.* An IFQ Registered Buyer that operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut or CDQ landings of halibut must submit annually to NMFS a complete IFQ Buyer Report as described in this paragraph (1) and as provided by NMFS for each reporting period, as described at paragraph (l)(7)(i)(E) of this section, in which the Registered Buyer receives IFQ fish or CDQ halibut.

(B) *Due date.* A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than October 15 following the reporting period in which the IFQ Registered Buyer receives the IFQ fish or CDQ halibut.

(C) *Information required.* A complete IFQ Buyer Report must include the following information as instructed on the report form at *http://alaskafisheries.noaa.gov/ram:*

(*1*) *IFQ Registered Buyer identification.*

(*2*) *Pounds purchased and values paid.* (*i*) The monthly total weights, represented in IFQ equivalent pounds by IFQ species or CDQ halibut, that were landed at the landing port location and purchased by the IFQ Registered Buyer;

(*ii*) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species or CDQ halibut, that were landed at the landing port location and purchased by the IFQ Registered Buyer;

(*3*) *Value paid for price adjustments*—(*i*) *Retro-payments.* The monthly total U.S. dollar amount of any retro-payments (correlated by IFQ species or CDQ halibut, landing month(s), and month of payment) made in the current year to IFQ, or to CDQ halibut permit holders for landings made during the previous calendar year;

(*ii*) *Electronic submittal.* Certification, including the NMFS ID and password of the IFQ Registered Buyer; or

(*iii*) *Non-electronic submittal.* Certification, including the printed name and signature of the individual

submitting the IFQ Buyer Report on behalf of the Registered Buyer, and date of signature.

(D) *Submittal.* If applicable, the Registered Buyer must complete an IFQ Buyer Report and submit by mail or FAX to NMFS at the address provided on the form, or electronically to NMFS online at *http://alaskafisheries.noaa.gov/ram.*

(E) *Reporting period.* The reporting period of the IFQ Buyer Report shall extend from October 1 through September 30 of the following year, inclusive.

* * * * *

■ 8. In § 679.7,

■ a. Redesignate paragraph (g)(7) as (g)(8);

■ b. Revise paragraph (a)(3) and paragraph (g) heading; and

■ c. Add a new paragraph (g)(7) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(3) *Groundfish and Halibut Observer Program.* (i) Fish or process groundfish except in compliance with the terms of the Groundfish and Halibut Observer Program as provided by subpart E of this part.

(ii) Except where observer services are provided by a NMFS employee or other individuals authorized by NMFS under § 679.51(c) or § 679.51(d)(1)(ii), deploy observers in the full observer coverage category at § 679.51(a)(2) and (b)(2) without an observer provider permit issued under § 679.52(a).

* * * * *

(g) *Groundfish and Halibut Observer Program.* * * *

* * * * *

(7) Embark on a fishing trip to directed fish for groundfish or to fish for halibut with hook-and-line gear without carrying an observer if the fishing trip is selected for observer coverage per § 679.51(a)(1)(ii)(C)(*2*), or the vessel is selected for observer coverage per § 679.51(a)(1)(ii)(D).

* * * * *

■ 9. In § 679.32,

■ a. Revise the section heading;

■ b. Remove paragraphs (c)(1) introductory text, (c)(3)(i)(A), and (c)(3)(ii)(A);

■ c. Redesignate paragraphs according to the following table;

Redesignate paragraph(s)	As paragraph(s)
(c)(1)(i)	(c)(1)(ii)(A).
(c)(1)(ii)	(c)(1)(ii)(B).
(c)(3)(i)(B) through (c)(3)(i)(F)	(c)(3)(i)(A) through (c)(3)(i)(E), respectively.
(c)(3)(ii)(B) through (c)(3)(ii)(F)	(c)(3)(ii)(A) through (c)(3)(ii)(E), respectively.

■ d. Revise newly redesignated paragraphs (c)(3)(i)(A) heading, (c)(3)(i)(A)(*1*), (c)(3)(i)(B)(*1*), (c)(3)(i)(C)(*1*), (c)(3)(i)(D), and (c)(3)(i)(E)(*1*);

■ e. Revise paragraphs (c)(2)(i)(A) and (d)(2)(i); and

■ f. Add paragraphs (c)(1)(i), (c)(1)(ii) heading and introductory text, and (d)(1)(iii) to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) * * *

(1) * * *

(i) *Observer coverage.* Operators and owners of catcher vessels sablefish CDQ fishing must comply with observer coverage requirements at § 679.51(a)(1). Operators and owners of catcher/processors sablefish CDQ fishing must comply with observer coverage requirements at § 679.51(a)(2).

(ii) *Data sources used for CDQ catch accounting.* NMFS will use the following data sources to account for catch made by vessels sablefish CDQ fishing with fixed gear:

(2) * * *

(i) * * *

(A) Comply with observer coverage requirements at § 679.51(a)(2).

* * * * *

(3) * * *

(i) * * *

(A) *Catcher vessels using trawl gear and delivering sorted catch to a processor.* * * *

(*1*) Comply with the observer coverage requirements at § 679.51(a)(2).

* * * * *

(B) * * *

(*1*) Comply with the observer coverage requirements at § 679.51(a)(2).

* * * * *

(C) * * *

(*1*) Comply with the observer coverage requirements at § 679.51(a)(2).

* * * * *

(D) *Observed catcher vessels using nontrawl gear.* Operators of vessels in this category must retain all CDQ species until they are delivered to a processor that meets the requirements of paragraph (d) of this section unless retention of groundfish CDQ species is not authorized under § 679.4, discard of the groundfish CDQ or PSQ species is required under subpart B of this part, or, in waters within the State of Alaska, discard is required by laws of the State of Alaska. All of the halibut PSQ must be counted and sampled for length or weight by the observer.

(E) * * *

(*1*) Operators of catcher/processors using hook-and-line gear must comply with § 679.100. Operators of catcher/processors using pot gear must comply with observer coverage requirements at § 679.51(a)(2)(vi)(A)(*4*); and

* * * * *

(d) * * *

(1) * * *

(iii) Comply with observer coverage requirements at § 679.51(b)(2).

(2) * * *

(i) Comply with observer coverage requirements at § 679.51(b)(1).

* * * * *

■ 10. Under part 679, revise subpart E heading to read as follows:

Subpart E—Groundfish and Halibut Observer Program

■ 11. Revise § 679.50 to read as follows:

§ 679.50 Applicability.

(a) *General.* (1) The operator of a vessel designated or required to be designated on a Federal fisheries permit (FFP) under § 679.4(b); the operator of a processor designated or required to be designated on a Federal processor permit (FPP) under § 679.4(f)(1) or a Registered Buyer permit under § 679.4(d)(3); and the operator of a vessel used to harvest IFQ halibut, CDQ halibut, or IFQ sablefish must comply with this subpart. The owner of a vessel or a shoreside processor must ensure that the operator or manager complies with this subpart.

(2) *Exceptions.* A catcher vessel that delivers only unsorted codends to a mothership is not subject to the requirements of this subpart.

(3) For purposes of this subpart, halibut means CDQ and IFQ halibut.

(b) [Reserved]

■ 12. A new § 679.51 is added to Subpart E to read as follows:

§ 679.51 Observer requirements for vessels and plants.

The table in paragraph (f) of this section provides a reference to the paragraphs in this section that contain observer coverage requirements for vessels, shoreside processors, and stationary floating processors participating in certain fishery programs. (a) *Observer requirements for vessels*—(1) *Groundfish and halibut fishery partial observer coverage category*—(i) *Vessel classes in partial coverage category.* Unless otherwise specified in paragraph (a)(2) of this section, the following catcher vessels are in the partial observer coverage category when fishing for halibut with hook-and-line gear or when directed fishing for groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

(A) A catcher vessel designated on an FFP under § 679.4(b)(1); or

(B) A catcher vessel when fishing for halibut with hook-and-line gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i), § 679.4(d)(2)(i), or § 679.4(e)(2), or for sablefish IFQ with hook-and-line or pot gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i) or § 679.4(d)(2)(i).

(ii) *Registration and notification of observer deployment.* The Observer Declare and Deploy System (ODDS) is the communication platform for the partial observer coverage category by which NMFS receives information about fishing plans subject to randomized observer deployment. Vessel operators provide fishing plan and contact information to NMFS and receive instructions through ODDS for coordinating with an observer provider for any required observer coverage. Access to ODDS is available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

(A) *Registration.* NMFS will enter information into ODDS about all partial coverage category vessels that are designated on an FFP and all catcher vessels that are not designated on an FFP but that landed sablefish IFQ or halibut IFQ or CDQ in the previous or current year. Owners or operators are not responsible for initial registration of their vessel in ODDS.

(B) *Notification.* Upon entry into ODDS, NMFS will notify the owner or operator as to whether his or her vessel is entered in either a "vessel" or "trip" selection pool. Owners and operators must comply with all further instructions set forth by ODDS.

(C) *Trip selection pool.* (*1*) A minimum of 72 hours prior to embarking on each fishing trip, the operator of a vessel in the trip selection pool must register the anticipated trip with ODDS.

(*2*) When a fishing trip is registered with ODDS per paragraph (a)(1)(ii)(C)(*1*) of this section, the vessel operator will be notified by ODDS whether the trip is selected for observer coverage and a receipt number corresponding to this notification will be provided by ODDS. Trip registration is complete when the vessel operator receives a receipt number.

(*3*) An operator may embark on a fishing trip registered with ODDS:

(*i*) *Not selected trip.* At any time if ODDS indicates that the fishing trip is not selected for observer coverage.

(*ii*) *Selected trip.* When an observer is aboard the vessel if ODDS indicates that the fishing trip is selected for observer coverage.

(*4*) *Delayed trip.* A selected fishing trip not embarked upon within 48 hours of the time specified in the registration with ODDS is invalidated. The operator must register any new trip in accordance with paragraph (a)(1)(ii)(C)(*1*) of this section.

(*5*) *Observer coverage duration.* If selected, a vessel is required to carry an observer for the entire fishing trip.

(*i*) A fishing trip selected for observer coverage may not begin until all previously harvested fish has been offloaded and an observer is aboard the vessel.

(*ii*) An observer may not be transferred off a catcher vessel until the observer confirms that all fish from the observed fishing trip are offloaded.

(*iii*) A vessel must make a minimum of one delivery to a tender vessel to be subject to paragraph (3)(ii) of the fishing trip definition at § 679.2.

(D) *Vessel selection pool.* (*1*) A vessel selected for observer coverage is required to have an observer on board for all groundfish and halibut fishing trips specified at paragraph (a)(1)(i) of this section for the time period indicated by ODDS.

(*2*) At its discretion, NMFS may provide electronic monitoring equipment to a vessel owner or operator to use on a vessel. A vessel owner or operator must coordinate with NMFS to make the vessel available for evaluation and installation of electronic monitoring equipment if NMFS determines that electronic monitoring is appropriate.

(iii) *Release from observer coverage.* The Observer Program may release a selected trip per paragraph (a)(1)(ii)(C) of this section or a selected vessel per paragraph (a)(1)(ii)(D) of this section, from observer coverage on a case-by-case basis.

(*2*) *Groundfish and halibut fishery full observer coverage category*—(i) *Vessel classes in the full coverage category.* The following classes of vessels are in the full observer coverage category when harvesting halibut or when harvesting, receiving, or processing groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

(A) Catcher/processors;

(B) Motherships; and

(C) Catcher vessels while:

(*1*) Directed fishing for pollock in the BS;

(*2*) Using trawl gear or hook-and-line gear while groundfish CDQ fishing (see § 679.2); or

(*3*) Participating in the Rockfish Program.

(ii) *Observer coverage requirements.* Unless subject to the partial observer coverage category per paragraph (a)(1)(i) of this section, a vessel listed in paragraphs (a)(2)(i)(A) through (C) of this section must have at least one observer aboard the vessel at all times. Some fisheries require additional observer coverage in accordance with paragraph (a)(2)(vi) of this section.

(iii) *Observer workload.* The time required for an observer to complete sampling, data recording, and data communication duties per paragraph (a)(2) of this section may not exceed 12 consecutive hours in each 24-hour period.

(iv) *Catcher/processor classification.* (A) For purposes of this subpart, a vessel is classified as a catcher/processor according to the operation designation on its FFP. A vessel designated as a catcher/processor at any time during the calendar year is classified as a catcher/processor for the remainder of the calendar year.

(B) An owner or operator of a catcher/processor that processes no more than one metric ton round weight of groundfish on any day, may be included in the partial observer coverage category in lieu of the full coverage category for the following calendar year.

(v) *One-time election of observer coverage category.* The owner of a vessel less than 60 ft. LOA with a history of catcher/processor and catcher vessel activity in a single year from January 1, 2003, through January 1, 2010; or any catcher/processor with an average daily groundfish production of less than 5,000 pounds round weight equivalent in the most recent full calendar year of operation from January 1, 2003, to January 1, 2010, may make a one-time election as to whether the vessel will be in the partial observer coverage category at paragraph (a)(1) of this section, or the full observer coverage category at

paragraph (a)(2) of this section. The daily groundfish production average is based on the number of days the vessel operated each year from January 1, 2003, through January 1, 2010.

(A) *Notification of election.* The person named on the FFP for a vessel eligible for the one-time election must notify the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802, of their election in writing, at least 30 days prior to embarking on his or her first fishing trip.

(B) *Default coverage category.* If an owner forgoes the opportunity for the one-time election, the vessel will be assigned to the partial or full observer coverage category per paragraphs (a)(1)(i) or (a)(2)(i) of this section.

(C) *Effective duration.* The one-time election is effective for:

(*1*) The duration that both the catcher/processor and catcher vessel designations are listed on the FFP for vessels less than 60 ft. LOA; or

(*2*) The duration the FFP is issued to the person named on the FFP at the time of the election for catcher/processors with an average daily production of less than 5,000 pounds round weight equivalent in the most recent full calendar year of operation from January 1, 2003, through January 1, 2010.

(vi) *Additional observer requirements*—(A) *CDQ fisheries.* The owner or operator of a vessel must comply with the following requirements each day that the vessel is used to catch, process, deliver, or receive CDQ groundfish.

(*1*) *Catcher/processors using trawl gear and directed fishing for pollock CDQ in the BSAI and motherships taking deliveries from catcher vessels directed fishing for pollock CDQ in the BSAI.* See paragraph (a)(2)(vi)(B)(*2*) of this section.

(*2*) *Catcher/processors using trawl gear and groundfish CDQ fishing.* See paragraph (a)(2)(vi)(C) of this section.

(*3*) *Catcher/processors using hook-and-line gear and groundfish CDQ fishing.* See paragraph (a)(2)(vi)(E) of this section.

(*4*) *Catcher/processors using pot gear for groundfish CDQ fishing.* A catcher/processor using pot gear must have at least one lead level 2 observer aboard the vessel. More than one observer must be aboard if the observer workload restriction would otherwise preclude sampling as required.

(*5*) *Motherships.* A mothership that receives unsorted codends from catcher vessels groundfish CDQ fishing must have at least two level 2 observers aboard the mothership, at least one of whom must be certified as a lead level 2 observer. More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.

(B) *BSAI pollock fisheries*—(*1*) *Listed AFA catcher/processors and AFA motherships.* The owner or operator of a listed AFA catcher/processor or AFA mothership must have aboard at least two observers, at least one of which must be certified as a lead level 2 observer, for each day that the vessel is used to catch, process, or receive groundfish. More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.

(*2*) *Pollock CDQ catcher/processors and motherships.* The owner or operator of a catcher/processor or mothership used to catch, process, or receive pollock CDQ must comply with the observer coverage requirements in paragraph (a)(2)(vi)(B)(*1*) of this section for each day that the vessel is used to catch, process, or receive pollock CDQ.

(*3*) *Unlisted AFA catcher/processors.* The owner or operator of an unlisted AFA catcher/processor must have aboard at least two observers for each day that the vessel is used to engage in directed fishing for pollock in the BSAI, or receive pollock harvested in the BSAI. At least one observer must be certified as a lead level 2 observer. When an unlisted AFA catcher/processor is not engaged in directed fishing for BSAI pollock and is not receiving pollock harvested in the BSAI, the observer coverage requirements at paragraph (a)(2)(ii) of this section apply.

(*4*) *AI directed pollock fishery catcher/processors and motherships.* A catcher/processor participating in the AI directed pollock fishery or a mothership processing pollock harvested in the AI directed pollock fishery must have aboard at least two observers, at least one of which must be certified as a lead level 2 observer, for each day that the vessel is used to catch, process, or receive groundfish. More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.

(C) *Amendment 80 vessels and catcher/processors not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI.* All Amendment 80 vessels using any gear but dredge gear while directed fishing for scallops and catcher/processors not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI must have aboard at least two observers for each day that the vessel is used to catch, process, or receive groundfish harvested in a federally managed or parallel groundfish fishery. At least one observer must be certified as a lead level 2 observer. More than two observers are required if the observer workload restriction would otherwise preclude sampling as required.

(D) *Catcher/processors participating in the Rockfish Program*—(*1*) *Rockfish cooperative.* A catcher/processor that is named on an LLP license that is assigned to a rockfish cooperative and is fishing under a CQ permit must have at least two observers aboard for each day that the vessel is used to catch or process fish in the Central GOA from May 1 through the earlier of November 15 or the effective date and time of an approved rockfish cooperative termination of fishing declaration. At least one observer must be certified as a lead level 2 observer. More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.

(*2*) *Rockfish sideboard fishery for catcher/processors in a rockfish cooperative.* A catcher/processor that is subject to a sideboard limit as described under § 679.82(e) must have at least two observers aboard for each day that the vessel is used to harvest or process fish in the West Yakutat District, Central GOA, or Western GOA management areas from July 1 through July 31. At least one observer must be certified as a lead level 2 observer. More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.

(E) *Longline catcher/processor subsector.* The owner and operator of a catcher/processor subject to § 679.100(b) must comply with the following observer coverage requirements:

(*1*) *Increased observer coverage option.* If the vessel owner selects the increased observer coverage option under § 679.100(b)(1), at least two observers must be aboard the vessel at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. At least one of the observers must be certified as a lead level 2 observer. More than two observers are required if the observer workload restriction would otherwise preclude sampling as required.

(*2*) *Scales option.* If the vessel owner selects the scales option under § 679.100(b)(2), one lead level 2 observer must be aboard the vessel at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing.

(b) *Observer requirements for shoreside processors and stationary*

floating processors—(1) *Shoreside processor and stationary floating processor partial observer coverage category.* (i) Unless otherwise specified in paragraph (b)(2) of this section, a shoreside processor or a stationary floating processor designated or required to be designated on an FPP under § 679.4(f)(1) is in the partial observer coverage category when receiving or processing groundfish harvested in federally managed or parallel groundfish fisheries, as defined at § 679.2.

(ii) *Coverage.* The manager of a shoreside processor or stationary floating processor must provide observers access to unsorted and sorted catch any time an observer is present at the facility.

(2) *Shoreside processor and stationary floating processor full observer coverage category.* An AFA inshore processor is in the full observer coverage category.

(i) *Coverage level.* An AFA inshore processor must provide an observer for each 12 consecutive-hour period of each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BS. An AFA inshore processor that, for more than 12 consecutive hours in a calendar day, takes delivery of or processes pollock harvested in the BS directed pollock fishery must provide two observers for each such day.

(ii) *Multiple processors.* An observer deployed to an AFA inshore processor may not be assigned to cover more than one processor during a calendar day in which the processor receives or processes pollock harvested in the BS directed pollock fishery.

(iii) *Observers transferring between vessels and processors.* An observer transferring from an AFA catcher vessel to an AFA inshore processor may not be assigned to cover the AFA inshore processor until at least 12 hours after offload and sampling of the catcher vessel's delivery is completed.

(c) *NMFS employee observers.* (1) Any vessel, shoreside processor, or stationary floating processor required to comply with observer coverage requirements under paragraphs (a) or (b) of this section or under § 679.7(f)(4) must use, upon written notification by the Regional Administrator, a NMFS employee to satisfy observer coverage requirements as specified in paragraphs (a) and (b) of this section or for other conservation and management purposes as specified by the Regional Administrator.

(2) Prior to deployment of a NMFS employee, the agency will provide written notification to the owner or operator of a vessel, shoreside processor, or stationary floating processor whether observer coverage credit will be granted for that deployment.

(3) Vessel, shoreside processor, and stationary floating processor owners and operators, as well as observers and observer providers, may contact NMFS in writing to request assistance in improving observer data quality and resolving observer sampling issues. Requests may be submitted to: NMFS Observer Program Office, 7600 Sand Point Way NE., Seattle, WA 98115–0070 or transmitted by facsimile to 206–526–4066.

(d) *Procurement of observer services*—(1) *Full coverage category.* (i) The owner of a vessel, shoreside processor, or stationary floating processor required to have full observer coverage under paragraphs (a)(2) and (b)(2) of this section must arrange and pay for observer services from a permitted observer provider.

(ii) The owner of a vessel, shoreside processor, or stationary floating processor is required to arrange and pay for observer services directly from NMFS when the agency has determined and notified them under paragraph (c) of this section that the vessel, shoreside processor, or stationary floating processor shall use a NMFS employee or individual authorized by NMFS in lieu of, or in addition to, an observer provided through a permitted observer provider to satisfy requirements under paragraphs (a)(2) and (b)(2) of this section or for other conservation and management purposes.

(2) *Partial coverage category.* The owner of a vessel in the partial observer coverage category per paragraph (a)(1) of this section must comply with instructions provided by ODDS to procure observer coverage for the required duration.

(e) *Responsibilities*—(1) *Vessel responsibilities.* An operator of a vessel required to carry one or more observers must:

(i) *Accommodations and food.* Provide, at no cost to observers or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers, engineers, foremen, deck-bosses, or other management level personnel of the vessel.

(ii) *Safe conditions.* (A) Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel.

(B) Have on board:

(*1*) A valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in 33 CFR Chapter I and 46 CFR Chapter I;

(*2*) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(*3*) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(iii) *Transmission of data.* Facilitate transmission of observer data by:

(A) *Observer use of equipment.* Allowing observers to use the vessel's communications equipment and personnel, on request, for the confidential entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States.

(B) *Communication equipment requirements.* In the case of an operator of a catcher/processor, mothership, a catcher vessel 125 ft. LOA or longer (except for a vessel fishing for groundfish with pot gear), or a catcher vessel participating in the Rockfish Program:

(*1*) *Observer access to computer.* Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(*2*) *NMFS-supplied software.* Ensuring that the catcher/processor, mothership, or catcher vessel specified in paragraph (e)(1) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(*3*) *Functional and operational equipment.* Ensuring that the communication equipment required in paragraph (e)(1)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (e)(1)(iii)(B)(*2*) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

(iv) *Vessel position.* Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(v) *Access.* Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(vi) *Prior notification.* Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observers specifically request not to be notified.

(vii) *Records.* Allow observers to inspect and copy the vessel's DFL, DCPL, product transfer forms, any other logbook or document required by regulations, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(viii) *Assistance.* Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to:

(A) Measuring decks, codends, and holding bins.

(B) Providing the observers with a safe work area adjacent to the sample collection site.

(C) Collecting bycatch when requested by the observers.

(D) Collecting and carrying baskets of fish when requested by observers.

(E) Allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(F) Collecting all seabirds that are incidentally taken on the observer-sampled portions of hauls using hook-and-line gear or as requested by an observer during non-sampled portions of hauls.

(ix) *Transfer at sea.* (A) Ensure that transfers of observers at sea are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(B) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(C) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(D) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(2) *Shoreside processor and stationary floating processor responsibilities.* A manager of a shoreside processor or a stationary floating processor that is required to maintain observer coverage as specified under paragraph (d) of this section must:

(i) *Safe conditions.* Maintain safe conditions at the shoreside processing facility for the protection of observers by adhering to all applicable rules, regulations, or statutes pertaining to safe operation and maintenance of the processing facility.

(ii) *Operations information.* Notify the observers, as requested, of the planned facility operations and expected receipt of groundfish prior to receipt of those fish.

(iii) *Transmission of data.* Facilitate transmission of observer data by:

(A) *Observer use of equipment.* Allowing observers to use the shoreside processor's or stationary floating processor's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States.

(B) *Communication equipment requirements*—(*1*) *Observer access to computer.* Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(*2*) *NMFS-supplied software.* Ensuring that the shoreside or stationary floating processor specified in paragraph (e)(2) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(*3*) *Functional and operational equipment.* Ensuring that the communication equipment required in paragraph (e)(2)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (e)(2)(iii)(B)(*2*) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

(iv) *Access.* Allow observers free and unobstructed access to the shoreside processor's or stationary floating processor's holding bins, processing areas, freezer spaces, weight scales, warehouses, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(v) *Document access.* Allow observers to inspect and copy the shoreside processor's or stationary floating processor's landing report, product transfer forms, any other logbook or document required by regulations; printouts or tallies of scale weights; scale calibration records; bin sensor readouts; and production records.

(vi) *Assistance.* Provide all other reasonable assistance to enable the observer to carry out his or her duties, including, but not limited to:

(A) Assisting the observer in moving and weighing totes of fish.

(B) Providing a secure place to store sampling gear.

(3) The owner of a vessel, shoreside processor, stationary floating processor, or buying station is responsible for compliance and must ensure that the operator or manager of a vessel, shoreside processor, or stationary floating processor required to maintain observer coverage under paragraphs (a) or (b) of this section complies with the requirements given in paragraphs (e)(1) and (e)(2) of this section.

(f) *Reference table for observer coverage requirements.*

Program	Catcher/Processors	Catcher vessels	Motherships	Shoreside and stationary floating processors
(1) Groundfish CDQ—Nontrawl Gear	(a)(2)(vi)(E) hook-and-line; (a)(2)(vi)(A)(*4*) pot.	(a)(2)(i)(C) hook-and-line; (a)(1)(i) pot.	(a)(2)(vi)(A)(*5*)	(b)(1)
(2) Groundfish CDQ—Trawl Gear	(a)(2)(vi)(A)(*1*)	(a)(2)(i)(C)	(a)(2)(vi)(A)(*5*)	(b)(1)
(3) Halibut—CDQ and IFQ	(a)(2)(i)(A) or (a)(2)(iv)	(a)(1)(i)(A) and (B)	(a)(2)(i)(B)	(b)(1)
(4) Sablefish—CDQ and IFQ	(a)(2)(i)(A) or (a)(2)(iv)	(a)(1)(i)(A) and (B)	(a)(2)(i)(B)	(b)(1)
(5) BS pollock—AFA and CDQ	(a)(2)(vi)(B)(*1*) and (*2*)	(a)(2)(i)(C)	(a)(2)(vi)(B)(*1*) and (*2*)	(b)(2)
(6) Aleutian Islands pollock	(a)(2)(vi)(B)(*3*) through (*4*)	(a)(1)(i)(A)	(a)(2)(vi)(B)(*4*)	(b)(1)
(7) Rockfish Program	(a)(2)(vi)(D)	(a)(2)(i)(C)	N/A	(b)(1)
(8) Amendment 80 vessels and Non-AFA trawl catcher/processors fishing in the BSAI.	(a)(2)(vi)(C)	N/A	N/A	N/A

Program	Catcher/Processors	Catcher vessels	Motherships	Shoreside and stationary floating processors
(9) Vessels and processors participating in all other BSAI and GOA groundfish fisheries.	(a)(2)(i) or (iv)	(a)(1)(i)(A) and (B)	(a)(2)(i)(B)	(b)(1)

■ 13. A new § 679.52 is added to subpart E to read as follows:

§ 679.52 Observer provider permitting and responsibilities.

(a) *Observer provider permit*—(1) *Permit.* The Regional Administrator may issue a permit authorizing a person's participation as an observer provider for operations requiring full observer coverage per § 679.51(a)(2) and (b)(2). Persons seeking to provide observer services under this section must obtain an observer provider permit from NMFS.

(2) *New observer provider.* An applicant seeking an observer provider permit must submit a completed application by fax or mail to the Observer Program Office at the address listed at § 679.51(c)(3).

(3) *Contents of application.* An application for an observer provider permit shall consist of a narrative that contains the following:

(i) Identification of the management, organizational structure, and ownership structure of the applicant's business, including identification by name and general function of all controlling management interests in the company, including but not limited to owners, board members, officers, authorized agents, and other employees. If the applicant is a corporation, the articles of incorporation must be provided. If the applicant is a partnership, the partnership agreement must be provided.

(ii) *Contact information*—(A) *Owner(s) information.* The permanent mailing address, phone and fax numbers where the owner(s) can be contacted for official correspondence.

(B) *Business information.* Current physical location, business mailing address, business telephone and fax numbers, and business email address for each office.

(C) *Authorized agent.* For an observer provider with ownership based outside the United States, identify an authorized agent and provide contact information for that agent including mailing address and phone and fax numbers where the agent can be contacted for official correspondence. An authorized agent means a person appointed and maintained within the United States who is authorized to receive and respond to any legal process issued in the United States to an owner or employee of an observer provider. Any diplomatic official accepting such an appointment as designated agent waives diplomatic or other immunity in connection with the process.

(iii) A statement signed under penalty of perjury from each owner, or owners, board members, and officers if a corporation, that they have no conflict of interest as described in paragraph (c) of this section.

(iv) A statement signed under penalty of perjury from each owner, or owners, board members, and officers if a corporation, describing any criminal convictions, Federal contracts they have had and the performance rating they received on the contract, and previous decertification action while working as an observer or observer provider.

(v) A description of any prior experience the applicant may have in placing individuals in remote field and/or marine work environments. This includes, but is not limited to, recruiting, hiring, deployment, and personnel administration.

(vi) A description of the applicant's ability to carry out the responsibilities and duties of an observer provider as set out under paragraph (b) of this section, and the arrangements to be used.

(4) *Application evaluation.* (i) The Regional Administrator will establish an observer provider permit application review board, comprised of NMFS employees, to review and evaluate an application submitted under paragraph (a) of this section. The review board will evaluate the completeness of the application, the application's consistency with needs and objectives of the observer program, or other relevant factors. If the applicant is a corporation, the review board also will evaluate the following criteria for each owner, or owners, board members, and officers:

(A) Absence of conflict of interest as defined under paragraph (c) of this section;

(B) Absence of criminal convictions related to:

(*1*) Embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, or

(*2*) The commission of any other crimes of dishonesty, as defined by Alaska State law or Federal law, that would seriously and directly affect the fitness of an applicant in providing observer services under this section;

(C) Satisfactory performance ratings on any Federal contracts held by the applicant; and

(D) Absence of any history of decertification as either an observer or observer provider;

(ii) [Reserved]

(5) *Agency determination on an application.* NMFS will send a written determination to the applicant. If an application is approved, NMFS will issue an observer provider permit to the applicant. If an application is denied, the reason for denial will be explained in the written determination.

(6) *Transferability.* An observer provider permit is not transferable. An observer provider that experiences a change in ownership that involves a new person must submit a new permit application and cannot continue to operate until a new permit is issued under this paragraph (a).

(7) *Expiration of observer provider permit.* (i) An observer provider permit will expire after a period of 12 continuous months during which no observers are deployed by the provider under this section to the North Pacific groundfish or halibut industry.

(ii) The Regional Administrator will provide a written initial administrative determination (IAD) of permit expiration to an observer provider if NMFS' deployment records indicate that the observer provider has not deployed an observer during a period of 12 continuous months. An observer provider who receives an IAD of permit expiration may appeal under § 679.43. An observer provider that appeals an IAD will be issued an extension of the expiration date of the permit until after the final resolution of the appeal.

(8) *Sanctions.* Procedures governing sanctions of permits are found at subpart D of 15 CFR part 904.

(b) *Responsibilities of observer providers.* An observer provider that supplies observers for operations

requiring full observer coverage per § 679.51(a)(2) and (b)(2) must:

(1) *Provide qualified candidates to serve as observers.* (i) To be a qualified candidate an individual must have:

(A) A Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences;

(B) Successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course;

(C) Successfully completed at least one undergraduate course each in math and statistics with a minimum of 5 semester hours total for both; and

(D) Computer skills that enable the candidate to work competently with standard database software and computer hardware.

(ii) Prior to hiring an observer candidate, the observer provider must provide to the candidate copies of NMFS-prepared pamphlets and other information describing observer duties.

(iii) For each observer employed by an observer provider, either a written contract or a written contract addendum must exist that is signed by the observer and observer provider prior to the observer's deployment and that includes the following conditions for continued employment:

(A) That all the observer's in-season catch messages between the observer and NMFS are delivered to the Observer Program Office at least every 7 days, unless otherwise specified by the Observer Program;

(B) That the observer completes in-person mid-deployment data reviews, unless:

(1) The observer is specifically exempted by the Observer Program, or

(2) The observer does not at any time during his or her deployment travel through a location where an Observer Program employee is available for an in-person data review and the observer completes a phone or fax mid-deployment data review as described in the observer manual; and

(C) The observer informs the observer provider prior to the time of embarkation if he or she is experiencing any new mental illness or physical ailments or injury since submission of the physician's statement as required in paragraph (b)(11)(iii) of this section that would prevent him or her from performing his or her assigned duties;

(2) *Ensure an observer completes duties in a timely manner.* An observer provider must ensure that an observer employed by that observer provider performs the following in a complete and timely manner:

(i) When an observer is scheduled for a final deployment debriefing under paragraph (b)(11)(v) of this section, submit to NMFS all data, reports required by the Observer Manual, and biological samples from the observer's deployment by the completion of the electronic vessel and/or processor survey(s);

(ii) Complete NMFS electronic vessel and/or processor surveys before performing other jobs or duties that are not part of NMFS groundfish observer requirements;

(iii) Report for his or her scheduled debriefing and complete all debriefing responsibilities; and

(iv) Return all sampling and safety gear to the Observer Program Office.

(3) *Observer conduct.* (i) An observer provider must develop, maintain, and implement a policy addressing observer conduct and behavior for their employees that serve as observers. The policy shall address the following behavior and conduct regarding:

(A) Observer use of alcohol;

(B) Observer use, possession, or distribution of illegal drugs; and

(C) Sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(ii) An observer provider shall provide a copy of its conduct and behavior policy:

(A) To observers, observer candidates; and

(B) By February 1 of each year to the Observer Program Office.

(4) *Assign observer to vessels and processors.* An observer provider must assign to vessels or shoreside or floating processors only observers:

(i) With valid North Pacific groundfish and halibut observer certifications and endorsements to provide observer services;

(ii) Who have not informed the provider prior to the time of embarkation that he or she is experiencing a mental illness or a physical ailment or injury developed since submission of the physician's statement, as required in paragraph (b)(11)(iii) of this section that would prevent him or her from performing his or her assigned duties; and

(iii) Who have successfully completed all NMFS required training and briefing before deployment.

(5) *Respond to industry requests for observers.* An observer provider must provide an observer for deployment as requested by vessels and processors to fulfill vessel and processor requirements for observer coverage under § 679.51(a) and (b). An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties.

(6) *Provide observer salaries and benefits.* An observer provider must provide to its observer employees, salaries and any other benefits and personnel services in accordance with the terms of each observer's contract.

(7) *Provide observer deployment logistics.* (i) An observer provider must provide to each observer it employs:

(A) All necessary transportation, including arrangements and logistics, to the initial location of deployment, to all subsequent vessel and shoreside or stationary floating processor assignments during that deployment, and to the debriefing location when a deployment ends for any reason; and

(B) Lodging, per diem, and any other necessary services necessary to observers assigned to fishing vessels or shoreside processing or stationary floating processing facilities.

(ii) Except as provided in paragraph (b)(7)(iii) of this section, an observer provider must provide to each observer deployed to a shoreside processing facility or stationary floating processor, and each observer between vessel, stationary floating processor, or shoreside assignments while still under contract with an observer provider, shall be provided with accommodations at a licensed hotel, motel, bed and breakfast, stationary floating processor, or other shoreside accommodations for the duration of each shoreside assignment or period between vessel or shoreside assignments. Such accommodations must include an assigned bed for each observer and no other person may be assigned that bed for the duration of that observer's stay. Additionally, no more than four beds may be in any room housing observers at accommodations meeting the requirements of this section.

(iii) An observer under contract may be housed on a vessel to which the observer is assigned:

(A) Prior to the vessel's initial departure from port;

(B) For a period not to exceed 24 hours following completion of an offload for which the observer has duties and is scheduled to disembark; or

(C) For a period not to exceed 24 hours following the vessel's arrival in port when the observer is scheduled to disembark.

(iv) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel

operator or at least one crew member is aboard.

(v) Each observer deployed to a shoreside processing facility must be provided with individually assigned communication equipment in working order, such as a cell phone or pager, for notification of upcoming deliveries or other necessary communication. Each observer assigned to a shoreside processing facility located more than 1 mile from the observer's local accommodations shall be provided with motorized transportation that will ensure the observer's arrival at the processing facility in a timely manner such that the observer can complete his or her assigned duties.

(8) *Limit observer deployment.* Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not:

(i) Deploy an observer on the same vessel or at the same shoreside or stationary floating processor for more than 90 days in a 12-month period;

(ii) Deploy an observer for more than 90 days in a single deployment;

(iii) Include in a single deployment of an observer, assignments to more than four vessels, including groundfish and all other vessels, and/or shoreside processors; or

(iv) Move an observer from a vessel or stationary floating processor or shoreside processor before that observer has completed his or her sampling or data transmission duties.

(9) *Verify vessel USCG Safety Decal.* An observer provider must verify that a vessel has a valid USCG Safety Decal as required under § 679.51(e)(1)(ii)(B)(*1*) before the vessel with an observer aboard may depart. One of the following acceptable means of verification must be used to verify the decal validity:

(i) An employee of the observer provider, including the observer, visually inspects the decal aboard the vessel and confirms that the decal is valid according to the decal date of issuance; or

(ii) The observer provider receives a hard copy of the USCG documentation of the decal issuance from the vessel owner or operator.

(10) *Provide 24 hours a day communications with observers.* An observer provider must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving an observer or problems concerning observer logistics, whenever an observer is at sea, stationed at a shoreside processor or stationary floating processor, in transit, or in port awaiting vessel or processor (re)assignment.

(11) *Provide information to the Observer Program Office.* An observer provider must provide all the following information to the Observer Program Office by electronic transmission (email), fax, or other method specified by NMFS within the specified timeframes.

(i) *Registration materials.* Observer training and briefing registration materials must be submitted to the Observer Program Office at least 5 business days prior to the beginning of a scheduled observer certification training or briefing session. Registration materials consist of the following:

(A) Observer training registration, including:

(*1*) Date of requested training;

(*2*) A list of observer candidates. The list must include each candidate's full name (*i.e.*, first, middle, and last names), date of birth, and gender;

(*3*) A copy of each candidate's academic transcripts and resume; and

(*4*) A statement signed by the candidate under penalty of perjury that discloses any criminal convictions of the candidate.

(B) Observer briefing registration, including:

(*1*) Date and type of requested briefing session and briefing location; and

(*2*) List of observers to attend the briefing session. Each observer's full name (first, middle, and last names) must be included.

(ii) *Statement of projected observer assignments.* Prior to the observer or observer candidate's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that includes the observer's name; vessel, shoreside processor, or stationary floating processor assignment, gear type, and vessel/processor code; port of embarkation; target species; and area of fishing.

(iii) *Physician's statement.* A signed and dated statement from a licensed physician that he or she has physically examined an observer or observer candidate. The statement must confirm that, based on the physical examination, the observer or observer candidate does not have any health problems or conditions that would jeopardize their individual safety or the safety of others while the observer or observer candidate is deployed, or prevent the observer or observer candidate from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician read the NMFS-prepared pamphlet provided to the candidate by the observer provider as specified in paragraph (b)(1)(ii) of this section and was made aware of the duties of the observer as well as the dangerous, remote, and rigorous nature of the work. The physician's statement must be submitted to the Observer Program Office prior to certification of an observer. The physical exam must have occurred during the 12 months prior to the observer's or observer candidate's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(iv) *Observer deployment/logistics report.* A deployment/logistics report must be submitted by Wednesday, 4:30 p.m., Pacific local time, of each week with regard to each observer deployed by the observer provider during that week. The deployment/logistics report must include the observer's name, cruise number, current vessel, shoreside processor, or stationary floating processor assignment and vessel/processor code, embarkation date, and estimated or actual disembarkation dates. The report must include the location of any observer employed by the observer provider who is not assigned to a vessel, shoreside processor, or stationary floating processor.

(v) *Observer debriefing registration.* The observer provider must contact the Observer Program within 5 business days after the completion of an observer's deployment to schedule a date, time, and location for debriefing. Observer debriefing registration information must be provided at the time the debriefing is scheduled and must include the observer's name, cruise number, vessel, or shoreside or stationary floating processor assignment name(s) and code(s), and requested debriefing date.

(vi) *Certificates of insurance.* Copies of "certificates of insurance" that name the NMFS Observer Program leader as the "certificate holder" shall be submitted to the Observer Program Office by February 1 of each year. The certificates of insurance shall state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled and verify the following coverage provisions:

(A) Maritime Liability to cover "seamen's" claims under the Merchant Marine Act (Jones Act) and General Maritime Law ($1 million minimum);

(B) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act ($1 million minimum);

(C) States Worker's Compensation, as required; and

(D) Commercial General Liability.

(vii) *Observer provider contracts.* Observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under § 679.51(a)(2) and (b)(2), by February 1 of each year. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. Said copies must be submitted to the Observer Program Office via fax or mail) within 5 business days of the request for the contract at the address or fax number listed in § 679.51(c)(3). Signed and valid contracts include the contracts an observer provider has with:

(A) Vessels required to have observer coverage as specified at § 679.51(a)(2);

(B) Shoreside processors or stationary floating processors required to have observer coverage as specified at § 679.51(b)(2); and

(C) Observers.

(viii) *Observer provider invoices.* A certified observer provider must submit to the Observer Program Office a copy of all invoices for observer coverage required or provided pursuant to § 679.51(a)(2) and § 679.51(b)(2).

(A) A copy of the invoices must be received by the Observer Program Office within 45 days of the date on the invoice and must include all reconciled and final charges.

(B) Invoices must contain the following information:

(*1*) Name of each catcher/processor, catcher vessel, mothership, stationary floating processor, or shoreside processing plant to which the invoice applies;

(*2*) Dates of service for each observer on each catcher/processor, catcher vessel, mothership, stationary floating processor, or shoreside processing plant. Dates billed that are not observer coverage days must be identified on the invoice;

(*3*) Rate charged in dollars per day (daily rate) for observer services;

(*4*) Total charge for observer services (number of days multiplied by daily rate);

(*5*) Amount charged for air transportation; and

(*6*) Amount charged by the provider for any other observer expenses, including but not limited to: Ground transportation, excess baggage, and lodging. Charges for these expenses must be separated and identified.

(ix) *Change in observer provider management and contact information.* Except for changes in ownership addressed under paragraph (a)(6) of this section, an observer provider must submit notification of any other change to the information submitted on the provider's permit application under paragraphs (a)(3)(i) through (iv) of this section. Within 30 days of the effective date of such change, the information must be submitted by fax or mail to the Observer Program Office at the address listed in § 679.51(c)(3). Any information submitted under paragraphs (a)(3)(iii) or (a)(3)(iv) of this section will be subject to NMFS review and determinations under paragraphs (a)(4) through (7) of this section.

(x) *Other reports.* Reports of the following must be submitted in writing to the Observer Program Office by the observer provider via fax or email:

(A) Within 24 hours after the observer provider becomes aware of the following information:

(*1*) Any information regarding possible observer harassment;

(*2*) Any information regarding any action prohibited under § 679.7(g) or § 600.725(o), (t), and (u) of this chapter;

(*3*) Any concerns about vessel safety or marine casualty under 46 CFR 4.05–1(a)(1) through (7), or processor safety;

(*4*) Any observer illness or injury that prevents the observer from completing any of his or her duties described in the observer manual; and

(*5*) Any information, allegations or reports regarding observer conflict of interest or failure to abide by the standards of behavior described in § 679.53(b)(1) through (b)(2), or;

(B) Within 72 hours after the observer provider determines that an observer violated the observer provider's conduct and behavior policy described at paragraph (b)(3)(i) of this section; these reports shall include the underlying facts and circumstances of the violation.

(12) *Replace lost or damaged gear.* An observer provider must replace all lost or damaged gear and equipment issued by NMFS to an observer under contract to that provider. All replacements must be in accordance with requirements and procedures identified in writing by the Observer Program Office.

(13) *Maintain confidentiality of information.* An observer provider must ensure that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

(c) *Limitations on conflict of interest.* Observer providers:

(1) Are authorized to provide observer services under an FMP or the Halibut Act for the waters off Alaska as required in § 679.51(a)(2) or (b)(2), or scientific data collector and observer services to support NMFS-approved scientific research activities, exempted educational activities, or exempted or experimental fishing as defined in § 600.10 of this chapter.

(2) Must not have a direct financial interest, other than the provision of observer or scientific data collector services, in a North Pacific fishery managed under an FMP or the Halibut Act for the waters off Alaska, including, but not limited to:

(i) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside processor or stationary floating processor facility involved in the catching or processing of fish,

(ii) Any business involved with selling supplies or services to any vessel, shoreside processor, or stationary floating processor participating in a fishery managed pursuant to an FMP or the Halibut Act in the waters off Alaska, or

(iii) Any business involved with purchasing raw or processed products from any vessel, shoreside processor, or stationary floating processor participating in a fishery managed pursuant to an FMP or the Halibut Act in the waters off Alaska.

(3) Must assign observers without regard to any preference by representatives of vessels, shoreside processors, or stationary floating processors other than when an observer will be deployed.

(4) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fish processing activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of the observer provider.

■ 14. A new § 679.53 is added to subpart E to read as follows:

§ 679.53 Observer certification and responsibilities.

(a) *Observer certification*—(1) *Applicability.* Observer certification authorizes an individual to fulfill duties for operations requiring full observer coverage per § 679.51(a)(2) and (b)(2) as specified in writing by the NMFS Observer Program Office while under the employ of an observer provider permitted under § 679.52(a) and according to certification endorsements as designated under paragraph (a)(5) of this section.

(2) *Observer certification official.* The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program on whether to issue or deny observer certification.

(3) *Certification requirements.* NMFS may certify an individual who, in addition to any other relevant considerations:

(i) Is employed by a permitted observer provider company at the time of the issuance of the certification;

(ii) Has provided, through their observer provider:

(A) Information identified by NMFS at § 679.52(b)(11)(i)(A)(*3*) and (*4*) and in writing from the Observer Program; and

(B) Information identified by NMFS at § 679.52(b)(11)(iii) regarding the observer candidate's health and physical fitness for the job;

(iii) Meet all education and health standards as specified in § 679.52(b)(1)(i) and § 679.52(b)(11)(iii), respectively;

(iv) Has successfully completed a NMFS-approved training as prescribed by the Observer Program.

(A) Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(B) If a candidate fails training, he or she will be orally notified of the unsatisfactory status of his or her training on or before the last day of training. Within 10 business days of the oral notification, the Observer Program will notify the observer candidate in writing. The written notification will specify why the candidate failed the training and whether the candidate may retake the training. If a determination is made that the candidate may not pursue further training, notification will be in the form of a written determination denying certification, as specified under paragraph (a)(4)(i) of this section.

(v) Have not been decertified under paragraph (c) of this section.

(4) *Agency determinations on observer certification*—(i) *Denial of certification.* The NMFS observer certification official will issue a written determination denying observer certification if the candidate fails to successfully complete training, or does not meet the qualifications for certification for any other relevant reason.

(ii) *Issuance of an observer certification.* An observer certification will be issued upon determination by the NMFS observer certification official that the candidate has successfully met all requirements for certification as specified in paragraph (a)(3) of this section.

(5) *Endorsements.* The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy as indicated.

(i) *Certification training endorsement.* A certification training endorsement signifies the successful completion of the training course required to obtain this endorsement. A certification training endorsement is required for any deployment as an observer in the Bering Sea and Aleutian Islands groundfish fisheries and the Gulf of Alaska groundfish fisheries or Halibut Act fisheries and will be granted with the initial issuance of an observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program for a period of time specified by the Observer Program after his or her most recent debriefing. In order to renew the endorsement, the observer must successfully retake the certification training. Observers will be notified of any changes to the endorsement expiration period prior to the effective date of the change.

(ii) *Annual general endorsement.* Each observer must obtain an annual general endorsement to their certification prior to his or her initial deployment within any calendar year subsequent to a calendar year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(iii) *Deployment endorsements.* Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(iv) *Level 2 endorsements.* A certified observer may obtain a level 2 endorsement to their certification. A level 2 endorsement is required for purposes of performing observer duties aboard vessels or stationary floating processors or at shoreside processors participating in fisheries as prescribed in § 679.51(a)(2)(vi)(A) through (E). A level 2 endorsement to an observer's certification may be obtained if the observer meets the following requirements:

(A) Previously served as an observer in the groundfish or halibut fisheries off Alaska and has completed at least 60 days of observer data collection;

(B) Received an evaluation by NMFS for his or her most recent deployment that indicated the observer's performance met Observer Program expectations standards for that deployment; and

(C) Complies with all the other requirements of this section.

(v) An observer who has obtained a level 2 endorsement to his or her observer certification as specified in paragraph (a)(5)(iv) of this section may additionally receive a "lead" level 2 observer endorsement if the observer meets the following requirements:

(A) A "lead" level 2 observer on a catcher/processor using trawl gear or a mothership must have completed two observer cruises (contracts) and sampled at least 100 hauls on a catcher/processor using trawl gear or on a mothership.

(B) A "lead" level 2 observer on a catcher vessel using trawl gear must have completed two observer cruises (contracts) and sampled at least 50 hauls on a catcher vessel using trawl gear.

(C) A "lead" level 2 observer on a vessel using nontrawl gear must have completed two observer cruises (contracts) of at least 10 days each and sampled at least 30 sets on a vessel using nontrawl gear.

(b) *Standards of observer conduct*—(1) *Limitations on conflict of interest.* (i) An observer fulfilling duties for operations in the full observer coverage category per § 679.51(a)(2) or (b)(2):

(A) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery, including, but not limited to:

(1) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside processor, or stationary floating processor facility involved in the catching or processing of fish,

(2) Any business involved with selling supplies or services to any vessel, shoreside processor, or stationary floating processor participating in a North Pacific fishery, or

(3) Any business involved with purchasing raw or processed products from any vessel, shoreside processor, or stationary floating processor participating in a North Pacific fishery.

(B) May not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or has interests that may be substantially affected by the performance or nonperformance of the observer's official duties.

(C) May not serve as an observer on any vessel or at any shoreside or stationary floating processing facility owned or operated by a person who previously employed the observer.

(D) May not solicit or accept employment as a crew member or an employee of a vessel, shoreside processor, or stationary floating processor in a North Pacific fishery while employed by an observer provider.

(ii) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(2) *Standards of behavior.* An observer fulfilling duties for operations in the full observer coverage category per § 679.51(a)(2) or (b)(2) must:

(i) Perform assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office;

(ii) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment; and

(iii) Not disclose collected data and observations made aboard the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer, or NMFS.

(c) *Suspension and decertification—*(1) *Suspension and decertification review official.* The Regional Administrator will establish an observer suspension and decertification review official(s), who will have the authority to review observer certifications issued under paragraph (a) of this section and issue initial administrative determinations of observer certification suspension and/or decertification.

(2) *Causes for suspension or decertification.* The suspension/decertification official may initiate suspension or decertification proceedings against an observer:

(i) When it is alleged that the observer has committed any acts or omissions of any of the following:

(A) Failed to satisfactorily perform the duties of an observer as specified in writing by the Observer Program; or

(B) Failed to abide by the standards of conduct for an observer as prescribed under paragraph (b) of this section;

(ii) Upon conviction of a crime or upon entry of a civil judgment for:

(A) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the Observer Program;

(B) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(C) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers.

(3) *Issuance of initial administrative determination.* Upon determination that suspension or decertification is warranted under paragraph (c)(2) of this section, the suspension/decertification official will issue a written initial administrative determination (IAD) to the observer via certified mail at the observer's most current address provided to NMFS under § 679.43(e). The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. If the IAD issues a suspension for an observer certification, the terms of the suspension will be specified. Suspension or decertification can be made effective upon issuance of the IAD in cases of willfulness or in cases in which public health, interest, or safety require such action. In such cases, the suspension/decertification official will state in the IAD that suspension or decertification is effective at time of issuance and the reason for the action.

(4) *Appeals.* A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal pursuant to § 679.43.

■ 15. A new § 679.54 is added to subpart E to read as follows:

§ 679.54 Release of observer data to the public.

(a) *Summary of weekly data.* The following information collected by observers for each catcher/processor and catcher vessel during any weekly reporting period may be made available to the public:

(1) Vessel name and Federal permit number.

(2) Number of Chinook salmon and "other salmon" observed.

(3) The ratio of total round weight of incidentally caught halibut or Pacific herring to the total round weight of groundfish in sampled catch.

(4) The ratio of number of king crab or *C. bairdi* Tanner crab to the total round weight of groundfish in sampled hauls.

(5) The number of observed trawl hauls or fixed gear sets.

(6) The number of trawl hauls that were basket sampled.

(7) The total weight of basket samples taken from sampled trawl hauls.

(b) *Haul-specific data.* (1) The information listed in paragraphs (b)(1)(i) through (xiii) of this section and collected by observers from observed hauls on board vessels using trawl gear to participate in a directed fishery for groundfish other than rockfish, Greenland turbot, or Atka mackerel may be made available to the public:

(i) Date.

(ii) Time of day gear is deployed.

(iii) Latitude and longitude at beginning of haul.

(iv) Bottom depth.

(v) Fishing depth of trawl.

(vi) The ratio of the number of Chinook salmon to the total round weight of groundfish.

(vii) The ratio of the number of other salmon to the total round weight of groundfish.

(viii) The ratio of total round weight of incidentally caught halibut to the total round weight of groundfish.

(ix) The ratio of total round weight of herring to the total round weight of groundfish.

(x) The ratio of the number of king crab to the total round weight of groundfish.

(xi) The ratio of the number of *C. bairdi* Tanner crab to the total round weight of groundfish.

(xii) Sea surface temperature (where available).

(xiii) Sea temperature at fishing depth of trawl (where available).

(2) The identity of the vessels from which the data in paragraph (b)(1) of this section are collected will not be released.

(c) *Competitive harm.* In exceptional circumstances, the owners and operators of vessels may provide to the Regional Administrator written justification at the time observer data are submitted, or within a reasonable time thereafter, that disclosure of the information listed in paragraphs (a) and

(b) of this section could reasonably be expected to cause substantial competitive harm. The determination whether to disclose the information will be made pursuant to 15 CFR 4.7.

■ 16. A new § 679.55 is added to subpart E to read as follows:

§ 679.55 Observer fees.

(a) *Responsibility.* The owner of a shoreside processor or a stationary floating processor named on a Federal Processing Permit (FPP) or a person named on a Registered Buyer permit at the time of the landing subject to the observer fee as specified at paragraph (c) of this section must comply with the requirements of this section. Subsequent non-renewal of an FPP or a Registered Buyer permit does not affect the permit holder's liability for noncompliance with this section.

(b) *Observer fee liability determination.* After each fishing year, the Regional Administrator will mail an observer fee liability invoice to each permit holder specified in paragraph (a) of this section for landings of groundfish and halibut subject to the observer fee. The observer fee liability invoice will provide a summary of the round pounds of groundfish and headed-and-gutted weight for halibut landed during the previous fishing year for each permit by species, landing port or port-group, and gear category. The total fee liability for each permit holder will be determined by applying the observer fee percentage in paragraph (f) of this section to the ex-vessel value of the groundfish and halibut landings subject to the observer fee. The method for determining the ex-vessel value of the groundfish and halibut landings subject to the observer fee is provided in paragraph (e) of this section. The fee liability will be assessed on the groundfish round weight and the headed-and-gutted weight for halibut.

(c) *Landings subject to the observer fee.* The observer fee is assessed on landings by vessels not in the full observer coverage category described at § 679.51(a)(2) according to the following table:

If fish in the landing is from the following fishery or species:	Is fish from the landing subject to the observer fee?	
	If the vessel is not designated on an FFP or required to be designated on an FFP:	If the vessel is designated on an FFP or required to be designated on an FFP:
(1) Groundfish listed in Table 2a to this part that is harvested in the EEZ and subtracted from a total allowable catch limit specified under § 679.20(a).	Not applicable, an FFP is required to harvest these groundfish in the EEZ.	Yes.
(2) Groundfish listed in Table 2a to this part that is harvested in Alaska State waters, including in a parallel groundfish fishery, and subtracted from a total allowable catch limit specified under § 679.20(a).	No	Yes.
(3) Sablefish IFQ, regardless of where harvested	Yes	Yes.
(4) Halibut IFQ or halibut CDQ, regardless of where harvested	Yes	Yes.
(5) Groundfish listed in Table 2a to this part that is harvested in Alaska State waters, but is not subtracted from a total allowable catch limit under § 679.20(a).	No	No.
(6) Any groundfish or other species not listed in Table 2a to part 679, except halibut IFQ or CDQ halibut, regardless of where harvested.	No	No.

(d) *Standard ex-vessel prices*—(1) *General.* NMFS will publish the standard ex-vessel prices used to determine the observer fee in the upcoming year in the **Federal Register** during the last quarter of each calendar year. The standard ex-vessel prices will be described in U.S. dollars per equivalent round pound for groundfish and per equivalent headed-and-gutted weight for halibut.

(2) *Effective duration.* The standard ex-vessel prices will remain in effect until revised by subsequent publication in the **Federal Register**.

(3) *Standard ex-vessel price determination and use*—(i) *Groundfish standard ex-vessel prices.* Except as described in paragraph (d)(3)(ii) of this section, NMFS will calculate groundfish standard ex-vessel prices based on standardized ex-vessel nominal prices calculated using information submitted in the Commercial Operator's Annual Report described at § 679.5(p) and the shoreside processor or stationary floating processor landing report described at § 679.5(e)(5), as well as methods established by the State of Alaska's Commercial Fisheries Entry Commission.

(A) Groundfish standard ex-vessel prices will be calculated as a 3-year rolling average of standard prices for each species, port or port-group, and gear.

(B) Gear categories for groundfish standard ex-vessel prices are: Pelagic trawl gear, non-pelagic trawl gear, and non-trawl gear.

(ii) *Halibut and fixed gear sablefish standard ex-vessel prices.* NMFS will use data submitted to NMFS on the IFQ Registered Buyer report under § 679.5(l)(7) to calculate the standard ex-vessel prices for each year for halibut and fixed gear sablefish, by port or port group. These standard ex-vessel prices will be applied to landings of:

(A) Halibut;

(B) IFQ sablefish; and

(C) Sablefish accruing against the fixed-gear sablefish CDQ allocation.

(iii) *Confidentiality.* Standard ex-vessel prices will be aggregated among ports if fewer than four processors participate in a price category for any species and gear combination.

(e) *Determining the ex-vessel value of groundfish and halibut.* The ex-vessel value of groundfish and halibut subject to the observer fee will be determined by applying the standard ex-vessel price published in the **Federal Register** in the year prior to the year in which the landing was made to the round weight of groundfish and the headed-and-gutted weight of halibut landings subject to the observer fee.

(f) *Observer fee percentage.* The observer fee percentage is 1.25 percent.

(g) *Fee collection.* A permit holder specified in paragraph (a) of this section, receiving a groundfish or halibut landing subject to the observer fee under paragraph (c) of this section, is responsible for collecting fees during the calendar year in which the groundfish or halibut is received.

(h) *Payment*—(1) *Payment due date.* A permit holder specified in paragraph (a) of this section must submit his or her observer fee liability payment(s) to NMFS no later than February 15 of the

year following the calendar year in which the groundfish or halibut landings subject to the observer fee were made.

(2) *Payment recipient.* Make electronic payment payable to NMFS.

(3) *Payment address.* Payments must be made electronically through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*. Instructions for electronic payment will be provided on the payment Web site and on the observer fee liability invoice to be mailed to each permit holder.

(4) *Payment method.* Payment must be made electronically in U.S. dollars by automated clearinghouse, credit card, or electronic check drawn on a U.S. bank account.

(5) *Underpayment of fee liability.* (i) Under § 679.4, an applicant will not receive a new or amended FPP or Registered Buyer permit until he or she submits a complete permit application. For the application to be considered complete, all fees required by NMFS must be paid.

(ii) If a permit holder fails to submit full payment for the observer fee liability by the date described in paragraph (h)(1) of this section, the Regional Administrator may:

(A) At any time thereafter send an initial administrative determination to the liable permit holder stating that the permit holder's estimated fee liability, as calculated by the Regional Administrator and sent to the permit holder pursuant to paragraph (b) of this section, is the amount of observer fee due from the permit holder.

(B) Disapprove any issuance of an FPP or Registered Buyer permit to the applicant in accordance with § 679.4.

(iii) If payment is not received by the 30th day after the final agency action, the agency may pursue collection of the unpaid fees.

(i) *Overpayment of fee.* Upon issuance of final agency action, any amount submitted to NMFS in excess of the observer fee liability determined to be due by the final agency action will be returned to the permit holder unless the permit holder requests the agency to credit the excess amount against the permit holder's future observer fee liability.

(j) *Appeals.* A permit holder who receives an IAD may either pay the fee liability or appeal the IAD pursuant to § 679.43. In any appeal of an IAD made under this section, a permit holder specified in paragraph (a) of this section has the burden of proving his or her claim.

■ 17. In § 679.100, revise paragraphs (b)(1)(i), (b)(1)(ii), and (b)(2)(i)(A) to read as follows:

§ 679.100 Applicability.

* * * * *

(b) * * *

(1) * * *

(i) The vessel is in compliance with observer coverage requirements described at § 679.51(a)(2)(vi)(E)(*1*).

(ii) The vessel is in compliance with observer workload requirements described at § 679.51(a)(2)(iii).

* * * * *

(2) * * *

(i) * * *

(A) The vessel is in compliance with observer coverage requirements described at § 679.51(a)(2)(vi)(E)(*2*).

* * * * *

[FR Doc. 2012–28255 Filed 11–20–12; 8:45 am]
BILLING CODE 3510–22–P

AGENDA B-2
Supplemental
December 2012

Alaska Longline FISHERMEN'S ASSOCIATION

RECEIVED
NOV 26 2012

Post Office Box 1229 / Sitka, Alaska 99835 907.747.3400 / FAX 907.747.3462

November 23, 2012

North Pacific Fishery Management Council
605 West 4th Street, Ste 306
Anchorage, AK 99501

Dear Chairman Olson,

On behalf of the Alaska Longline Fishermen's Association (ALFA), I am submitting these comments on Agenda Item B, NMFS Report.

ALFA's membership continues to be concerned by aspects of the observer deployment plan and the restructured observer program. Under the new program, observer costs have escalated, accountability for PSC bycatch has declined, and boats in the "vessel selected pool" face an unworkable program. Prior to implementation in 2013, ALFA requests the Council:

1) Replace the 2 month deployment requirement for the "vessel selected pool" with a trip selected policy;

2) Hold NMFS accountable for providing specific details to fishermen in the vessel selected pool on advance notice, allowable weather delays, wait times before beginning a release process, and notification requirements to initiate the vessel inspection process;

3) Advise NMFS to address their 11th hour proposed policy to deny waivers if a QS "rider" occupies the bunk needed by the observer.

ALFA does not support deployment on boats in the vessel selected pool until these issues are resolved.

In October the Council heard significant testimony on these issues. In particular, fishermen objected to the three month observer deployment for boats in the "vessel selected pool" and requested a trip by trip selection. Although the Council recommended NMFS reduce the coverage period to two months, the recommended reduction does little to address impacts. With either a three or two month assignment, boats selected from the "vessel selected pool" will have the most onerous observer requirements of anyone boat operating in the partial coverage issue. No one has supplied a rationale for assigning the most onerous coverage to these small fixed gear boats that harvest a relatively small amount of fish.

The other issues identified above will also impose substantial costs and burdens on the small boat fleet. The Council assigned NMFS with gathering feedback on these issues during scoping and outreach. These costs should not be imposed on the fleet for even one year of the program. We ask that the Council direct NMFS to make these changes for 2013.

The process the Council and NMFS have followed to implement this program has made effective public comment extremely difficult. While we understand the Council's interest in rapidly implementing the observer fee and the

restructured program, the expediting development of an observer program for the 1300 previously unobserved small boats that operate out of Alaska's remote communities demands a more iterative and responsive process. Deployment details were non-existent until the deployment plan was revealed in September, some details were not unveiled until the October Council meeting, and many are still unclear—yet the program will be implemented in a matter of months. For two years NMFS has promised that the October Council meeting would provide the opportunity for public comment and modification of the deployment plan, yet in October NMFS argued that only minor changes could be made since contracts had been signed. If the "vessel selected" component of the deployment plan cannot be modified in time for the 2013 season, then observers should not be deployed in the vessel selected pool.

Managers have asked why the fleet did not object to the three month deployment assignment earlier in the process. I would remind the Council that a three month deployment makes perfect sense if the deployment involves an electronic monitoring device instead of a human. EM systems do not impose costs or burdens—they simply record data when a vessel begins hauling gear. We expected that EM would be available as an alternative to human observers, and that willingness to carry EM would be one condition for receiving a waiver from human observer coverage. Our expectation was based on the inclusion of EM in the proposed rule that was reviewed and deemed by the Council. Once EM was dropped from the rule, ALFA and other groups representing the small boat fleet requested that this aspect of the plan be modified to assign coverage on a trip by trip basis. We are still making that request.

Until the NMFS provides a workable monitoring program for the "vessel selected pool," ALFA supports zero deployment on these vessels. A workable program would be the integrated approach identified by the Council last year: 1) an EM alternative to human observers at the time of implementation; 2) consideration of a skipper's willingness to participate in EM as a condition for a waiver from human observer coverage; and, 3) low and slow human observer deployment on vessels that are unwilling to carry EM or fail to properly maintain and operate the EM system. ALFA asks that the Council commit NMFS to a timeline that implements electronic monitoring no later than 2014.

In closing, ALFA's membership is willing to pay observer fees in 2013 and willing to provide at sea catch and bycatch data. For the past two years we have worked in good faith to create an observer program that met Council and industry goals without unnecessarily burdening the small boat fleet. We consider the existing deployment plan unacceptable and program costs unsupportable. Observer deployment costs have skyrocketed and details of deployment logistics for small boats are still hazy. If the Council elects to forge ahead with the current deployment plan despite concerns voiced by Alaska's small boat fleet, we request that at minimum the Council direct NMFS to modify requirements for the vessel selected pool as outlined above.

Thank you for the opportunity to comment.

Sincerely,

Linda Behnken

Linda Behnken
(Executive Director, ALFA)

November 12, 2012

To: Governor Sean Parnell
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young

Subject: Restructured North Pacific Observer Program and 2013 Deployment Plan

Dear Alaska Leaders,

In 2010 the North Pacific Fishery Management Council (Council) approved restructuring the North Pacific Observer Program. A final rule to implement the program is scheduled for early December publication. The undersigned industry associations cannot support this program that doubles costs, halves observer days, reduces coverage in high volume fisheries with substantial Chinook and halibut bycatch, and fails to provide a workable monitoring system for small vessels.

We have been active participants in the restructuring process and are willing to pay the observer fee assessment. We have worked in good faith to ensure this industry-funded program would obtain the at-sea data needed for conservation and management in a cost effective manner. We have worked in good faith to develop tools that would provide at-sea data from Alaska's previously unobserved, community based vessels affected by this action without causing fleet consolidation, job loss, or disruption of business operations.

Despite these good faith efforts, the National Marine Fisheries Service (NMFS) is ready to implement a plan that reduces coverage in high volume fisheries with substantial chinook and halibut bycatch, doubles the cost of an observer day relative to current levels, assigns over half the observed trips to vessels that account for less than 12% of the catch, and places the largest economic burden on the 1,300 small boats that operate out of Alaska's coastal communities. NMFS has provided insufficient opportunity for public comment on the 2013 deployment plan, no specificity and therefore no opportunity for comment on deployment logistics for small boats, and has consistently ignored concerns expressed by fishermen most affected by the program.

The undersigned groups cannot support full implementation of the restructured observer program as proposed for 2013. **We request your assistance in holding NMFS accountable for addressing industry concerns prior to implementation of the restructured program or, at minimum, prior to deployment of observers in the vessel selected pool.**

To be clear, the undersigned organizations are willing to pay the observer fee assessment and are committed to providing at-sea data on catch and bycatch. We support phased implementation of the restructured program and are willing to work with NMFS to resolve the issues outlined in the attached document.

Thank you for your support of Alaska's coastal fishermen.

Signed,

Steve Fish
Alaska Longline Fishermen's Association

Kelly Harrell
Alaska Marine Conservation Council

Dale Kelley
Alaska Trollers Association

Eric Olson
Fishing Vessel Owners Association

Chuck McCallum
Gulf of Alaska Coastal Communities Coalition

Peggy Parker
Halibut Association of North America

David Polushkin
Kachemak Bay Fisheries

Jim and Rhonda Hubbard
Kruzof Fisheries

Buck Laukitis
North Pacific Fishermen's Association

Brian Lynch
Petersburg Vessel Owners Association

Tom McLaughlin
Seafood Producers Cooperative

Kathy Hansen
Southeast Alaska Fishermen's Alliance

Roland Maw
United Cook Inlet Drift Association

Jeff Stephan
United Fishermen's Marketing Association

Concerns with the Restructured Observer Program and 2013 Deployment Plan

A final rule to restructure the North Pacific Observer Program is scheduled for early December publication with implementation in January 2013. The 2013 Observer Deployment Plan was revealed in October 2012 after observer contracts had be signed, allowing only minimal opportunity for public comment and only minor revisions. Deployment details for small vessels still have not been revealed, effectively preempting public comment. Despite active and informed participation by Alaska's coastal fishermen, the restructured program in general and the 2013 Deployment Plan in particular fail to meet resource objectives, control costs, or minimize impacts to Alaska's small fishing businesses.

Throughout the two-year process to restructure the North Pacific Observer Program, fishermen have consistently advocated for:

- Establishing observer coverage levels on a fishery specific basis with emphasis on high impact bycatch fisheries;
- Incorporating deployment strategies that maximize cost effectiveness;
- Providing small vessels with electronic monitoring as an alternative to human observers concurrent with program implementation.

The Council has heard these concerns and often endorsed them. In October 2012 the Council recommended the National Marine Fisheries Service (NMFS) amend the 2013 Deployment Plan to prioritize coverage in bycatch limited fisheries and to do so by reducing observer assignments in the "vessel selected pool." The Council also requested NMFS provide a cost accounting report and a strategic plan for implementing electronic monitoring, but did not tie these requests to the 2013 Deployment Plan. Throughout the restructuring process, the Council has deferred to NMFS to address concerns raised by stakeholders instead of engaging in the normal process of identifying alternatives and incorporating stakeholder input to develop workable solutions. The result of this unusual process is that NMFS has not been held accountable for addressing concerns prior to implementation.

While we support the Council's October 2012 recommendations, we need assurance that observer coverage will be re-prioritized to high bycatch fisheries, that program costs will be controlled, **and that observers will not be deployed on small vessels until deployment details are revealed, analyzed and resolved, and electronic monitoring is available as an alternative to human observers.**

More specifically, our concerns with the 2013 deployment plan are the following:

1. **Equal probability of deployment**--the deployment plan assigns all fishing trips with an equal probability of observer coverage—whether the trip is taken by an 80 foot vessel that harvests hundreds of thousands of pounds or a 42 foot boat harvesting 500 pounds. As a result, over 50% of the observed trips will be assigned to small fixed gear vessels that account for less than 12% of the groundfish and halibut harvested off Alaska. Shifting deployment to small fixed gear boats reduces coverage on high volume and high bycatch fisheries—most notably Gulf pollock fisheries that account for Chinook bycatch. The Council's recommendation to "prioritize" coverage of PSC limited fisheries restates objectives NMFS has ignored to date. While we support the Council's recommendation, NMFS' response to the recommendation remains unknown—yet NMFS intends to implement the program in two months.

2. **Failure to contain costs**— In October 2012 fishermen learned that the deployment plan increases the cost of an observer day from the current $467 to approximately $1,000. The deployment plan emphasizes a random deployment approach to obtain unbiased data and does not sufficiently consider alternative stratified sampling approaches that could provide unbiased data in a more cost effective manner. Doubling the costs halves the

number of observer days and undermines bycatch management objectives that are vitally important to Alaska's fisheries. The Council has requested a detailed cost accounting but has taken no action to control observer coverage costs in 2013.

3. **No alternative to human observers for the small boat fleet**—Stakeholder testimony and Council motions for the past two years, including the Council's May 2011 comment on the proposed rule, requested an alternative to human observers for the small boat fleet. Electronic Monitoring (EM) was identified in EA/RIR as the alternative that minimizes impacts to the small boat fleet. In Alaska, EM project collaborators specifically designed a pilot program in partnership with NMFS to evaluate EM in the halibut and sablefish fisheries to ensure EM would be operational in 2013. Yet the restructured observer program fails to provide this alternative and makes no commitment to ever providing an alternative to human observers. NMFS has not devoted the necessary resources to provide a viable alternative to human observers despite three years of notice and good faith industry cooperation.

4. **Definition of a fishing "trip"**--The definition of a fishing trip still allows "gaming" of the system. Cod vessels that deliver to tenders will be able to complete an entire season before ending a "trip," since trip is defined as a shore-side delivery. As a result, vessels not selected for observer coverage on their first trip can deliver off-shore to tenders until the season ends and thereby avoid coverage for the entire season. The definition also still lacks quantity of gear set or fish harvested, which allows a vessel to fish for one day in a non-productive area, satisfy the observer "trip" requirement, drop off the observer and then join the rest of the fleet to fish in areas with higher catch and, of more concern, bycatch.

5. **"Vessel selected" boats have 100% coverage for two or three months**-- Stakeholders have repeatedly commented that the proposed requirement for boats in the "vessel selected" pool to carry observers for all trips during a three months period is overly burdensome and inequitable, particularly when compared to "trip selected" vessels that have a 13% probability of being selected one trip at a time. The Council's recommendation to reduce the requirement to two months still assigns the most burdensome observer requirements to the smallest fixed gear boats. *Until electronic monitoring is available as an alternative to human observers,* observers should be assigned to small boats on a trip by trip basis.

6. **No Logistical details for the "vessel selected" pool**---Logistical deployment details for the "vessel selected" pool still have not been revealed, hence the industry has not been able to evaluate or comment on these critical and potentially costly provisions. Potential costs include room and board for an observer between trips and insurance to protect against liability. <u>These costs have never been analyzed</u>. While logistical details are specified for vessels in the "trip selected pool" (over 57.5 feet), the deployment plan directs fishermen in the "vessel selected pool" to work with the observer contractor to resolve logistics. The selected observer contractor is based on the East Coast and has no prior experience in Alaska.

Again, we cannot support deployment of observers in the vessel selected pool until these concerns have been addressed by NMFS. We are willing to pay the observer fee in 2013 and we are willing to work with the agency to resolve the concerns identified above.

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North Pacific Fishery Management Council
211th Plenary Session — December 5- 11, 2012 — Anchorage, AK

B-2 NMFS MANAGEMENT REPORTS

REPORT ON OBSERVER DEPLOYMENT & IMPLEMENTATION

Monday, November 26, 2012

Dear Acting Commerce Secretary Rebecca Blank, NPFMC Chair Eric Olson, and Council members:

I request your assistance in ensuring that the National Marine Fisheries Service (NMFS) be held responsible to stakeholders and the public before implementation of an imbalanced restructured observer program, that we believe will be proposed in the current report. Please also consider me a signatory to the widespread November 12, 2012 multi-association letter to Alaska representatives in Congress and governor Parnell outlining concerns about inequitable and inadequate implementation.

I'd like to remind you once again of the attached proposal that has been put on the official record many times at the Council, for a years-stratified 100% trawl sector observer program that would most effectively gather the best scientific data on the highest volume fisheries in order to assess bycatch, prohibited species takings, and address multi-species sustainability and other concerns.

The cost savings of a once every 3 or 5 years complete (100% of all tows) trawl observation are obvious – and it remains clear that 1,300 longline and fixed-gear fishermen would gladly bear the cost for the first year of full coverage on the 30 to 50 trawlers of greatest 'high-volume fisheries' impact.

Why is this not considered as the most preferred option, especially as you face the dilemma of new observer deployment in the GOA under the restructured program?

Why are you reluctant to gather the fishery data required to properly analyze our groundfisheries and related multispecies issues? Why are you reluctant to immediately carry forward the implementation of the cuts in trawl bycatch and allowable PSC that it would clarify?

Again, for the official record, I resubmit the attached "100% Trawl Subsector Observer Proposal."

Sincerely,

Ludger W. Dochtermann, P.O. Box 714
F/V North Point, F/V Stormbird – Kodiak, AK 99615

North Pacific Fishery Management Council
211th Plenary Session — December 5-11, 2012 — Anchorage, AK

GOA GROUNDFISH TRAWL SUBSECTOR OBSERVER PROPOSAL

Submitted Repeatedly for 7+ Years
on the Official Record of NPFMC/NOAA Fisheries

B-2 — Restructuring Observer Program in GOA & the Dochtermann Proposal

Name of Proposer: Ludger W. Dochtermann **Date:** (orig. June 1, 2005) December 5, 2012

Address:

P.O. Box 714
Kodiak, Alaska 99615

Telephone:

(907) 486-5450

Applying: NS#1 issues of 'rebuilding', optimum yield, preventing overfishing; NS#2 –best science & providing most current, comprehensive information; NS#3 'close coordinated management'; NS#7 minimize costs (damaged stocks, wasted fuel etc.) NS#8 sustained community participation & NS#9 minimize bycatch & mortality on non-targeted species. For multi-species management to maximize net national benefits from Kodiak area fisheries.

Brief Statement of Proposal:

Full (100%) Observer Coverage on All GOA Trawl Vessels for the Year 2013, and once in every 3 years, thereafter. By "Year 2013," I mean "**year-1 deployment**" – i.e., before any further Rationalization or Catch Share regulations are promulgated. So, inherent in this proposal is a halt to further action until the best (adequate) scientific data is made available.

Objectives of Proposal (What is the problem?):

To accurately evaluate the trawl fishery subsector's entire catch performance regarding the bycatch of non-targeted species and the on-board management conduct of the fishery's prosecution. There is a serious need to have years of full knowledge regarding bycatch for several reasons, not the least of which is for comparison with other years of reduced coverage where the Nation relies upon self-reporting during non-observer hauls.

Need & Justification for Council Action (Why can't the problem be resolved through other channels?):

Due to the nature of the extraordinary value of bycatch – often exceeding the value of targeted species, and due to the nature of massive discards when incidents of 'bad hauls' occur, NOAA Fisheries and the Council need a more accurate base, or first-data-year statistics. Absent the presence of constant recording cameras and other means of improved data collection — and given the need for human confirmation of such 'remote sensing' were it to occur — the 2013 fishery would be a first start in accurate measurement.

Human behavior in the interests of overwhelming economic rewards, absent effective comparison data and enforcement, commands that NOAA base its decisions on more accurate data, and confirm that behavior is not incorrectly reported when observer coverage is not at 100% levels. The Council and NOAA are also aware of the uselessness of GOA bycatch data. The OMB needs to review Compliance with the Data Quality Act in the self-reporting system.

The recent submittal of pictures of tanner crab bycatch in the Kodiak groundfishery at the June 2009 session clearly demonstrates the need for 100% observer coverage, full time for 1 base year. The pictures and articles from http://Tholepin/blogspot.com reinforce this message. While some have historically considered Bering Sea crab pod encounters to be rare, true or not, around Kodiak trawlers do fish shallow bays and other grounds that increase the likelihood of pod encounters or are simply dragging through crab abundantly concentrated on the ocean floor.

Foreseeable Impacts of Proposal (Who wins, who loses?):

The program would arguably be costly and operationally inconvenient to many vessels, however government could cover much of the costs in return for the knowledge gained. For the cost of not having full and complete knowledge – at least once every 3 years, and at least "once" (in 2013) – before creating any further arbitrary resource allocation (property rights shifting) regulations (such as "rationalization schemes") may be a grave loss to society and regional economies as heavy-impact, intense methods of fishing – i.e. hard-on-bottom trawling – proceed unabated and unwatched.

The question of "who loses" has been answered — crab and halibut fishermen — unless a 100% observer program for 1 base year is put in place. Considering that Kodiak was once the "king crab capital of the world" and its restoration is severely harmed by trawl subsector bycatch incidents, the Council needs this base year to analyze such comparable losses.

The question of "who wins and who loses?" is also moot under the logic that the Public resource is an invaluable asset of the Nation, and no one loses when we all know "What are the true conditions of the prosecution of such fisheries?" Everyone wins when regulations are based on the best data, and when they follow the National Standards in the Magnuson-Stevens and Sustainable Fishery Acts, in their spirit and intent – esp. when the regulatory process proceeds on science, not politics and greed.

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?:

There is another means of keeping an eye on the prosecution of the fishery, but the cost of having numerous Coast Guard vessels on site, around the clock, along with 'random-boarding' (fair) observer coverage would be much higher than instituting a full-coverage year-stratification program that operates only once every 3 years.

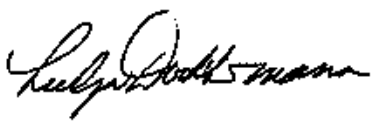
Also, the Council could ban bottom trawling in state waters around Kodiak altogether.

Supportive Data and Other Information (What data are available and where can they be found?):

This is a complex matter, as NOAA has not had adequate budgets for better research. But the conduct of the trawl fishery and the witnessing of its highly destructive prosecution are well known among NOAA, Alaskan communities and fishing crews. The Council and NOAA have greater insight on data collection and statistical need, and that could all come out during the rapid discussion of this proposal were the Council to specifically to request NOAA goes forward with 100% observer coverage in 2013 (or 2014 – whichever is year-1 deployment).

I ask you to please take this into discussion in Groundfish issues, and to make your motion one for prioritization of a 100% observer coverage in Year-1 deployment, specifically in the GOA trawl sector.

Signature:



North Pacific Fishery Management Council
211th Plenary Session — December 5- 11, 2012 — Anchorage, AK

B-2 NMFS MANAGEMENT REPORTS

REPORT ON OBSERVER DEPLOYMENT & IMPLEMENTATION

2-pages attached

Monday, November 26, 2012

Dear Acting Commerce Secretary Rebecca Blank, NPFMC Chair Eric Olson, and Council members:

We request your assistance in ensuring that the National Marine Fisheries Service (NMFS) be held responsible to stakeholders and the public before implementation of an imbalanced restructured observer program, that we believe will be proposed in the current report.

On November 12, 2012 a letter requesting "assistance in holding NMFS accountable for addressing stakeholder concerns prior to implementation of the restructured program" for the North Pacific Observer Program was sent to Alaska governor Sean Parnell and to U.S. senators Mark Begich and Lisa Murkowski, and U.S. representative Don Young, regarding this poorly designed and inequitable restructured observer program and its planned implementation, as is, in 2013.

Please note the additional 34 cosigners below — a sample representing many others in the Kodiak region — that cannot support a restructured program that "doubles costs, reduces coverage in high volume fisheries with substantial Chinook and halibut bycatch, and fails to provide a workable monitoring system for small vessels." Please refer to the additional two pages of detailed concerns in copies of other submittals of the November 12 document.

Thank you for your support of Alaska's coastal fishermen.

Concerned Kodiak Island fishery participants and affected public, signed on following pages.

November 12, 2012

To: Governor Sean Parnell
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young

Subject: Restructured North Pacific Observer Program and 2013 Deployment Plan

Dear Alaska Leaders,

In 2010 the North Pacific Fishery Management Council (Council) approved restructuring the North Pacific Observer Program. A final rule to implement the program is scheduled for early December publication. The undersigned members of the fishing industry cannot support this program that doubles costs, reduces coverage in high volume fisheries with substantial chinook and halibut bycatch, and fails to provide a workable monitoring system for small vessels.

We are willing to pay our fair share of observer coverage costs and recognize that at-sea data is needed for conservation and management of the resource. We are concerned about salmon and halibut bycatch and believe fisheries with high bycatch must be the priority for observer coverage. We believe at-sea data can be collected from Alaska's previously unobserved, community based vessels without causing fleet consolidation, job loss, or disruption of business operations. We have identified electronic monitoring as the tool that works for the small, fixed gear boats.

The National Marine Fisheries Service (NMFS) has consistently ignored the concerns of fishermen most affected by the program. NMFS is ready to implement a plan that reduces coverage in high volume fisheries with substantial chinook and halibut bycatch, doubles the cost of an observer day relative to current levels, assigns over half the observed trips to vessels that account for less than 12% of the catch, and places the largest economic burden on the 1,300 small boats that operate out of Alaska's coastal communities.

NMFS has provided insufficient opportunity for public comment on the 2013 observer deployment plan, no specificity and therefore no opportunity for comment on deployment logistics for small boats, and little to no analysis of logistical costs imposed on individual fishing businesses.

The undersigned individuals cannot support full implementation of the restructured observer program as proposed for 2013. **We request your assistance in holding NMFS accountable for addressing stakeholder concerns prior to implementation of the restructured program or, at minimum, prior to deployment of observers on the small fixed gear vessels assigned to the "vessel selected pool."** Our concerns are detailed in the attached document.

Thank you for your support of Alaska's coastal fishermen.

Name	Address	Signature
1. Rebecca Nelson	PO Box 3086 Kodiak, AK 99615	Rebecca Nelson
2. Hailey Thompson	PO. Box 3037 Kodiak AK 99615	Hailey Thompson
3. Ryan Johnson	1325 Mission Kodiak AK 99615	Ryan Johnson
4. Erin Harrington (907)942-1323	1325 mission Rd Kodiak AK 99615	Erin Harrington

5. [illegible] 515 Carolyn St. Cache Seef

6. [illegible] 1815 Mill Bay Rd Lucas Smith

7. Dana Carros 455 Teal Way Dana Carros

8. [illegible] 928 DJ Vinberg

9. DJ Vinberg 3609 Sunset Dr. 539-2602

10. [illegible] 810 Mission Rd, Kodiak Dave Kobiak

11. [illegible] 1623 Mill Bay Rd Jeff Sanford

12. [illegible] 326 Cope St Kodiak AK 99615 Alex W Kvachka

13. [illegible] 523 [illegible] St Kodiak Ben Millstein

14. [illegible] 1611 Selief Ln Kodiak Mark A. Israelson

15. George Kirk 1365 Sawmill Circle George Kirk

16. Larry Ward 1510 Mission Rd Larry Ward

17. Clark Ward P.O Box 928 Clark Ward

18. Bret Fowler PO Box 8095 Kodiak AK [illegible]

19. Mitch Ward P.O Box 928 Mitchell Ward

20. Tom Dem 10928 Bells Flats Rd [illegible]

21. Scott Krantz 11210 Bells Flats Rd Scott L. Krantz

22. Robert Mathis 3646 Sharatin Rd Kodiak 99615 [illegible]

23. Chris Dameron 310 Teal Way Kodiak [illegible]

24. Billy J. Ecsel 11890 Bells Flats Rd. [illegible]

25. Michael E. Oliver 4450 Rezanof Drive Kodiak AK Michael E. Oliver

26. [illegible] P.O. Box 8956 Kodiak, AK Noah J. Anderson

27. Billy Deth Po Box 8[illegible] Kodiak AK [illegible]

28. Chad Griswold 3590 Sharatin Rd Kodiak AK [illegible]

29. Timothy Witt P.O Box 8923 Kodiak AK [illegible]

30. Marcus T. Stewart 3197 Viewcrest Ln Kodiak AK [illegible]

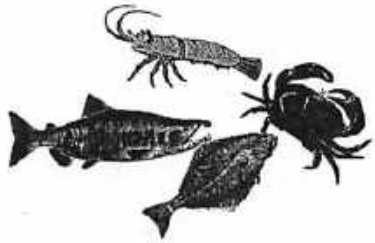
31. Gustavo Canaveral 390 Plover Way Kodiak AK [illegible]

32. [illegible] 940 Hillside Dr Kodiak, AK [illegible]

33. Peter Thompson P.O. Box 3037 Kodiak AK [illegible]

34. Shawn Dochtermann, F/V Ishinisky POB 866, Kodiak AK 99615 [illegible]

Southeast Alaska Fishermen's Alliance
9369 North Douglas Highway
Juneau, AK 99801
Phone: 907-586-6652 Email: seafa@gci.net
Fax: 907-523-1168 Website: http://www.seafa.org



November 26, 2012

North Pacific Fishery Management Council
Eric Olson, Chair
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501

Submitted via email: npfmc.comments@noaa.gov

RE: B-2 NMFS Report - Observer Deployment

Dear Eric Olson and Council Members,

Southeast Alaska Fishermen's Alliance members are extremely concerned and upset about the **final outcome** of the restructured observer program and of the logistics of the vessel selection portion of the program. We understand that the previously unobserved halibut and groundfish fisheries will be observed but the process to date has been too focused on the fee collection portion of the restructured observer program and no logistical details to be provided at a later date. Now that all the pieces are in place the final outcome of the program for the vessel selection pool is unworkable and overly burdensome.

The intent of an observer program is to observer the fishery as it is traditionally conducted not to completely change it. The restructured observer program as it currently stands will further consolidate the fishery even though the intent of the halibut and sablefish program was to maintain small business operations. Between the burden of the observer program and lowered quotas in 2C and 3A this is the final straw and fishermen are selling or considering selling their quota. We stated many times that are acceptance of the restructured observer program was contingent upon

workable logistics for the previously unobserved vessels and an integrated EM component for those vessels that can't handle a human observer onboard.

It is only within the last couple of weeks that we have started to have all the information that we have been asking for throughout the process and of particular concern are several issues for the vessel selection pool that came to light in the frequently asked questions posted on the Observer program page as outreach materials. Treat Quota Share holders the same as deck hands when considering waivers – without the permit holder onboard there is not a trip. Allow vessels that registered as not intending to fish, change that designation if the situation changes. Clarify that advance notice and weather delays in the vessel selection pool process and that it is not the observer company determining release.

We request consideration of delaying implementation of the vessel selection pool in 2013 and work with industry to design a workable program for 2014. EM could be integrated if you went with a simple system that meets the goals as indicated throughout the process for catch estimation and bycatch discards and not a state of the art new technology.

Sincerely,

Kathryn Hansen

Kathy Hansen
Executive Director

AGENDA B-2
Supplemental
December 2012

Tatitlek Village IRA Council

"God's Country, USA"

To Whom It May Concern:

The Native Village of Tatitlek supports the changes of the subsistence halibut.

Thank-you,

David Totemoff, President of Tatitlek IRA Council

David Totemoff 10-24-2012

P.O. Box 171 • Tatitlek, Alaska 99677 • (907) 325-2311 • FAX (907) 325-2298

Name: Lloyd Kompkoff

Organization: N/A

Address: 1710 Minerva Way, Anchorage, AK 99515

Phone: 907-242-3739

Fax: 907-569-6939

E-mail: lloyd.kompkoff@@chenegafuture.com

1. **What Regulation do you wish to Change?** 50 CFR 300.65(h) Limitations on subsistence fishing. provides that "Subsistence fishing for halibut may be conducted only by persons who qualify for such fishing pursuant to paragraph (g) of this section and who hold a valid subsistence halibut registration certificate in that person's name issued by NMFS pursuant to paragraph (i) of this section, provided that such fishing is consistent with the following limitations"
    a. While you may have others on board the vessel with you, if those persons are not eligible for a Subsistence Halibut Registration, they cannot participate in any manner in subsistence fishing. "Fishing" is defined as:
    b. Fishing means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area.
    c. So, things like baiting hooks, deploying subsistence fishing gear, retrieving gear, gaffing halibut are all activities that can reasonably be expected to result in the taking or catching of fish.

2. **How should the new regulation read?** (Add new section to the current regulation 50 CFR 300.65(h).
d. Exception to rule (*a.*) while a SHARC holder is actively harvesting Subsistence Halibut in an approved area they may utilize immediate family (*Father, Mother, Grandfather, Grandmother, Husband, Wife, Sons, or Daughters, step son, step-daughter, grandson, granddaughter*) to do any fishing (b.) and (c.) as long as a current SHARC holder is on board the vessel.

3. **Why should this regulation change be made?** Subsistence harvesting/gathering is a family event. One person may not be able to tend his/her gear (while deploying) out of the vessel, this alone is a huge safety factor. Subsistence by its very nature is historically a family activity and family members should be allowed to participate. Additionally, subsistence is an important part of culture, which means passing it on from one generation to the next. This is done by having the members of an elder generation teaching a younger generation the methods, ways safety and respect that go with subsistence lifestyle. A family member may be eligible in another area because they are a member of another tribe but they do not live in that area. Effectively, a traditional subsistence user is denied access in both areas.

4. **What impact will this change have on fish populations?** *Minimal to* None

5. **How will this change affect subsistence uses?** Elderly subsistence users will be able to participate in the Subsistence Halibut harvest. Handicap subsistence users will be able to participate in the Subsistence Halibut harvest. May eliminate the need for future proxy fishing. Will increase the safety factor for the user.

6. **How will this change affect other uses, such as sport/recreational and commercial?** The change will not affect any of the other uses.

Sincerely, David Allen Jr. TATITLEK IRA PRESIDENT

Lloyd Kompkoff

Petition to Change 50 CFR 300.65(h)

Petition to Broaden the definition of Eligible Participants

We, the undersigned eligible subsistence halibut harvesters and their family and relatives within the State of Alaska, petition Federal Subsistence Management & Congress to amend those Codes of the Federal Regulations, specifically 50 CFR 300.65(h) to allow family members to participate in Subsistence Halibut Harvest. We support the attached proposed changes presented by Lloyd Kompkoff and request in the strongest way that these changes be made so that our traditional lifestyle may be legally maintained.

Name of Eligible Fisherman or Relative	Signature of Fisherman or relative	Address of fisherman or relative	Date Signed	Are you eligible or registered	Are you a family member	Do you live in your registered area
Lloyd Kompkoff	[signature]	1710 [illegible] Anch, AK 99515	6-14-12	yes		no
Steve Eleshansky	[signature]	PoBox 244306 Anch, AK 99524	6-14-12	Yes		NO
Paul T. Selanoff	[signature]	132 E Klutina Valdez AK 99686	6-14-12	YES		NO
Michael J. Vigil	[signature]	PO Box 8039 Chenega Bay AK 99574	6-14-12	YES		YES
Charles W. Totemoff	[signature]	3000 C St. Ste 301 Anchorage, AK 99503	6-18-12	yes		yes
Nick Kompkoff	[signature]	5300 E 4th Ave 204 Anch. AK 99508	6-18-12	Yes		NO
[illegible]	[signature]	P.O. Box 8056 Chenega Bay	6-21-12	YES		yes
[illegible]	[signature]	Box 8021 Chenega Bay AK 99574	6-21-12	Yes		Yes
Mike J. Angaiak	[signature]	PO Box 8056, Chenega	6-21-12	No	Yes	Yes
Kimberly Kompkoff	[signature]	P.O. Box 8006 Chenega Bay	6-21-12	Yes		Yes
Raymond [illegible]	[signature]	P.O. Box 8[illegible] Chenega Bay	6-21-12	yes		yes
Steve Grajewski	[signature]	Box 8030 Chenega Bay, AK	6-21-12	Yes		yes
LeeAnn Gallup	[signature]	Box 8030 Chenega, AK	6-21-12	No	Yes	Yes
Pete Kompkoff	[signature]	Box 80[illegible] Chenega Bay AK	6-27-12	Yes		Yes
Tanya Bokin	[signature]	5340 E 2[illegible] Anch AK 99508	6-27-12	yes		No
Lacey Evanoff	[signature]	Box 8003 Chenega Bay AK	6-27-12	YES		YES
Kalli Andrews	[signature]	1894 [illegible] Anch AK 9957[illegible]	7/2/12	Yes		no
Nicholas C Wilson	[signature]	Box 8046 Chenega bay	7-6-12	yes		yes

Petition to Change 50 CFR 300.65(h)

Petition to Broaden the definition of Eligible Participants

We, the undersigned eligible subsistence halibut harvesters and their family and relatives within the State of Alaska, petition Federal Subsistence Management & Congress to amend those Codes of the Federal Regulations, specifically 50 CFR 300.65(h) to allow family members to participate in Subsistence Halibut Harvest. We support the attached proposed changes presented by Lloyd Kompkoff and request in the strongest way that these changes be made so that our traditional lifestyle may be legally maintained.

Name of Eligible Fisherman or Relative	Signature of Fisherman or relative	Address of fisherman or relative	Date Signed	Are you eligible or registered	Are you a family member	Do you live in your registered area
Phyllis Pipkin	[signature]	Box 1073 Valdez AK 99686	7/13/12	yes		Yes
					yes	yes
Cyril Andrews	[signature]	11941 Downshire Anchorage AK 99516	8-3-2012	Yes	Yes	No
Lloyd Kompkoff Sr	[signature]	17441 Old Seward Hwy Anch 99515	8-3-12	Yes	No	No
Joe Kompkoff Jr	[signature]	Bx 1854 CDV AK 99574	8-3-12	Yes	No	Yes
Lavon Gall	[signature]	210 W 4th Anch AK 99504	8-3-12	Yes	No	No
Andy McLaughlin	[signature]	P.O. Box 8043 Chenega Bay AK 99574	8/3/12	yes	no	yes
Myra Eleshansky	[signature]	PO Box 8021 Chenega Bay	8/4/12	Yes	No	yes
Cheryl Eleshansky	[signature]	PO Box 8021 Chenega Bay	8/4/12	Yes	No	yes
Karen Kallwitz	[signature]	Box Tatitlek, AK	8/4/12	yes	No	yes
Shirley Totemoff	[signature]	Chenega Bay AK	8-4-12	yes	no	yes
Betty Totemoff	[signature]	Tatitlek AK	8-4-12	yes	no	yes
Wanda Zeller	[signature]	Chenega	8-4-12	yes	yes	yes
Joyce L Kompkoff	[signature]	Box 143 Valdez AK 99686	8/4/12	yes	yes	yes
Patti Andrews	[signature]	11941 Downshire Anch AK 99516	8/4/12	yes	yes	yes
Ken Selanoff	[signature]	PO Box 155 Tatitlek AK	8-4-12	Yes	no	yes
Patrick Selanoff Sr.	[signature]	P.O. 843597 ...	8-24-12	yes	no	yes

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. Tudor Road
Anchorage, Alaska 99503-6199

IN REPLY REFER TO:

FWS/AFES

Agenda Item B-6: U.S. Fish and Wildlife Service Report
November 21, 2012

Endangered Species Act Issues:

Short-tailed Albatross:
The chick translocation project on Mukojima Island was undertaken with the goal of establishing a new breeding colony on an island that is neither an active volcano nor under territorial dispute. The first indication of successful translocation of a breeding population on Mukojima Island was recently made. On November 14, 2012, a pair of short-tailed albatross, a four-year-old, hand-reared subadult male from Mukojima Island and a female that was parent-reared on Torishima Island, were observed breeding on Mukojima Island.

For further information on these issues, contact Sonja Jahrsdoerfer, Endangered Species Coordinator at (907) 786-3323 or Sonja_Jahrsdoerfer@fws.gov.

Federal Subsistence Management:

Chinook Salmon:
In 2012, Chinook salmon runs were poor throughout the State of Alaska. In the Yukon and Kuskokwim Rivers, severe season-long restrictions were placed on subsistence fishing schedules, with very limited Chinook salmon subsistence harvests. In addition, no directed commercial Chinook salmon fisheries were allowed.

In July 2012, Governor Sean Parnell requested the Secretary, Department of Commerce, to declare a fishery disaster for the 2011 and 2012 Chinook salmon fisheries on the Yukon and Kuskokwim Rivers. In August, the Governor also requested a fishery disaster for the 2012 Chinook salmon fishery for Cook Inlet. In September 2012, the Secretary declared a disaster for all three regions.

Rural communities on the Yukon and Kuskokwim Rivers depend on both the commercial and subsistence Chinook salmon fisheries for income and survival. In addition, the Cook Inlet Chinook salmon supports an important sport fishery. These fisheries are not only principal economic drivers for the local and regional economy, but also provide a means to secure a significant food resource and maintain important cultural values.

Chinook salmon returns were poor for many populations elsewhere in Alaska. Federal subsistence fisheries for Chinook salmon were closed for both early and late run Kenai and Situk river stocks.

In response to poor Chinook salmon returns across the State, ADF&G developed an analysis of knowledge gaps and information needs for Alaskan Chinook salmon; and held a symposium to solicit review and input. Service staff participated in this effort.

Chum Salmon Bycatch:
The issue of bycatch of chum and Chinook salmon in the Bering Sea commercial pollock fishery remains a key concern of many of the Regional Advisory Councils of the Federal Subsistence Management Program. Specifically addressing the chum salmon bycatch, the Federal Subsistence Board, the Eastern Interior, Western Interior and Yukon-Kuskokwim Regional Advisory Councils all recommend that a hard cap of 50,000, with a trigger cap of 25,000 chum salmon be adopted. Once the trigger cap is reached, conservation measures would be implemented to assist the pollock fishery fleet to avoid reaching the hard cap. The Seward Peninsula Regional Advisory Council recommends a hard cap of 30,000 chum salmon.

For information, contact Jerry Berg, Subsistence Coordinator at (907) 786-3519 or Jerry_Berg@fws.gov.

Groundings and Oil Spills:

The Service has been coordinating closely with the U.S. Coast Guard on an oil spill of unknown origin that has impacted marine birds and mammals near St. Lawrence Island. While field investigations are underway, the source of the spill is unidentified; the spilled product has yet to be defined and samples have been submitted for analysis. No reports of oiled wildlife have been received since November 12.

A grounding of a tug and barge occurred on November 13 at Ukolnoi Island, about 40 miles east of Cold Bay. The vessels appear stable, intact and no spill had occurred. Plans are underway to lighter fuel from the vessels to mitigate the pollution threat. This is a potential spill, and there are no reported impacts to wildlife. The area is used by several threatened species including Steller's eiders, sea otters, and Steller sea lions.

For further information, contact Catherine Berg, Regional Oil Spill Coordinator at: (907) 271-1630 or Catherine_Berg@fws.gov.

INTERNATIONAL PACIFIC HALIBUT COMMISSION

Information Bulletin

2320 W. COMMODORE WAY, SUITE 300, SEATTLE, WASHINGTON, 98199-1287

October 2012 Number 70

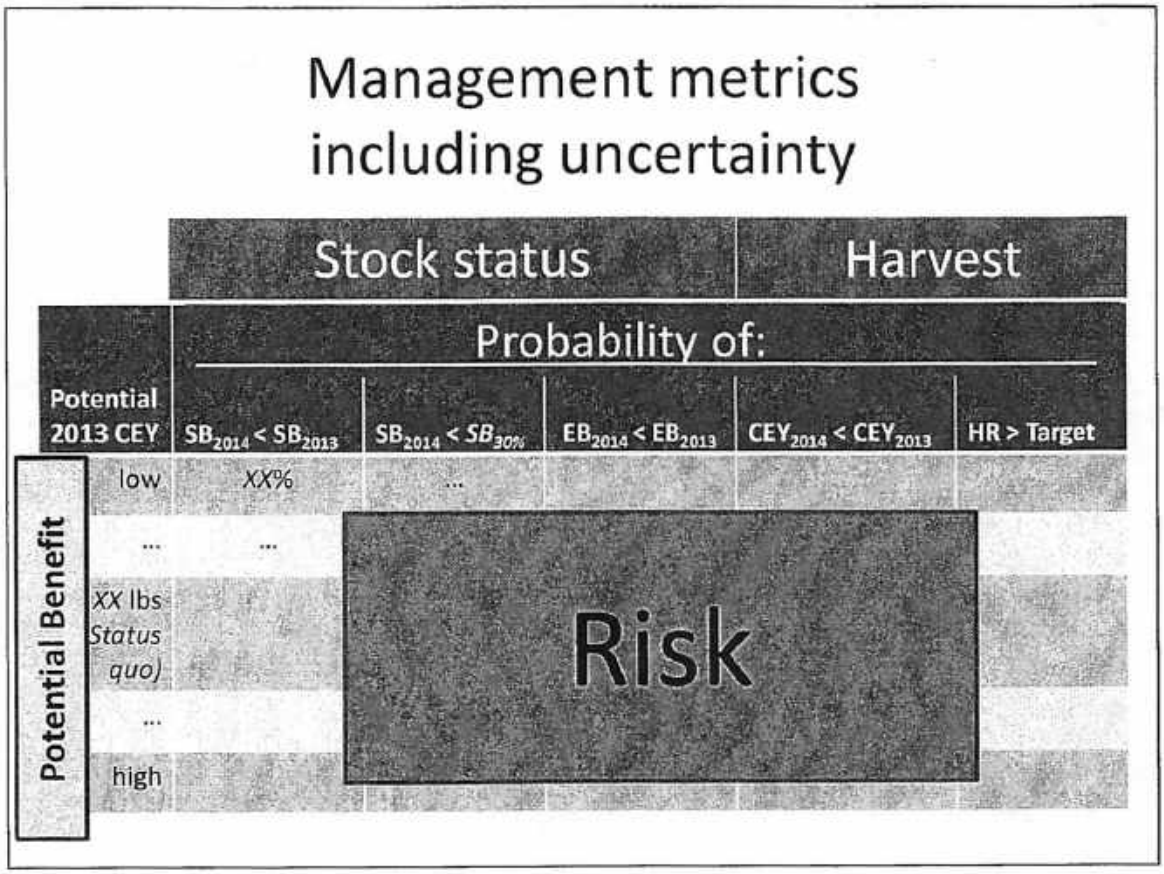
NEW FORMAT FOR IPHC STAFF HARVEST ADVICE

The IPHC staff harvest advice is being restructured to present more information and more options for consideration by Commissioners as they set the annual catch limits. This change is in response to Commission direction at the 2012 Annual Meeting, reinforced by the 2012 Performance Review and stakeholder feedback. Although this restructured advice format is new to the IPHC, it is becoming common practice in world fishery management. This procedural approach provides a more transparent delineation between scientific results and management/policy decisions, ultimately enabling a better understanding of the risks associated with different fishery harvest options.

In the past, IPHC staff harvest advice centered on point biomass estimates and catch limit recommendations (i.e., single numbers for each). This format does not adequately convey the uncertainties around stock estimates and the risks of various possible outcomes at different catch levels. This year, the IPHC staff harvest advice will be summarized in a table which integrates uncertainty surrounding the stock assessment as it relates outcomes to estimates of risk.

The new format will give the Commissioners a wider range of advice to consider as they set catch limits for 2013. For example, different catch levels (outcomes) can be evaluated and presented in terms of their impact (risk) on the stock and harvest rates. The Commissioners will be able to examine a range of harvest options and the probable impacts on the stock as they deliberate. The table below illustrates the structure of how the staff will be providing advice to the Commission and stakeholders. This table is only an example; the particular metrics (column headings) may be different in the final version.

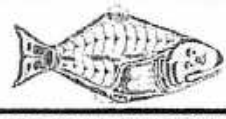
This year's stock assessment and catch advice will undergo a scientific review by a small work team of fishery experts before being presented to the Commissioners at the Interim Meeting. The Commission intends to make scientific peer review, with stakeholder participation, a regular feature of the annual assessment cycle. During the coming year a more formal structure will be developed for future reviews, following discussion at the Interim and Annual Meetings and with stakeholder input.



Example of Restructured Harvest Advice Format

INTERNATIONAL PACIFIC HALIBUT COMMISSION

News Release



2320 W. COMMODORE WAY, SUITE 300, SEATTLE, WASHINGTON, 98199-1287

October 9, 2012

CHANGES TO THE IPHC INTERIM AND ANNUAL MEETINGS

The International Pacific Halibut Commission has adopted several changes to the schedule and format for its Interim and Annual Meetings. The Commission developed these changes in response to recommendations from the 2012 Performance Review and using input from stakeholders across the halibut community. They are designed to improve the workings of the Commission by making its meetings and deliberations more open and transparent to the public. The new meeting formats will be used for the 2012 Interim Meeting and the 2013 Annual Meeting, after which they will be re-evaluated with stakeholder input to make further improvements for the next meeting cycle. The primary changes are noted in the following meeting announcements.

2012 IPHC INTERIM MEETING ANNOUNCEMENT

The International Pacific Halibut Commission's Interim Meeting will be held in Seattle, Washington, on **Wednesday and Thursday, November 28 and 29, 2012** at the offices of the IPHC. The meeting will begin at 9:00am PST on Wednesday and run through Thursday afternoon.

The primary change to the Interim Meeting is to make more of its sessions accessible to the public via webcast. In past meetings, only the initial staff presentations were webcast. This year, except for the finance and administration session at the end of the second day, **all sessions will be webcast and the webcast is open to the public. Another important change will be the opportunity for the public to ask questions of the presenters and/or Commissioners during these sessions.**

More time has been added to this year's Interim Meeting schedule to accommodate additional agenda items. The meeting will start with a discussion of the 2012 Performance Review and IPHC planning efforts, and continue in the afternoon of the first day with the customary slate of presentations and discussion.

The draft agenda, registration for the webcasts, and other Interim Meeting information is posted at http://www.iphc.int/meetings-and-events.html. This information will be updated as the agenda and other details are finalized. Results from the meeting, including staff assessment of the fishery and harvest advice, will be published in a news release after the Interim Meeting.

Commissioners from each government determine in-person attendance at the Interim Meeting and should be contacted for information and attendance requests. For those attending the Interim Meeting, rooms are available at $137 per night at the Edgewater Hotel (www.edgewaterhotel.com). Please identify yourself as attending the *IPHC Interim Meeting*. For reservations, please contact Tracy Torre by phone at (206) 269-4568 or via email at ttorre@edgewaterhotel.com, or call the general reservations number at (800) 624-0670 during regular business hours and ask for "in-house reservations."

Please see Information Bulletin 70 for a discussion of the changes to the IPHC staff harvest advice (http://www.iphc.int/library/bulletins/300-ib0070.html).

2013 IPHC ANNUAL MEETING ANNOUNCEMENT

The Eighty-Ninth Annual Meeting of the International Pacific Halibut Commission will be held from **Monday, January 21 through Friday, January 25, 2013** at The Fairmont Empress in Victoria, BC. A block of rooms has been reserved for attendees at the hotel **until December 21, 2012** at a special rate of $119 CAD for a single (Fairmont type), plus taxes. After the cut-off date, the rate and/or rooms may not be available. The Fairmont Empress is located at 721 Government Street, Victoria, BC. Please identify yourself as attending the *International Pacific Halibut Commission Annual Meeting* to receive the special rate and ensure room availability. For reservations please call (250) 384-8111 or visit the meeting site available at: https://resweb.passkey.com/go/intlpacifichalibutcomm.

The changes to the Annual Meeting are designed to make its proceedings more open and transparent. In contrast to previous Annual Meetings, this year **all public sessions and administrative sessions will be open to the public. These open sessions will also be webcast.**

In addition, more time has been added throughout the schedule to accommodate the open session formats and public discussion. **This year's meeting will begin on Monday afternoon** (January 21, 2013) and run through mid-day on Friday (January 25). Monday afternoon will open with presentations on the fishery, stock assessment, harvest policy, and staff harvest advice, topics which were presented on Tuesday morning at previous Annual Meetings. The 2012 Performance Review will be discussed in public session on Tuesday. The Annual Meeting will conclude with Commission approval of regulations and catch limits on Friday.

The Commission will distribute a brief summary of stock assessment information and staff harvest advice as soon as possible following the Interim Meeting. This information will also be available on the Commission's webpage at http://www.iphc.int. ***Proposals for 2013 catch limit changes should be submitted to the Commission by December 30, 2012.*** A summary of all proposals will be posted on the IPHC website when available.

The Commission also invites the public to submit requests for 2013 regulatory changes (season length, clearances in Area 4, logbook reporting measures, etc.) or management actions for review at the Annual Meeting. The deadline date for submission is November 2, 2012. The Commission will not guarantee consideration of proposals received after this date. The submission form can be downloaded from the IPHC website or can be requested by calling the Commission offices at (206) 634-1838. A summary of all proposals will be posted on the IPHC website when available.

The 2013 IPHC Annual Meeting Schedule of Sessions and the corresponding hotel meeting rooms will be released in December 2012. Current information regarding the Annual Meeting, including regulation and catch limit proposal forms, can be located on the Annual Meeting page of the Commission's website (http://www.iphc.int/meetings-and-events/annual-meeting.html) or by calling the IPHC office at (206) 634-1838. The Commission's website will be updated regularly with new information as the meeting date approaches.

Please see Information Bulletin 70 for a discussion of the changes to the IPHC staff harvest advice (http://www.iphc.int/library/bulletins/300-ib0070.html).

AGENDA B-8
DECEMBER 2012

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver
Executive Director

DATE: November 26, 2012

SUBJECT: Protected Resources Report

ESTIMATED TIME
6 HOURS
All B Items

ACTION REQUIRED

Receive report on Protected Resources issues and take action as necessary.

BACKGROUND

Deep Water Corals

Petition to list Alaskan coral species under the ESA

NMFS received a petition to list 43 Alaska coral species and to designate critical habitat under the Endangered Species Act on August 20, 2012. The 90 day finding is due at the end of November, and will be distributed once it is available.

Ice Seals

Proposal to List Ringed and Bearded Seals under the ESA

NMFS has not completed the final listing determination for ringed and bearded seals. The determination originally was due in December 2011. NMFS extended the decision by six months as allowed under the ESA, but the final listing determination has not been published. On September 12, 2012 The Center for Biological Diversity sued NMFS for failing to finalize the listing determinations for ringed and bearded seals. NMFS reports that the final listing determinations have been delayed but they expect to issue something soon.

Lake Iliamna Harbor Seals

On November 19, 2012 the Center for Biological Diversity submitted a petition to NMFS to protect the Iliamna Lake population of harbor seals under the ESA. Center for Biological Diversity contends that the seals would be harmed by development of a road to support large-scale mining in the Bristol Bay watershed. NMFS has 90 days to determine whether the listing may be warranted.

Eastern DPS Steller sea lions

Delisting decision

NMFS is currently responding to public comments on the proposed delisting of the eastern stock of Steller sea lions, and expects to publish a final decision in spring 2013.

Western DPS Steller sea lions

Steller Sea Lion Mitigation Committee

Since October, the SSLMC has met three times to develop alternatives for consideration in the 2012 Steller sea lion protection measures EIS. The Committee received 17 proposals by the deadline

announced by the Chairman; one proposal was received after the deadline but was accepted by the Chairman. From these 18 proposals, the SSLMC has drafted three alternatives for the Council's consideration. The alternatives will be presented to the Council under Agenda Item C-4.

Agenda and Minutes from meetings in October and November are included as Item B-8(a). Minutes and presentations are available for viewing and download on the Council's website at http://www.alaskafisheries.noaa.gov/npfmc/conservation-issues/ssl.html.

2012 Protection Measures EIS

NMFS Alaska Region continues to work on the 2012 SSL Protection Measures EIS, and remains on schedule to complete the EIS in the prescribed time. The Scoping Period closed on October 15, 2012, and a Scoping Report was submitted to the Council on November 19, 2012, and mailed to you on November 20. Ms. Melanie Brown (NMFS AKR) is present to provide a report to the Council, under Agenda Item C-4.

Recent Publications

The following new publications are available from Steve MacLean upon request:

Testa, J.W., K.J. Mock, C. Taylor, H. Koyouk, J.R. Coyle, R. Waggoner. 2012. Agent-based modeling of the dynamics of mammal-eating killer whales and their prey. Marine Ecology Progress Series. 466:275-297.

Alava, J.J., D. Lambourn, P. Olesiuk, M. Lance, S.J. Jeffries, F.A.P.C. Gobas, P.S. Ross. 2012. PDBE flame retardants and PCBs in migrating Steller sea lions (*Eumetopias jubatus*) in the Strait of Georgia, British Columbia, Canada. Chemosphere. 88:855-864.

Steller Sea Lion Mitigation Committee

MINUTES 10/18-19/2012 8:30 AM – 5 PM JUNEAU, AK

ATTENDEES – COMMITTEE MEMBERS	Larry Cotter-Chairman, Alvin Osterback, Dave Fraser, Gerry Merrigan, John Gauvin, Ernie Weiss, Todd Loomis, , Jon Warrenchuk, Steve MacLean-Council staff
PUBLIC ATTENDEES	Bill Tweit, Paul MacGregor, Dave Benton, John Lepore, Dana Seagars, Jim Balsiger, Mary Furuness, Brandee Gerke, Jon Kurland, Steve Lewis, Mary Grady, Sarah Gelchas, Doug DeMaster, Gretchen Harrington, Glenn Merrill, Josh Keaton, Heather Brandon, Doug Wells, Loren Smoker, Kristen Mabry Others were listening online but were not recorded

Agenda topics

INTRO, REVIEW PURPOSE — COTTER

DISCUSSION	Chairman Cotter welcomed the Committee and public and asked each person to introduce themselves. Seven committee members were present. Absent were Kenny Down and Rudy Tsukada. The purpose of the meeting was to review proposals submitted to the Committee and begin crafting recommended alternratives.
CONCLUSIONS	N/A

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
N/A		

PURPOSE AND NEEDS STATEMENT — M. BROWN

DISCUSSION	Ms. Brown presented a DRAFT Purpose and Needs statement to the committee for their review and comment. There was significant discussion about the DRAFT P&N statement, much of it concerning specific language within the P&N that some in the committee though presupposed conclusions of the EIS. The P&N statement was printed and distributed to the SSLMC, and the SSLMC was asked to read and comment on the draft P&N. However, after internal review, the SSLMC was asked to delay comment on the P&N statement pending a review and redrafting by NMFS AKR. The revised draft P&N will be distributed to the SSLMC when it is available, and presented to the Council at the December Council meeting.
CONCLUSIONS	NMFS AKR will revise draft Purpose and Needs and distribute to the SSLMC for review and comment before December Council meeting

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Send revised DRAFT P&N to MacLean for distribution to SSLMC	M. Brown	When prepared

COUNCIL LETTER TO LUBCHENKO — L. COTTER

DISCUSSION	Chairman Cotter reviewed the letter that the Council chairman sent to Dr. Jane Lubchenko, NOAA Administrator, concerning the CIE and other reviews of the 2010 BiOp, and appearances of bias. A comment was made that some accusations of bias were not warranted, and that there was a confusion between bias and a desire to allocate equal time to other hypotheses for the lack of recovery of SSLs. It was commented that there is a large body of science to counter alternative hypotheses such as killer whale predation, etc., and it was felt that the letter was unnecessary. Not all SSLMC members agreed with that statement. The SSLMC turned to a discussion of the suggested alternatives for consideration in the EIS that were presented on p.2 of the letter. The Chairman stated that the SSLMC will include the alternatives suggested by the Council letter in the package of alternatives that the SSLMC delivers to the Council in December. The Chairman asked Bill Tweit (Council member) to clarify some questions about the prescribed alternatives. Mr. Cotter asked whether the intent of the Council was to include alternatives for the entire range of the WDPS, including the Gulf of Alaska. Mr. Tweit replied that it was the Council's intent to focus on the western and central Aleutians (541, 542, 543), but felt that the CIE review does raise other questions that would be more appropriate to consider later. The intent of the Council is to consider these items "a step at a time", beginning with the EIS for the central and western Aleutians, and perhaps considering other items by reviewing the recovery plan for SSLs. A comment was made that the SSLMC and others have previously commented on the appropriate range for the EIS, and concluded that the Bering Sea should also be included,

	as the existing RPA affects some fisheries in the Bering Sea area of 541. Mr. Tweit responded that the intent of the Council motion is to provide timely relief for the central and western AI fisheries and communities. Another comment noted that the impacts of the RPA (redistribution of the fleets) likely affected other areas, and noted that the BIOp made tradeoffs on where to take action to restrict fisheries to increase the growth rate of SSLs in those subareas, and noted that different choices could have been made. Mr. Tweit reiterated that the Council's intent was to focus on the central and western Aleutians.
CONCLUSIONS	N/A

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

STATUS QUO ALTERNATIVE — M. BROWN

DISCUSSION	Melanie Brown (AKR SF) presented a review of the Status Quo option (implemented by IFR in January, 2011). In order to facilitate review, the performance standards from the 2010 EA were also presented. The performance standards prompted considerable discussion. NMFS staff stated that new performance standards are being developed for the 2012 EIS. The SSLMC will request a presentation of the new performance standards for the next SSLMC meeting. It is likely that the performance standards will still be in draft form at the next meeting, but the draft standards will provide some insight into what sort of proposals may be considered in the EIS. Ms. Brown continued with a presentation and handout that described the Status Quo alternative by area (541, 542, 543). Because there is interest in re-establishing pollock fisheries in the Aleutians, which are currently prohibited, Mary Furuness (AKR SF) presented information about the AI pollock fishery from 1992 – 2012. Ms. Furuness also distributed relevant sections from the Federal Register (70 FR 9862) that limited pollock fisheries in the AI.
CONCLUSIONS	N/A

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

PROPOSAL RECEIVED — SSLMC

DISCUSSION	Each committee member who forwarded proposals to the SSLMC was asked to comment for a few minutes on each proposal. Proposals are numbered in the order they were received. Clarifying questions were asked of the presenters if appropriate. The brief discussion of each follows: 1) Brandon WWF – Jon Warrenchuk presented Proposal 1 from WWF which seeks to expand existing closures around Dalnoi Point in the Pribilof Islands and requests that the Pribilof Islands be analyzed separately from RCA 6 (eastern Aleutians). Ms. Brandon (WWF) clarified that the proposal seeks to limit commercial fishing for all SSL prey species by all gear types, year round, to 20 nm from Dalnoi Point. 2) Murray Oceana – Jon Warrenchuk presented Proposal 2 from Oceana which seeks to maintain the existing RPA and add additional measures to help SSL recovery throughout the range. Mr. Cotter pointed out that although general ideas were presented in the proposal, the proposal did not provide detail about actions that could be included in an alternative package to the Council. Mr. Warrenchuk was requested to provide additional detail about proposed actions to the SSLMC before the next meeting. Mr. Tweit asked Mr. Warrenchuk if the suggestion that an ecosystem-based scheme to protect SSLs was meant to replace place-based protections currently in place. Mr. Warrenchuk responded that the suggestion was intended to stimulate a larger discussion about how to allocate resources to protect SSLs and indicated that the intent was to supplement place-based protections. 3) AEB #1 – Ernie Weiss presented AEB #1 which seeks to eliminate the D-season in the western GOA pollock fishery and reallocate the TAC from the D season to the three other seasons, equally. Mr. Weiss acknowledged that this proposal is outside of the central and western AI, but would like it considered. 4) AEB #2 – Ernie Weiss presented AEB #2 which seeks to change the opening ate of the Pacific cod A-season in the western GOA to February 1 for all gear types. It was noted that there could be complications related to vessels fishing in other areas (central GOA, BS), and allocations. 5) AEB #3 – Ernie Weiss presented AEB #3 which seeks to change the apportionment of the Pacific cod TAC in the western GOA from 60:40 to 80:20.

6) AEB #4 – Ernie Weiss present4ed AEB #4 which seeks to add six Steller sea lion CH sites to the Navigable Transit exemptions in SSL regulations. The purpose is to allow vessels transiting the area to maintain a minimum of 1 nm from each site, rather than 3 nm as currently required. The six sites are: Atkins, Chernabura Island, Pinnacle Rock, Sea Lin Rocks, Ugamak Island, and Akun Island. The objective is to increase vessel safety in the waters of the Aleutians East Borough.

7) AKSC #1 – John Gauvin presented AKSC #1 which seeks to modify the current AI Atka mackerel RPAs to revert to areas that were open for mackerel trawling before the IFR was implemented, with two changes 1) remove the HLA regulations requiring "platoons", and 2) retaining current season dates of Jan 20 – June 10 and June 10 – Nov 1. Mr. Gauvin was asked whether the proposal would allow for anything other than the co-ops to address the "race for fish". Mr. Gauvin responded that the co-ops are spreading effort out across areas, and co-op agreements can be used to provide additional control. Mr. Loomis added that non-regulatory means of control allows the flexibility for change if NMFS in-season management requires management changes. Mr. Gauvin was asked if any non-AFA, non-AM80 (non-non) vessels participate in the Atka mackerel fishery. Mr. Gauvin noted that a small (6%) amount of the TAC is harvested by non-nons, which is not enough to affect catch rates.

8) AKSC #2 – John Gauvin presented AKSC #2 which seeks to modify Atka mackerel regulations to allow fishing outside of SSL critical habitat in 543, and allow fishing outside of 10 nm from Buldir Island.

9) AKSC #3 – John Gauvin presented AKSC #3 which seeks to change Maximum Retainable Allowance regulations for Atka mackerel in the eastern AI (541) and Bering Sea to allow for offload to offload measures rather than instantaneous measures. A comment was made that the MRA regulations were created to prevent "topping off" of valuable species during other directed fishing, and suggested that this proposal would not reduce the likelihood of JAM, but would reduce economic impacts of the RPA. Mr. Gauvin countered that the shift would provide benefits to SSLs in that the harvest of 541 Atka mackerel would shift from the AI to the BS, and would contribute to a "low and slow" style of fishing. Mr. Kurland commented that the instantaneous measures for MRAs were instituted to prevent "speculative topping off".

10) AKSC #4 – John Gauvin presented AKSC #4 which seeks to allow directed fishing for Atka mackerel in the AI from January 20 – June 10 (A season), and June 10 – December 31 (B season) in order to spread fishing effort through the year and reduce the potential for pulsed fishing. This change would extend the B season from November 1 to December 31. Mr. Gauvin noted that this change would shift effort from the time when SSLs are nursing pups to the winter.

11) AKSC #5 – John Gauvin presented AKSC #5 which seeks to implement RPAs suggested by the Council in August 2010 for Atka mackerel fishing in Areas 542 and 543, with minor changes to adjust seasons to those currently in place and allow rollover of TAC between seasons.

12) AKSC #6 – John Gauvin presented AKSC #6 which seeks to revert to the AI trawl cod RPAs in place before January 2011, with removal of the "no concurrent cod/mackerel fishing" provision west of 178 degrees West.

13) AKSC #7 – John Gauvin presented AKSC #7 which seeks to modify the November 1 closure for cod trawling to December 31. Mr. Gauvin noted that no additional cod would be allowed (TAC already set), but would decrease the amount of regulatory discards for cod caught after November 1. Mr. Gauvin was asked if this proposal was specific to Amendment 80 vessels, and responded that the intent was to apply to everyone, although there is not likely to be much directed cod fishing by AFA vessels during that time. The proposal would reduce regulatory discards of cod by vessels fishing other species. A request was made to summarize the amount of cod currently discarded after November 1.

14) ACDC Cod #1 – Dave Fraser presented ACDC Cod #1 which seeks to reinstate the pre 2011 RPA to allow fishing for cod in the AI without the "no concurrent fishery" provisions and adopt a cap on cod removals in the AI based on best estimate of biomass. Mr. Fraser stated that effectively this would reopen critical habitat to cod fishing west of Seguam Pass outside of 3 nm, and would open Buldir to cod fishing outside of 10 nm. A comment was made that the SSLMC should consider the impacts of a P cod TAC split on this proposal, and a presentation on the potential effects of the TAC split was requested.

15) ACDC Cod #2 – Dave Fraser presented ACDC Cod #2 which seeks to implement the Council's August 2010 proposed RPA for P cod. A comment was again made that the potential P cod TAC split could affect this proposal. At this point Mary Furuness was asked to discuss the potential P cod TAC split. Ms. Furuness noted that the soonest a TAC split could be implemented was 2014, although that date was dependent upon the Plan Team accepting the AI specific P cod model which was sent back to the author for revisions by the Plan Team at their last meeting. If a TAC split was implemented, the OFL, ABC, and TAC would be established for each area. If the TAC was reached in either area, that area would be closed to directed fishing for the remainder of the season. Because the AI TAC would likely be much smaller than the BS TAC, the probability of an AI closure is much greater than a BS closure. The State (AK) waters GHL fishery currently takes 3% of the TAC, which is taken off the

top. If that continued or increased, the resulting federal TAC could be very small in the AI.

16) ACDC Pollock #1 – Dave Fraser presented ACDC Pollock #1 which seeks to apply the pre-2011 trawl cod fishery restrictions to walleye pollock, and adopt caps on pollock removals in each of the AI sub areas (541, 542, 543) based on the best estimate of biomass distribution, as is done for Atka mackerel ABC. This proposal would allow directed pollock fishing in the AI, which has not been authorized since 1998. Amendment 82 to the BSAI FMP capped pollock TAC in the AI at 19,000 tons to ensure that TAC remained less than ABC. In 2005, the pollock TAC was allocated to the Adak, but restrictions have prevented full utilization of that TAC.

17) ACDC Pollock #2 – Dave Fraser presented ACDC Pollock #2 which seeks to open critical habitat outside of 3 nm from a select set of rookeries/haulouts for walleye pollock. In 541, the proposal would open critical habitat aroune Atka North Cape and Kanaga Sound, and in Amutka Pass outside 10 miles form Amutka and 3 miles for Seguem Southside. In 542, the proposal would open critical habitat outside of 3 nm from Krysl Pt. Tanadak, Segula haulouts, and outside 10 nm from Little Sitkin and Ayugadak haulouts. IN 543, the proposal sould open critical habitat outside 3e nm from Shemya, Alid, and Chirikof haulouts. The proposal would also establish caps on pollock removal in each area baed on rolling averages of survey biomass, as is used to apportion Atka mackerel ABC, and would retain the Amendment 82 limit on the proportion of the AI pollock ABC that can be harvested in the A season.

18) FLL – Doug Wells presented the FLL proposal which seeks to reinstate the pre-2011 RPAs to allow fishing for cod in the AI and establish an cap on cod removal sbased on best estimate of cod biomass.

CONCLUSIONS

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

CATEGORIZING PROPOSALS

SSLMC

DISCUSSION

The Committee was tasked with categorizing proposals into category 1, 2, or 3. These are not rankings, but merely a categorization based on deviation from status quo. Those proposals that offer minor "tweaks" to Status Quo are category 1, proposals that propose more substantial changes from Status Quo are considered category 2, and proposals that deviate broadly in scope (geographic or species) or restrictions are considered category 3. Assignment to any particular category **DOES NOT** preclude advancement from the SSLMC in the recommended proposal package; it is merely a way to organize further work for the SSLMC.

1) WWF – C ategory 3 because it seeks to impose restrictions outside of the central or western Aleutian Islands.
2) Oceana – Category 3 because it suggests revising a harvest strategy which would have far-reaching effects, well beyond the central and western AI.
3) AEB 1 – Category 3 because it proposes reallocation of pollock TAC in the western GOA
4) AEB 2 – Category 3 because it proposes changes in the reporting area 610
5) AEB 3 – Category 3 because it proposes to reapportion TAC in the western GOA
6) AEB 4 – Category 3 because it proposes changes to regulations in the western GOA
7) AKSC 1 – Category 2. Substantial change to existing regulations to allow Atka mackerel fishing in 541, 542, 543.
8) AKSC 2 – Category 2. Substantial change to existing regulations to allow Atka mackerel fishing in 543. However, noted that change in AKSC 2 is not as great as AKSC 1.
9) AKSC 3 – Category 1. Minor regulatory change to affect the way MRAs are applied.
10) AKSC 4 – Category 1. Change in season ending date from Nov 1 to Dec 31
11) AKSC 5 – Category 1. Council proposal with changes in fishing seasons. Was originally placed in Cat 2.
12) AKSC 6 – Category 2. Revert to pre-2011 RPAs in removal of "no concurrent fishing" clause
13) AKSC 7 – Category 1. Season change to allow increased retention/reduction of regulatory discards for Pacific cod.

	14) ACDC cod 1 – Category 2. Reinstate pre-2011 RPA for Pacific cod in AI. 15) ACDC cod 2 – Category 1. Adopt council's 2010 RPA for Pacific cod. 16) ACDC pollock 1 – Category 3. Proposes implementing directed pollock fishery in AI. 17) ACDC pollock 2 – Category 3. Proposes implementing directed pollock fishery in AI. 18) FLL – Category 2. Reinstate pre 2011 RPA for longline vessels. Presenter proposed amendment to retain closure in 543, which could result in Cat 1.
CONCLUSIONS	

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

MUST HAVES — SSLMC

DISCUSSION	The SSLMC was asked to quickly (not comprehensively) identify the "must have" elements of proposals. Chairman Cotter acknowledged he was asking for a great deal from each committee member to "show their cards" and reiterated that the items identified would not limit proposers from advocating for other elements in the SSLMC's proposal package to the Council. The AKSC proposed a range of alternatives that overlap in order to maximize the likelihood that some elements would be forwarded to the Council. The AKSC representatives reiterated that they had not discussed any of the elements that would be considered "must haves", and with that caveat identified Atka mackerel fishing outside of CH in 543, and outside 10 nm from Buldir, inside CH in 543 according to estimates of biomass and harvest rates from FIT studies, and for Pacific cod identified reinstatement of pre-2011 measures in 543. AKSC reps were unsure of "must have" P cod measures in 543 because P cod must be fished within CH in that area. The extension of P cod season to December 31 is also a "must have" element. ACDC identified fishing opportunities for Adak as a "must have" and stated that they needed 10,000 tons of "something" to keep the processor operating. They specifically targeted 19,000 tons of pollock, as allowed under Amendment 82 to the BSAI FMP. The FLLC identified pre-2011 restrictions in 542 as their "must have". Oceana identified avoiding JAM and increasing restrictions at Dalnoi Point as their "must have" items.
CONCLUSIONS	

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

INFORMATION REQUESTS — SSLMC

DISCUSSION	The SSLMC was asked to provide information or data requests that can be compiled into a consolidated request to NMFS. Requests include: • Population status of SSLs in each subarea – determine whether significant decline occurs in two subareas • Population status of wDPS non pups, comparison to 2008 survey • Counts of SSLs at Buldir • Counts of SSLs at Dalnoi Point • Pinniped (i.e., SSL and Northern fur seal) interactions at haulouts or rookeries • Platforms of Opportunity data re: catch outside CH • Catch 3-10, 10-20 nm from Dalnoi point by gear type, target, date • Summary of redistributed cod effort after 2011 • Chinook and non-chinook salmon bycatch around Dalnoi Point by month • AI pollock catch data from the 90s • Biomass estimates inside and outside CH in the AI for pollock • Amount of P cod discarded after Nov 1 closure
CONCLUSIONS	

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

Draft data request letter to NMFS	MacLean	10/26

OBSERVERS	
RESOURCE PERSONS	
SPECIAL NOTES	

Steller Sea Lion Mitigation Committee

MINUTES 11/7-9/2012 JUNEAU, AK

ATTENDEES – COMMITTEE MEMBERS	Larry Cotter-Chairman, Alvin Osterback, Dave Fraser, Gerry Merrigan, John Gauvin, Ernie Weiss, Todd Loomis, Jon Warrenchuk, Kenny Down, Steve MacLean-Council staff
PUBLIC ATTENDEES	Melanie Brown, Doug Vincent-Lang, Dave Benton, Mary Grady, Jeanne Hanson, Jon Kurland, Ben Muse, Sarah Eligen, Chad See, Tom Gemmell, Karla Bush, Josh Keaton, Steve Lewis, Brandee Gerke, Mary Furuness, Mike Levine, Stephanie Madsen, Diane Scoboria Others were listening online but were not recorded

Agenda topics

INTRO, REVIEW PURPOSE COTTER

DISCUSSION	The meeting began at 10:30 AM, after arrival of the flight from Seattle. Chairman Cotter welcomed the Committee and public. The purpose of the meeting was to craft DRAFT alternatives for the 2012 SSL Protection Measures EIS. The agenda was changed to allow John Lepore's presentation first.
CONCLUSIONS	N/A

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
N/A		

EIS VS. BIOP ANALYSIS J. LEPORE

DISCUSSION	Mr. Lepore presented information, included on a handout, that summarized the differences in analyses under the ESA (BiOp) and NEPA (EIS). In summary, under NEPA the document analyzes the effects of the action and reasonable alternatives on the human environment; under the EIS, the document analyzes the effects of the action on listed species and their critical habitat. This EIS will evaluate a reasonable range of alternative management measures for Federally authorized commercial fisheries in the Aleutian Islands. The preferred alternative *may* result in a new Biological Opinion if the alternative is substantially different from current status quo. Mr. Lepore was asked about the recent "SPOiR" (Significant Portion Of its Range) decisions at NOAA/FWS. Mr. Lepore responded that SPOiR was a listing/delisting issue, and was not relevant to determining JAM, or in an EIS. Mr. Cotter suggested that it should be considered in the EIS, as the scope of the action could concern just a portion of the species range or the whole of the range. Mr. Fraser asked whether it was possible to preview the results of a Biological Opinion in the an EIS, given that the EIS would evaluate a range of alternatives, and the preferred alternative may be the least economically impactful, but may not be the best for the listed species. Mr. Lepore declined to predict what a Biological Opinion might conclude, but noted that the issues are related. Mr. Down asked whether the Hogarth Memo (memo outlining NMFS response to SPOiR policy) was in place before the 2010 BiOp was published. It was.
CONCLUSIONS	

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

PURPOSE AND NEED M. BROWN

DISCUSSION	Ms. Brown presented a DRAFT Purpose and Need statement that was updated with the input from the SSLMC given at the last meeting. Pollock were added to the P&N statement in response to scoping comments. Ms. Brown was asked about the meaning of "and supporting research" in the draft P&N; the language was included to facilitate research needed for fisheries management. A comment was made that the P&N language still pre-supposed impacts on Steller sea lion from commercial fisheries, a premise that was questioned by some committee members. A member of the public asked why the action is to "mitigation impacts on Steller sea lions", when the EIS is evaluating the effect on the human environment. Ms. Brown

	and Mr. Lepore responded that the focus of the EIS was appropriate, and the EIS would evaluate the impacts of the alternatives that are designed to mitigation impacts to Steller sea lions *on the human environment.* One committee member questioned a sentence in the draft P&N that implied that the agency can look at both the protection of Steller sea lions and economic impacts on the fleet equally. Mr. Lepore explained that the EIS process compels analysis of all alternatives, and where two alternatives have the same impacts on the human environment, the less economically impactful alternative should be chosen. The SSLMC was asked to provide suggested edits to the draft P&N. Two suggested edits were received, and those were forwarded to the agency for their consideration. Additionally, the SSLMC suggested that the agency add a reference to the MSA in the first paragraph of the P&N.
CONCLUSIONS	N/A

ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**

NMML RESPONSE TO DATA REQUEST — T. GELATT

DISCUSSION	Dr. Tom Gelatt provided NMML's response to the data request sent to Doug Mecum on October 29, 2012. Dr. Gelatt was not present at the meeting, but presented the information contained in an Excel Workbook via teleconference. The multiple tabs of the workbook contained the data requested by the SSLMC, where possible, and a text summary is included in the November 5 response to Chris Oliver from Dr. Doug DeMaster.
CONCLUSIONS	N/A

ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**

AKR RESPONSE TO DATA REQUEST — J. KEATON, S. LEWIS

	Mr. Josh Keaton and Mr. Steve Lewis presented data from NMFS AKR in response to the SLLMC data request. Data were presented in a series of handouts (emailed to SSLMC)
CONCLUSIONS	

ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**

PERFORMANCE MEASURES — B. GERKE

DISCUSSION	Ms. Brandy Gerke provided an update on the development of performance measures for use in the 2012 EIS and subsequent BiOp (if necessary). Ms. Gerke initially favored the development of an analytical tool that would provide an objective measure of potential impact of alternatives. However, after discussion with other analysts and experts the likelihood of developing such a tool was recognized to be remote. Rather, NMFS is developing a standardized methodology that will be employed to measure the impact of the preferred alternative on Steller sea lions in the next Biological Opinion. The methodology will be developed by April 2013, and applied (preliminarily) to the Council's preliminary preferred alternative with the objective of providing the Council with early indication of the potential impacts of the action at the June Council meeting. Along with the standardized methodology, several issues from earlier EIS and BiOp analyses are being reevaluated or updated, including: • Utility of ecosystem-wide estimates of biomass to infer area specific forage ratios, • Movement data from all tagged SSLs, • Meta-analysis of previous studies for fishery ecosystem impacts, including studies not included in the Bernard et al. review, • Utility of pup:non-pup ratios as proxy for natality. Ms. Gerke was asked whether PR was initiating Sec 7 consultation now or preparing for upcoming consultation. Ms. Gerke replied that PR is not initiating consultation now, and noted that the reviews initiated

	now will benefit any future fisheries consultation. Ms. Gerke was asked whether the evaluation methods would differ from the stepwise approach that was described in the 2010 BiOp. Ms. Gerke replied that the approach would be an updated and improved version of the decision tree in the 2010 BiOp. It was noted that the decision tree in the 2010 BiOp created problems when it was applied in a yes:no oversimplified way. Ms. Gerke was asked whether the movement data being analyzed now include both old data and new data. The new analysis will include all data, including new data from the adult females tagged in late 2012. It was suggested to Ms. Gerke that the conceptual model to estimate the impacts of fish removals on SSLs should be expanded to include other prey species than those managed by NMFS, and should evaluate the overlap of prey size and depth with commercial fisheries. Specific recommendations were provided for use of non:non-pup ratios for natality estimates. Ms. Gerke was asked what other data were being reevaluated by NMML. Age-structure was being reevaluated using large format aerial photos to better estimate the proportion of juveniles on haulouts and rookeries, the meta-analysis of fishery impact studies is including studies that were not part of the Bernard et al. review, and the spatial scale of movement data were being analyzed to consider the forage area and extent of movements of SSLs specifically to evaluate the assumptions of closed populations in previous analyses. Ms. Gerke was asked whether the information being reevaluated would inform methodology for the EIS. The analyses will not be completed by the December 14 new information deadline, and will therefore not be available for the EIS. The results will be published as agency white papers and will be available to the public for review. Mr. Kurland noted that Ms. Gerke was providing a preview of what the agency hopes to provide for this process, but noted that all of the analyses may not happen. These are what the agency aspires to provide. THE SSLMC ADJOURNED FOR THE DAY.
CONCLUSIONS	

ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**

PERFORMANCE MEASURES — **B. GERKE**

DISCUSSION	Ms. Gerke continued her discussion of the updated performance measures. There are some standards or principals that will persist from previous analyses to the current EIS and BiOp. Those include: • Exposure – overlap in time and space between SSL habitat and fisheries; • Nutritional Stress Hypothesis: NMFS will take a hard look in the BiOp, especially concerning the critiques of the CIE review. But Ms. Gerke noted that the agency must still "ensure" the action is not likely to cause JAM; • Evaluation will continue to use the 2008 recovery criteria, including subregion population trends; • Trend sites remain the survey method to provide consistency in population trend analysis; • Frequency of Occurrence for scat data remains the best available analysis to evaluate SSL diet for commonly consumed species. The evaluation is not intended to recreate the SSL diet, but to identify those items most commonly consumed. Those remain Atka mackerel, Pacific Cod, and Walleye pollock; • Effects on designated CH *and important sites not identified as CH* in the AI will be evaluated; • The benefit of the doubt will still be given to the listed species in questions of risk choice; • There is currently no new information to suggest that more restrictive measures than the 2010 RPA are necessary in the Aleutian Islands. Ms. Gerke also summarized standards that are likely to be included in a new Biological Opinion, including: • Mitigation more restrictive in areas of stronger SSL population decline; • Seasonal catch limits; • Area closures by gear type; • Critical Habitat, and areas closer to shore more important than farther from shore. Ms. Gerke was asked about specific advice for the seasonality component, is summer or winter more important? NMFS is currently evaluating this question with updated data; there is no new guidance for now, but it is generally important not to concentrate catch in a single season

CONCLUSIONS			
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE

PROPOSAL ELEMENTS — S. MACLEAN

DISCUSSION	Mr. MacLean presented an Excel workbook with each proposal broken down to constituent elements for each target species (Atka mackerel, Pacific cod, walleye pollock) and each management area (541 + BS, 542, 543). The elements were presented to facilitate development of draft alternatives for each species (or area) for submission to the Council. Two committee members provided updates or corrections to the proposal elements in the Excel workbook.

CONCLUSIONS			
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE

DALNOI POINT — SSLMC

DISCUSSION	During the meeting, the SSLMC received information from the St. George Traditional Council that summarized the survey results from the Traditional Council's Island Sentinel program to monitor ecological conditions on the Island. Included in the information were marine mammal sightings from 2007 and 2008, and a report from Insley and Robson et al. (2008) with survey methods and photographs of SSLs from Dalnoi Point. This report was distributed to the SSLMC and discussed at the meeting. The SSLMC was asked by the chairman whether they wished to include areas outside of the central and western AI in the alternative package sent to the Council. Some felt that inclusion of areas outside of the AI was inconsistent with information presented at the meeting that NMFS felt that no additional restrictions beyond those implemented in the 2011 IFR were necessary. Others countered that NMFS claimed no additional measures were necessary in the AI, but other areas in the BS did require additional protection. Some noted that there was little cod caught in the area around Dalnoi Point, and very little catch of other species. After discussion the SSLMC voted to limit the committee's alternatives to the Aleutian Islands, with one committee member objecting.

CONCLUSIONS			
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE

DEVELOPING DRAFT ALTERNATIVES — SSLMC

DISCUSSION	The SSLMC spent considerable time developing draft alternatives for each target species and each area. Alternatives were developed for three different "world views" or "categories": one in which the alternative deviates only slightly from current status quo, one in which the alternative deviates moderately from status quo in one or more management areas for one or more species, and one in which the alternative deviates substantially from status quo. The categories are not intended to indicate the likelihood of any alternative being selected, but are a way for the SSLMC to organize proposal elements into cohesive alternatives for submission to the Council. Much time was spent discussing each element and placing elements in to draft alternatives. Each committee member was asked to briefly justify their addition to each alternative, specifically thinking about why the alternative element selected fit into each category. Although there remained some confusion about the categories, the draft alternatives were eventually produced. The SSLMC discussed a proposal to develop a process to consider revising the harvest management strategy to accommodate prey needs for apex predators, and to expand protections at Dalnoi Point in the Pribilof Islands and consider protections in other areas in the Bering Sea. The committee, with one objection, elected to limit alternatives to the western and central Aleutians, and not pursue a process to revise the harvest management strategy. The Chairman recommended that the proposal authors consider further detailing the harvest management strategy discussion and present that proposal to the NPFMC at another opportunity. Other proposals requesting changes to management outside of the central and western Aleutians were withdrawn.

	Each committee member was tasked with drafting brief, concise justifications for each element of the alternatives, paying particularly detail to why the element included in the alternative was an improvement upon the management measures in place before the 2011 IFR. Those justifications are to be submitted to Steve MacLean by Friday, November 16. Each committee member is also required to submit realistic estimates of the impact their alternative element will have on the fishery target in question (realistic estimates of catch in area) in order to simplify the comparison and negotiation process at the next SSLMC meeting. Those estimates are also due to Steve MacLean by Friday, November 16. MacLean will begin drafting Alternatives with justification and estimated impact for the November 26 – 28 SSLMC meeting.
CONCLUSIONS	

ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
Each committee member will provide justification and estimated impact of their alternative elements to MacLean.	SSLMC	Friday, 11/16.

OBSERVERS	
RESOURCE PERSONS	
SPECIAL NOTES	

National Oceanic and Atmospheric Administration

National Marine Fisheries Service, Alaska Regional Office

North Pacific Groundfish and Halibut Fisheries Observer Program - Frequently Asked Questions

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Quick Links:

PURPOSE OF THE OBSERVER PROGRAM

What is the purpose of the observer program?

The Observer Program provides the regulatory framework for NMFS-certified observers (observers) to obtain information necessary to conserve and manage the Bering Sea, Aleutian Islands, and Gulf of Alaska groundfish fisheries. The information collected by observers provides the best available scientific information for managing these fisheries and developing measures to minimize bycatch. Observers collect biological samples and fishery-dependent information on total catch and interactions with protected species. Managers use data collected by observers to monitor quotas, manage groundfish and prohibited species catch, and document and reduce fishery interactions with protected resources. Scientists use data collected by observers for stock assessments and marine ecosystem research. The stock assessments are the basis for setting annual catch quotas for groundfish species.

Who uses observer data?

The information from observers deployed in Alaska fisheries provides extensive, high quality data to fisheries managers, stock assessment scientists, and policy makers. Observers send information to the Observer Program daily while they are at sea or at the completion of their trip. The information collected by observers provides the foundation for inseason management and for tracking species-specific catch and bycatch amounts. All North Pacific groundfish stock assessments and many policy analyses considered by the North Pacific Fishery Management Council depend, in part, on information collected by observers.

Who is affected by the new Observer Program?

The new Observer Program includes all participants in the Federally-managed groundfish fishery off Alaska, including vessels less than 60 feet length overall (LOA), and the commercial halibut fishery. The new Observer Program places all vessels and processors in the groundfish and halibut fisheries into one of two observer coverage categories: (1) a full coverage category, and (2) a partial coverage category. Further information about who falls into which category can be found in the Observer Program Summary.

Vessels in the partial coverage category will experience substantial changes in how observers are deployed and paid for. NMFS has contacted the registered owners of all vessels that fall into the partial coverage category and are potentially required to have observer coverage during the upcoming year, with instructions about what to do.

What will an observer do when he/she is on my boat?

Observers are biological technicians trained by NMFS to work on vessels to collect a broad range of information needed by fisheries managers, stock assessment scientists, and policy makers. The information observers collect includes:

Fishing effort information, such as the vessel's fishing locations and gear type, and catch composition samples including the size, sex, and weight of all organisms in those samples;

Biological samples such as tissues, age structures (otoliths), and stomachs;

Interactions with marine mammals, and seabirds.

The Observer Sampling Manual describes the duties and priorities of observers and is available on the FMA

Observer Program web site.

How do observers collect their data?

Observers are trained to work closely with the vessel crew to collect samples with minimal interference to the vessel's operations. When observers first board a vessel, they work with the vessel personnel to explain their needs, assess the fishing operations, and decide where they can best do their work in a safe manner. They need periodic access to the fishing logbooks and GPS locations, but the majority of their work is carried out on-deck, sampling the catch as it comes aboard. Observers take samples of the catch and need some space to take weights and measurements of those samples. They will work with you to collect their required data with minimal disruption to vessel operations.

Observers record information based on their direct observations following a sampling protocol outlined by NMFS. They apply random sampling methods to each data collection component. Observers use mechanical scales provided by NMFS to obtain weights of various components of their data.

The Observer Sampling Manual describes the duties and priorities of observers and is available on the FMA Observer Program web site.

If I take fish back to the dock whole, will the observer have to cut up some of my fish?

Observers do cut some fish from within their samples to determine the sex, or to take age structures. In many cases, fishermen cooperate with NMFS to complete this work. However, we know that some valuable fish are delivered whole, or have specific cuts made to them, and observers try not to reduce the value of a significant portion of the catch. Observers are trained to work closely with the vessel crew to complete their work, and they will work directly with the master of the vessel should there be concerns with decreasing the value of the landed catch.

LOGISTICS OF HAVING AN OBSERVER ON MY BOAT

What are my responsibilities when an observer is on my boat?

When you have an observer on board your boat, you and your crew are responsible for:

Not interfering with the observer's ability to collect data;

Assisting the observer in conducting a vessel safety inspection prior to sailing;

Providing access to all parts of the vessel where the observer needs to work;

Providing a safe working area and space for the observer's equipment;

Sharing data with the observer if they ask for it, including the vessel location and your logbook of fishing effort;

Notifying the observer when fishing gear is being retrieved;

Providing food and a bunk for the observer when he or she is on your vessel.

How much deck space is needed for the observers to do their work?

Observers are trained to work efficiently with minimal disruptions to the crews' regular activities. Observers need space to collect and weigh fish. Observers require sufficient space to hold their sample while they sort the samples by species and weigh them. Observers often work in unoccupied areas.

The amount of deck space required varies depending on the gear type being deployed. On hook-and-line gear, the observer needs a place to stand and observe the catch coming up on the line, and then a small area where they can safely weigh some of the fish being caught. On trawl gear, the observer collects samples from each haul and needs space to sort these samples by species, and weigh them. Observers need to weigh samples, which range from several kilograms by species for average weights on longliners to a few hundred kilograms for composition samples on trawl vessels.

How much room does the observer need for storage of equipment and samples?

Observers require a place where their sample gear can be safely secured while at-sea. Observers will bring onboard the sampling gear they need to use, which is intended to be stored and contained in the baskets NMFS provides. These baskets are about the size of a laundry basket. The baskets nest inside one another to minimize the overall footprint of the equipment on deck. The area of a basket pack is approximately .25 square meters when nested. In addition to deck space to store sampling gear, observers require a safe, dry place to keep their data along with samples or gear (such as scales) that need to stay dry. The space required for this is minimal.

What safety equipment am I required to carry when an observer is onboard?

You are expected to comply with all applicable United States Coast Guard (USCG) regulations and to have a valid USCG safety decal. NMFS provides observers with their own Personnel Locator Beacon (PLB), survival suit with strobe, and life jacket.

You are required have a current USCG Commercial Fishing Vessel Safety Examination decal. The equipment requirements can be found at http://www.fishsafe.info/.

Do I have to have insurance when there is an observer on my boat?

Observers are insured by their employer, as required in regulation for full coverage vessels and in the contract between NMFS and the observer provider for the partial coverage category. Observers are also covered by the Federal Employees Compensation Act. This insurance coverage does not prevent any observer or observer provider from filing a suit for injuries that occur on a vessel. Thus, industry members may choose to protect themselves from lawsuit by obtaining additional liability insurance.

How do I provide feedback to NMFS about the observer on my boat?

Provide feedback concerning the observer to NMFS through the "NPGOP Vessel/Plant Operator Comment Form" available from the observer or online. You may also contact the Observer Program directly at any time. The Observer Program Director, Martin Loefflad, can be reached at 206-526-4195. The Observer Program Deputy Director, Patti Nelson, can be reached at 206-526-4194.

Is there a way for me to provide feedback to NMFS on the observer provider?

Yes. NMFS contracts with the observer provider and the observer provider functions as NMFS's agent. Provide feedback concerning the observer provider by contacting the Observer Program Director or Observer Program Deputy Director at the numbers shown above.

What is ODDS?

The Observer Declare and Deploy System (ODDS) is an Internet-based interface that provides information about observer deployment on vessels in the partial coverage category and facilitates communication among the owner or operator of a vessel in the partial coverage category, NMFS, and the observer provider. The ODDS web site is https://odds.afsc.noaa.gov. For those unable to use the Internet, access to ODDS is also available by calling the NOAA Data Technician Office at 1-800-304-4846 (option # 1) or 907-586-7163.

QUESTIONS SPECIFIC TO VESSEL SELECTION

How will NMFS tell me that I was selected for an observer? How far in advance will I know?

NMFS will send a letter to the registered owner of each vessel selected for an observer. Also, the observer provider will contact the owner of each selected vessel to coordinate observer coverage. Each selection will be for a 2-month period. In late November, NMFS sent letters to the owners of vessels selected for January and February period. NMFS intends to make subsequent selections 60 days in advance. Thus, the selections for March and April will occur by December 31, 2012.

How many vessels did NMFS select for the first 2-month period?

NMFS selected 9 vessels for observer coverage for January and February.

How will I know if I did NOT get selected for an observer?

If you did not receive a letter from NMFS indicating that you were selected for the upcoming 2-month period, then you do not need to do anything further. You can go fishing without an observer. If you want to double check and confirm that you were not selected for observer coverage then you can send an email to: odds.help@noaa.gov

What do I do if I am selected for an observer, but I don't think my boat can accommodate an observer? What happens next?

NMFS will send a letter to the registered owner of each vessel selected for an observer. If you are selected for observer coverage, you are required to take an observer unless NMFS grants a release from coverage. The letter will provide specific instructions to complete the Vessel Selection Survey in ODDS to inform NMFS that your vessel is unable to accommodate an observer. Once NMFS receives the survey from you claiming your vessel is unable to accommodate an observer, NMFS will contact you and arrange to visit the vessel in port to evaluate your claims. If NMFS agrees that your vessel is unable to accommodate an observer, NMFS will send you a letter informing you that your vessel is released from the observer coverage requirement.

How long must I wait before requesting a release from the observer coverage requirement?

You can complete the Vessel Selection Survey in ODDS as soon as you receive notification from NMFS that your vessel was selected for observer coverage.

Once I request a release, how long will it take for NMFS schedule an inspection of my vessel?

Once you complete the Vessel Selection Survey in ODDS, NMFS will make it a priority to schedule an inspection with you. The inspection will occur in the two month window between when NMFS notifies you that your vessel is selected and your coverage period begins. If your vessel warrants release, NMFS will let you know before the start of your 2-month coverage period.

If I am selected for observer coverage, how do I contact the observer provider? How soon do I need to contact them?

NMFS will send a letter to the registered owner of each vessel selected for an observer. This letter will include specific instructions on how to contact the observer provider. NMFS will also inform the observer provider that your vessel was selected for observer coverage. Vessels in the vessel selection pool do not have an advance notice requirement. Therefore, you will communicate with the observer provider to ensure that an observer is available to deploy to your vessel in time for your planned departure. We recommend providing the observer provider as much advance notice as is possible, with a minimum of 72 hours. Advance notice will enable the observer provider to efficiently and effectively deploy observers.

If I only do 1 trip in a 2-month timeframe, what happens to the observer for the rest of time?

The observer will not be deployed to your vessel until you are ready to leave port. Once your trip is completed the observer will depart from your vessel and the observer provider can deploy the observer to another vessel. When you are ready to go on your next trip, you need to contact the observer provider to ensure that you have an observer on each of the trips you take in the 2-month period. If you plan consecutive trips, we encourage you to let the observer provider know this in advance. Please note our previous comment about giving the observer provider as much advance notice as is possible.

Do I have to house and feed the observer in between trips?

No. You are not required to house or feed the observer between trips. The observer provider is responsible for all travel, lodging, and associated expenses. The observer provider does not have the authority to require an operator to house an observer on their boat while in port. However, you may choose to request the observer spend the night on your vessel if you are leaving early in the morning or for other logistical reasons. Keep in mind, during all periods an observer is housed on your vessel, the vessel operator or at least one crew member must be aboard.

I was selected for observer coverage but I don't plan on going fishing in the 2-month period. What do I do? What if I change my mind and want to fish?

Vessels are not required to declare whether or not they plan to go fishing in each 2-month period. If you are selected for observer coverage, you may log into ODDS and tell NMFS and the observer provider that you are not planning to fish during your coverage period. This provides helpful information to NMFS and the observer provider for planning purposes.

Declaring that you are not planning to fish does not prevent you from fishing or release you from your observer coverage requirement. If you decide to go fishing during your required coverage period, you must contact the observer provider to obtain an observer for your fishing trip.

What happens if I can normally take an observer, but I need to take an IFQ holder instead? I do not have enough room on my vessel for an observer and an IFQ holder. Do I have to tell the IFQ holder no?

Consistent with Council direction, for the 2013 observer deployment, NMFS will consider an IFQ holder as a crew member. Crew members will not be displaced by the requirement to have an observer onboard for vessels in the vessel selection pool. However, NMFS expects that the vessel owner would try to accommodate both the observer and the IFQ holder.

If you are selected for observer coverage, you are required to take an observer unless NMFS grants a release from coverage. If you believe you cannot accommodate an observer, you must inform NMFS. NMFS will contact you and arrange to visit the vessel in port to evaluate your claims. If NMFS agrees that your vessel is unable to accommodate an observer, NMFS will send you a letter informing you that your vessel is released.

NMFS will report to the Council on this aspect of deploying observers in the vessel selection pool as part of NMFS's Observer Program report. The Council may provide further recommendations on this issue for the 2014 Annual Deployment Plan.

If I have halibut IFQ and fish with troll gear and catch halibut, do I need an observer on my troll trips?

No. If you have been selected for coverage, you do not need to take an observer on a troll fishing trip where you may incidentally catch halibut with the troll gear. NMFS anticipated this based on public input and exempts these trips from coverage.

If I am doing a troll fishing trip and then decide to set longline gear, do I need an observer on this mixed gear trip?

Yes. If you have been selected for coverage, and you plan to set longline gear as part of a fishing trip, you will need to take observer coverage for that trip.

QUESTIONS SPECIFIC TO TRIP SELECTION

What does a fishing trip mean?

There are two different meanings for a trip depending on where the vessel will be delivering their catch. For a catcher vessel delivering to a shoreside processor or stationary floating processor, the fishing trip is the period of time that begins when a catcher vessel departs a port to harvest fish and ends when all harvested fish have been

offloaded or transferred. For a catcher vessel delivering to a tender vessel, the fishing trip begins when a catcher vessel departs from a port to harvest fish. This type of trip includes at least one delivery to a tender vessel. The fishing trip ends when the vessel is at a port in which a shoreside processor or stationary floating processor with a valid Federal Processor Permit is located and all harvested fish have been delivered.

My boat is greater than 57.5 ft but I do not think my boat can accommodate an observer. How do I tell NMFS? What happens next?

NMFS expects that all vessels greater than 57.5 ft can accommodate an observer, based on past experience in Alaska and other NMFS regions. However, there may be rare exceptions. If you believe you cannot accommodate an observer on your vessel, please write to the North Pacific Groundfish Observer Program Director (7600 Sand Point Way NE, 98115-0070) and state the specific reasons your vessel cannot accommodate an observer. NMFS will evaluate these claims on a case by case basis.

What happens if I called 72 hours in advance and asked for an observer, but the provider is unable to get one to me?

If the observer provider is unable to deploy an observer for a selected trip, for whatever reason, the observer provider will coordinate with NMFS to release the trip from the observer coverage requirement. NMFS will have staff available to take calls after hours and make these decisions in a timely manner to avoid delaying trips.

What if I told my observer provider that I was going to go fishing tomorrow and the observer is here, but now there is bac weather and I can't leave. What happens to the observer?

The observer provider is required to make an observer available to a vessel for up to 48 hours past the departure date and time entered in ODDS. If you can leave within 48 hours, then the observer will be available for your trip. The observer provider is responsible for all travel, lodging, and associated expenses during this period.

If you delay the selected trip more than 48 hours, the observer provider can cancel the trip in ODDS and may assign the observer to another vessel. You are required to log you next trip into ODDS and an observer will be required on your vessel's next trip.

What happens if I cancel a trip that has been selected for observer coverage in ODDS?

If you cancel a selected trip, the next trip you enter into ODDS will automatically be selected for observer coverage.

I logged a trip in ODDS and now I need to change the port of departure or the departure date. What do I do next?

For trips that have NOT been selected for observer coverage, departure information can be changed directly in ODDS.

For trips that have been selected for observer coverage, departure information cannot be changed directly in ODDS. If you need to change the trip departure times, you must contact the observer provider by email or phone, using the contact information provided in ODDS. This is necessary because the observer provider will begin making arrangements to get an observer to the vessel when they see that a trip has been selected for observer coverage. Thus, changes to or cancellation of a trip that has been selected for coverage must be coordinated directly with the observer provider to avoid unnecessary work and expense for all parties. If you need to make any changes to a trip that requires observer coverage, please contact the observer provider to coordinate the change.

I received a letter that my vessel is in the trip selection pool but I only fish in State waters. Am I required to have observer coverage?

If you are fishing in a State of Alaska managed fishery in State waters, called a guideline harvest level (GHL) fishery, you do not need to log your trips into ODDS and you are NOT required to carry an observer.

If you hold a Federal Fisheries Permit (FFP), then you are required to log your fishing trips in a "parallel fishery" into ODDS. If your fishing trip is selected, you are required to have observer coverage for that trip. A "parallel fishery" is a fishery that occurs in State waters, is open at the same time as Federal groundfish fisheries in Federal waters, and the groundfish catch is deducted from the Federal total allowable catch (TAC).

← Groundfish and Halibut Fisheries Observer Program | Marine Mammal Observer Program

ALASKA DEPARTMENT OF FISH AND GAME
REPORT TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Fisheries managed by the State of Alaska since the last council report include those for scallops, crab, and groundfish.

Scallops (FIGURE 1)

Weathervane scallop fisheries in Yakutat, Kodiak, Alaska Peninsula, Dutch Harbor, and the Bering Sea registration areas opened on July 1, 2012. The Kamishak District of Cook Inlet opened on August 15, 2012. The cumulative guideline harvest level (GHL) for the 2012/13 season is 417,500 pounds of shucked meats, a 15% decrease from the 2011/12 cumulative GHL. To date, harvest is complete in all registration areas and the cumulative GHL has been achieved.

Aleutian Islands Golden King Crab (FIGURES 2 & 3)

The Area O (Aleutian Islands) commercial golden king crab fishery opened August 15, 2012. The total allowable catch (TAC) is 6.29 million pounds. The TAC is apportioned east and west of 174º W longitude. The Eastern IFQ TAC is 2.979 million pounds and the CDQ TAC is 331,000 pounds. Fishing is now complete in the Eastern Aleutian Islands. Three vessels have fully harvested both the IFQ and CDQ TACs. Catch per unit effort (CPUE) was again at a historical high this year, with an average of 34 crabs per pot.

The Western Aleutian Island IFQ TAC is 2.682 million pounds and the Adak Community Allocation is 298,000 pounds. Catch for this fishery remains confidential given the number of participants. The golden king crab fishery in the Aleutian Islands remains open through May 15, 2013.

Cooperative research has begun between ADF&G and the Aleutian King Crab Research Foundation. Research targeting gear selectivity began this fall in the Eastern Aleutian Islands Area and further sampling in the Western Aleutian Islands Area is planned for this spring. Preliminary results will be presented to the Crab Plan Team in May.

Bristol Bay Red King Crab (FIGURE 4)

The Bristol Bay red king crab fishery opened on October 15, 2012. The TAC for this fishery was set at 7.853 million pounds, a <1% increase from the 2011/12 season, and was apportioned 7.068 million pounds to the IFQ fishery and 785,300 pounds to the CDQ fishery. A majority of the fishing effort was completed by November 9, 2012. Sixty-three vessels participated in the IFQ fishery and 9 vessels harvested CDQ TAC. Preliminary data suggests that CPUE was again high this year averaging 31 crabs per pot and average crab weight was high at 6.8 pounds per crab.

St. Matthew Island Blue King Crab (FIGURE 5)

The St. Matthew Island blue king crab fishery opened on October 15, 2012 with a TAC of 1.63 million pounds, a 31% decrease from the 2011/12 season. 1.467 million pounds is apportioned to the IFQ fishery and 163,000 pounds is apportioned to the CDQ fishery. Sixteen vessels participated this season and harvest is ongoing with 1.57 million pounds of the

combined IFQ/CDQ TAC being harvested to date. Fishing has been steady with no major storm events; CPUE has averaged 10 crabs per pot throughout the season.

Bering Sea Snow Crab (FIGURE 6)

The Bering Sea snow crab fishery opened on October 15, 2012 and will remain open through May 15, 2013 in the Eastern Subdistrict and through May 31, 2013in the Western Subdistrict. The 2012/13 snow crab TAC is 66.35 million pounds, a 25% decrease over the 2011/12 season TAC. 59.715 million pounds is apportioned to the IFQ fishery and 6.635 million pounds is apportioned to the CDQ fishery. One vessel has started fishing for snow crab so harvest is confidential.

To protect the Pribilof blue king crab stock, the snow crab fishery is not open in the following ADF&G statistical areas: 675730, 675800, 685730, 695730, 685700, 695700, 695701, 705701, 705703, 695631, 695632, the northeast half of 705630, and the northwest half of 685630.

Bering Sea Tanner crab

The 2012 area-swept survey estimate of mature female Tanner crab biomass in the Bering Sea District is 19.7-million pounds and is below the harvest strategy threshold for mature female biomass of 21.9-million pounds; therefore the Bering Sea District Tanner crab fishery was closed for the 2012/13 fishing season.

Pribilof Islands red and blue king crab

The Pribilof District red and blue king crab fisheries are closed for the 2012/13 season. Survey results for Pribilof District blue king crab indicate continued very-low abundance. In order to open the Pribilof District blue king crab fishery, a minimum threshold of 13.2 million pounds of total mature biomass (TMB) must be achieved in two consecutive years. Both the 2011 and 2012 estimates of TMB are well below this threshold; therefore, the fishery will remain closed.

Abundance estimates for mature and legal-size male red king crabs in the Pribilof District increased from the prior year; however, there is considerable uncertainty surrounding precision of the abundance estimates. Due to high uncertainty surrounding the red king crab abundance estimate and potential for blue king crab bycatch mortality during a red king crab fishery, the Pribilof District red king crab fishery will remain closed for the 2012/2013 season.

Alaska Board of Fisheries

Alaska Peninsula/Aleutian Islands Finfish, February 26 – March 3, 2012, Anchorage

All Pacific cod proposals have been moved to a special statewide Pacific cod meeting tentatively scheduled for October 2013.

The following proposals will be considered as scheduled during the February/March 2013 meeting:

162 – Close all waters of Unalaska Bay to groundfish fishing with pelagic trawl gear.
163 – Modify state-waters sablefish season to coincide with federal sablefish season.
169 – Close state-waters surrounding Caton and Sanak Islands to nonpelgaic trawl gear.

Work session, October 9 - 11, 2012, Anchorage

ACR 7 – Change the vessel size limit for the Registration Area O (Aleutian Islands Area) red king crab fishery, in state waters from 172° W. long. to 179° W. long., from 90 feet or less in overall length to less than 60 feet in overall length. **This ACR will be considered during the Statewide Finfish meeting scheduled for March 19 – 24, 2013.**

ACR 8 – Establish a pot limit of 10 pots per vessel fishing for red king crab near Adak Island in Registration Area O (Aleutian Islands Area). **This ACR will be considered during the Statewide Finfish meeting scheduled for March 19 – 24, 2013.**

The board voted and created (7-0) a board-generated proposal regarding an Atka mackerel fishery management plan to be considered during the tentatively scheduled October 2013 Pacific cod meeting. The proposal included the following framework:

- Area – state waters between 172° W long. to 180° long.
- Gear – purse seine, with length and depth limits
- GHL – a percentage of the federal ABC for the adjacent waters of 541/542
- Vessel size limit – 58' LOA
- Check-in (fishery registration)
- Daily catch reporting
- Season – July through October

Call for Proposals – <u>Proposal Deadline is 5:00pm, Wednesday, April 10, 2013</u>

The Alaska Board of Fisheries (board) is accepting proposed changes to the subsistence, commercial, personal use, sport, guided sport, and guided sport ecotourism finfish provisions regulations for the Cook Inlet, Kodiak and Chignik finfish management areas. Finfish includes: salmon, herring, trout, groundfish, char, burbot, northern pike, whitefish, etc.

In addition, the board is accepting proposed changes to the subsistence, commercial, personal use, sport, and guided sport king and Tanner crab shellfish regulations for all areas of the state, except Southeast and Yakutat areas, which includes regional king and Tanner crab management areas, and proposed changes to commercial Pacific cod provisions for all areas of the state.

Joint Protocol meeting – June 12, 2013

Figure 1

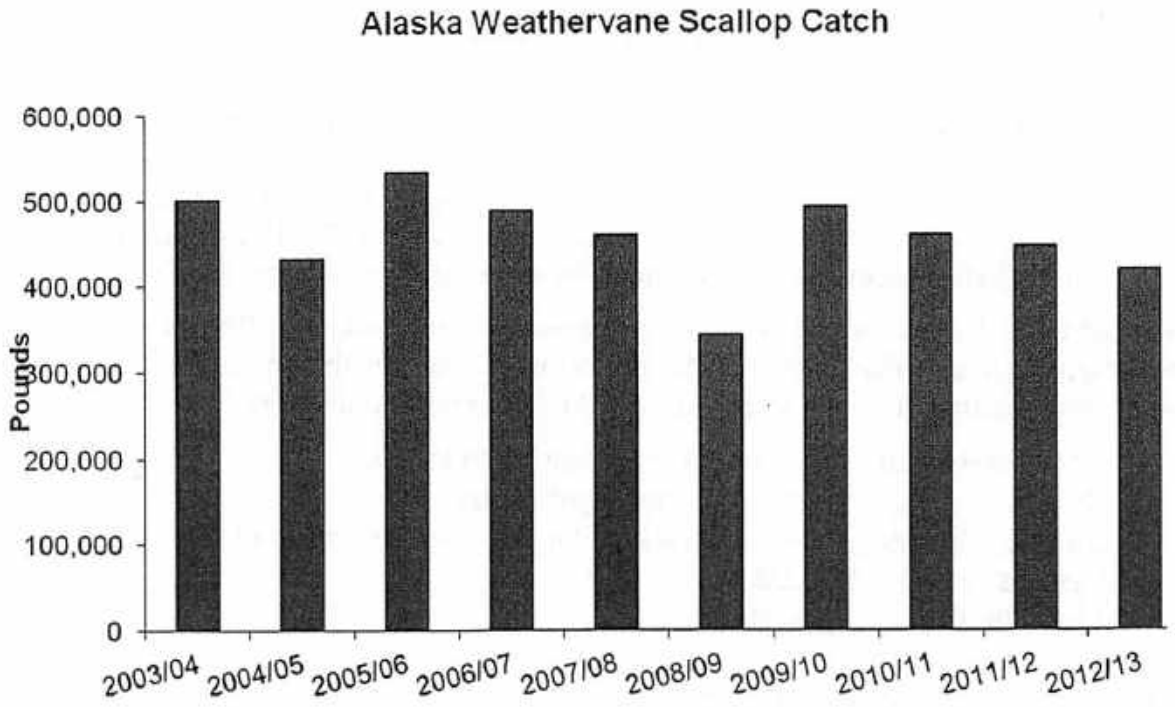


Figure 2

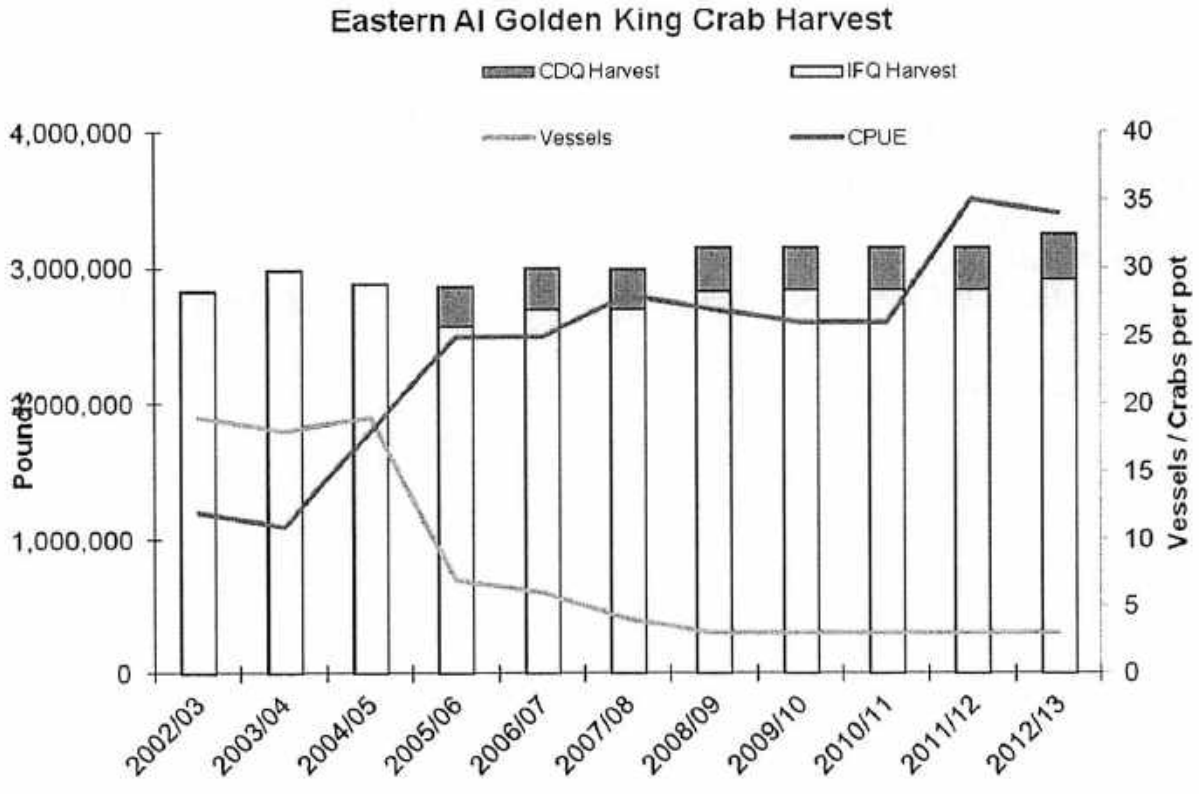


Figure 3

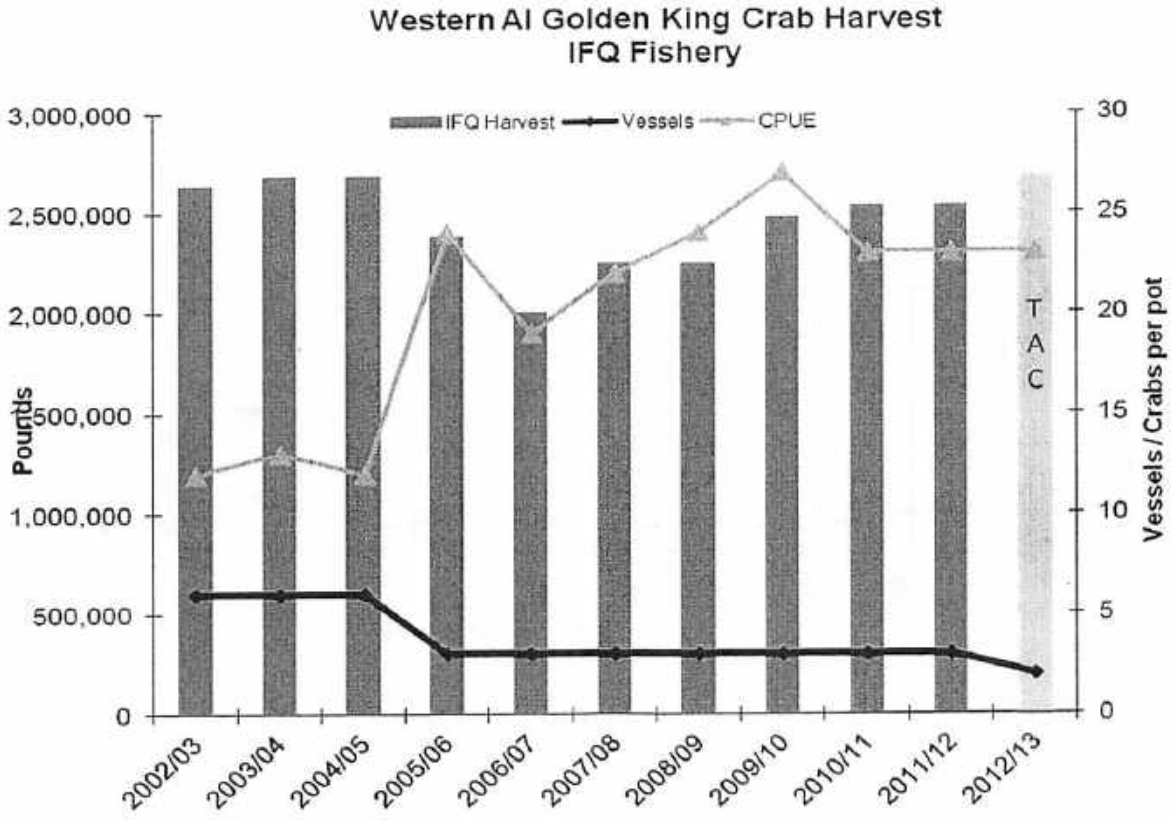


Figure 4

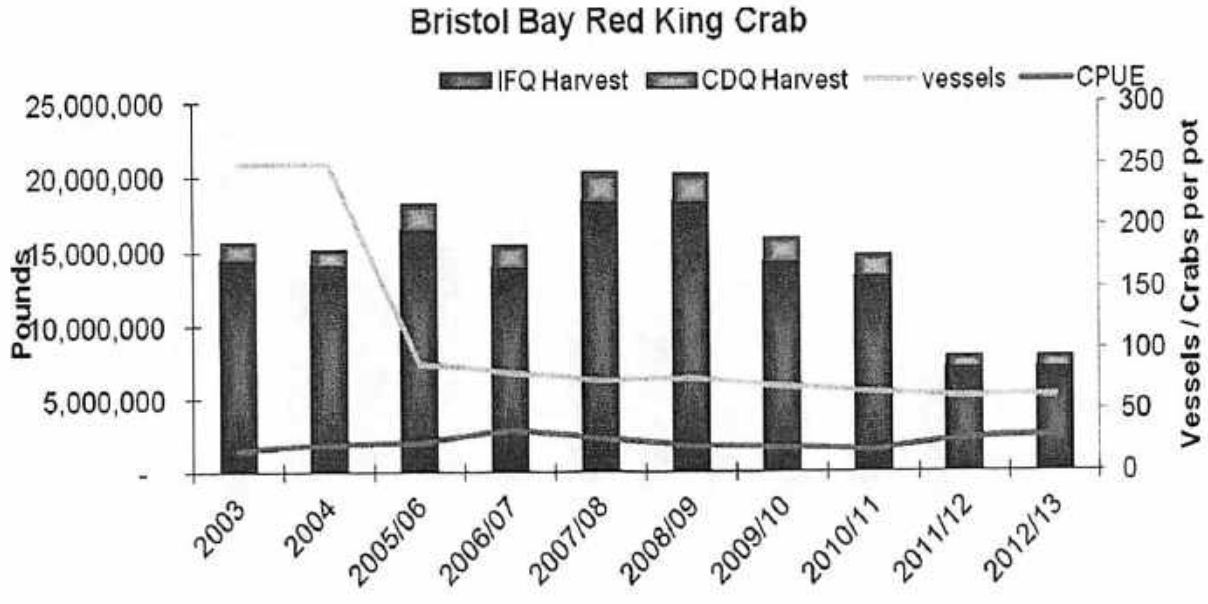


Figure 5

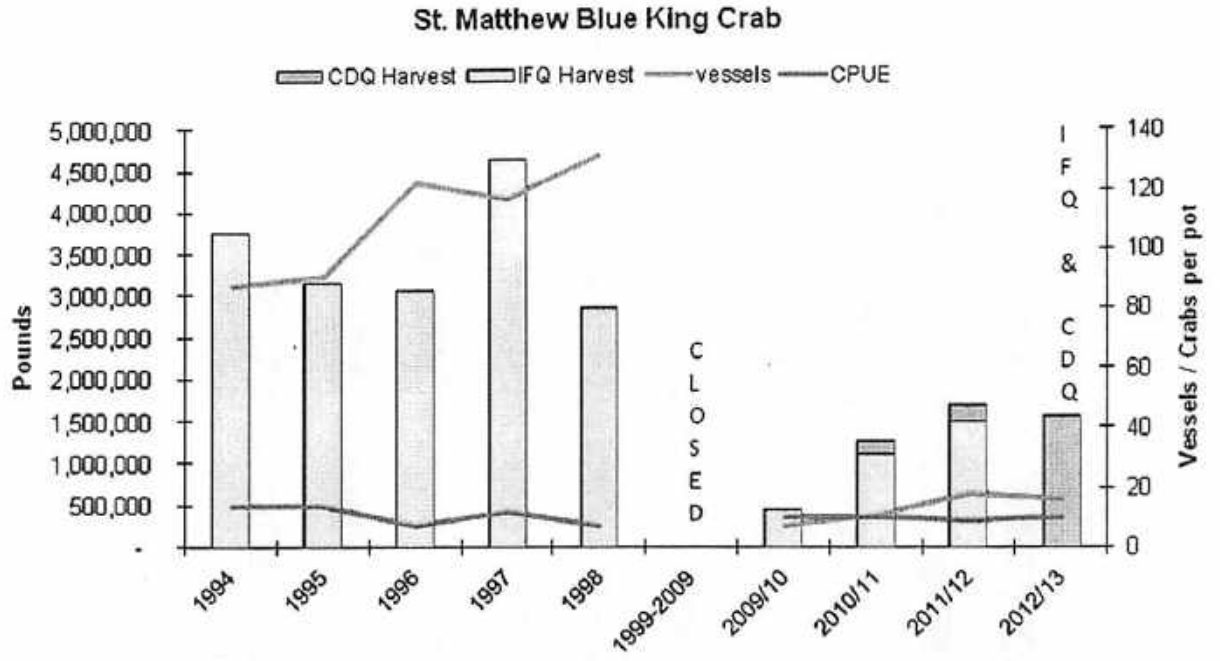
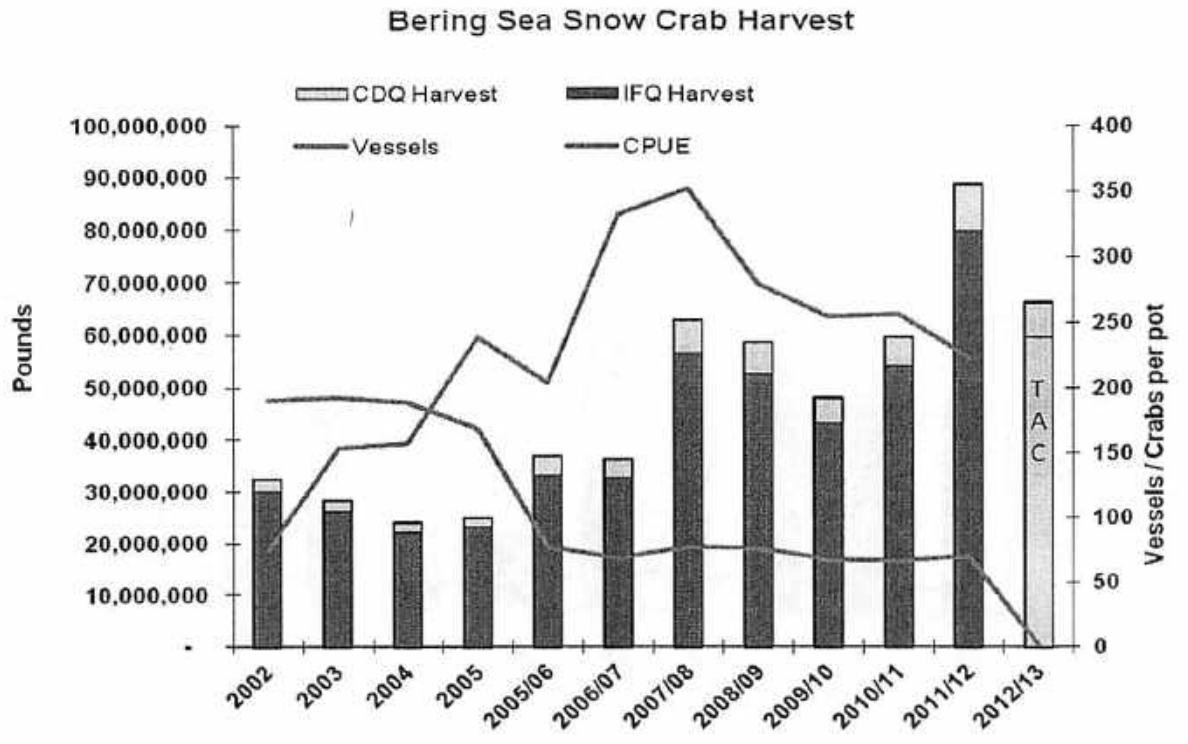


Figure 6



Subsistence Harvests of Pacific Halibut in Alaska, 2011

Division of Subsistence
Alaska Department of Fish and Game

Presentation to the
North Pacific Fishery Management Council

Anchorage, AK
December 2012

1

Project funded through a grant from the National Marine Fisheries Service: No. NA11NMF4370059

For the full study findings, see:

Fall, James A. and David Koster. 2013. Subsistence Harvests of Pacific Halibut in Alaska, 2011. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 378. Juneau.

2

Project Background

- New subsistence regulations in effect May 2003
- 118 communities and 123 tribes eligible, plus residents of designated rural areas
- Registration requirement (SHARC)
- Regulations have provision for collecting harvest data
- This report covers the 9th year of the harvest assessment program (harvests in 2011)
- Funding was restored for 3rd survey mailing and limited outreach in Area 2C

3

Methods

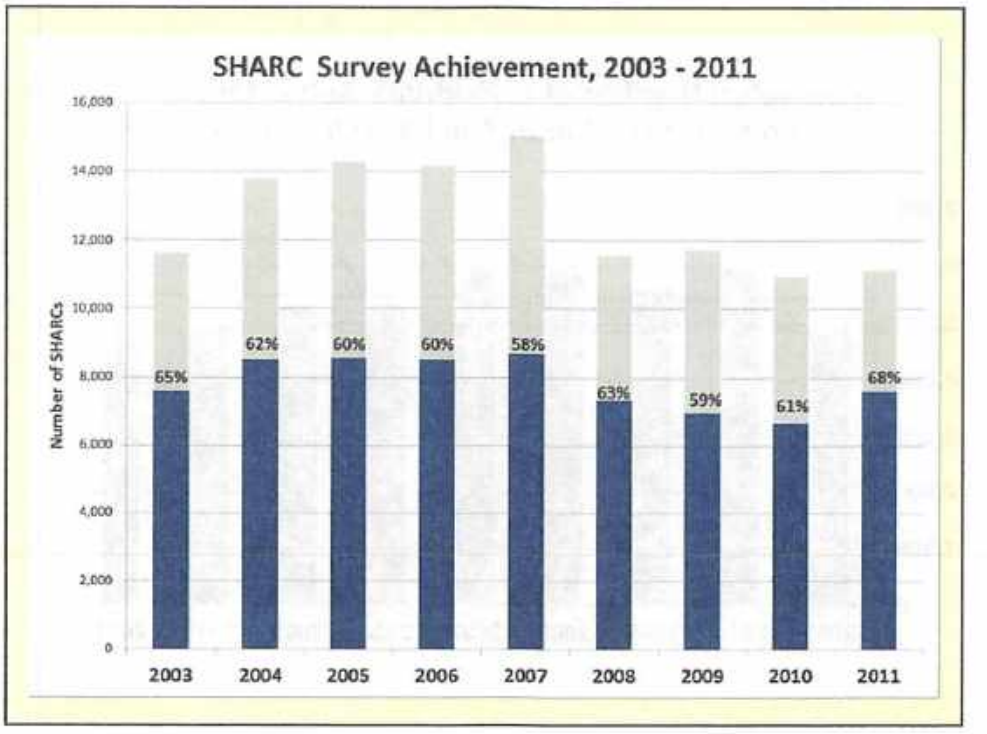
- Mailed household survey is primary data collection method; response voluntary
- Mailed to all persons holding SHARCs during 2011: 11,145
- Three rounds of mailings
- Supplemented by household contacts and interviews in 5 Southeast Alaska communities (Area 2C)

4

Sample Achievement for 2011

- **7,589 surveys returned**, of 11,145 valid SHARCs
- **Sampling fraction of 68%**
- **High rates of return** achieved in most larger communities with the most SHARCs issued

5

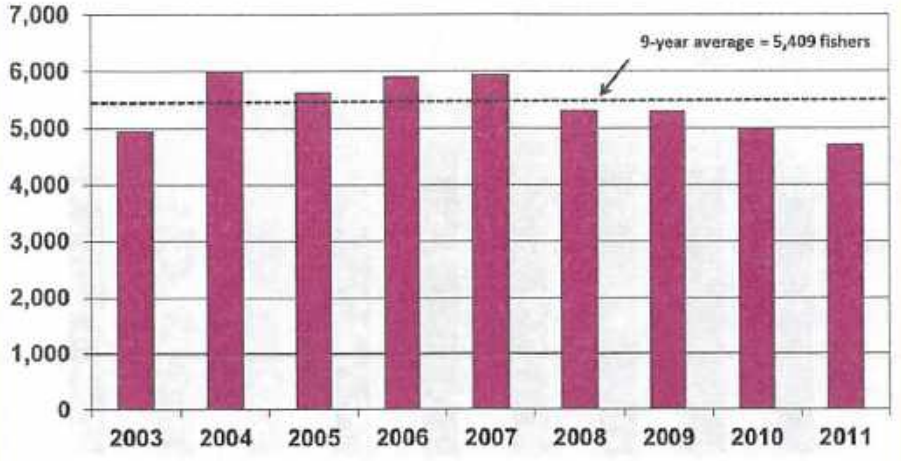


Study Findings: Halibut 2011

- Estimated number of **subsistence fishers = 4,705**
- Estimated subsistence harvest = **38,162 halibut**
- Estimated subsistence harvest = **697,656 lbs** net weight (= 75% of round weight) (18.3 lbs/fish)
- **55% of harvest occurred in Area 2C** (SE Alaska) & 38% in Area 3A (SC Alaska)
- 77% of harvest taken with setline gear; 23% with hand-operated gear

7

Estimated Number of Individuals Subsistence Fishing for Halibut in Alaska, 2003 - 2011



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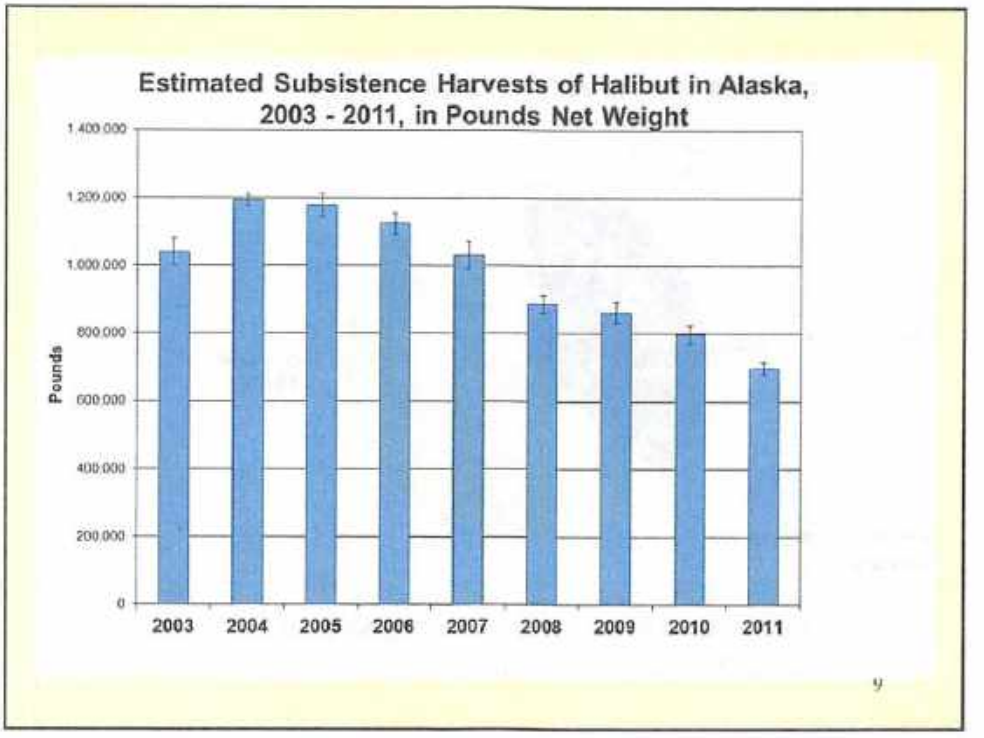
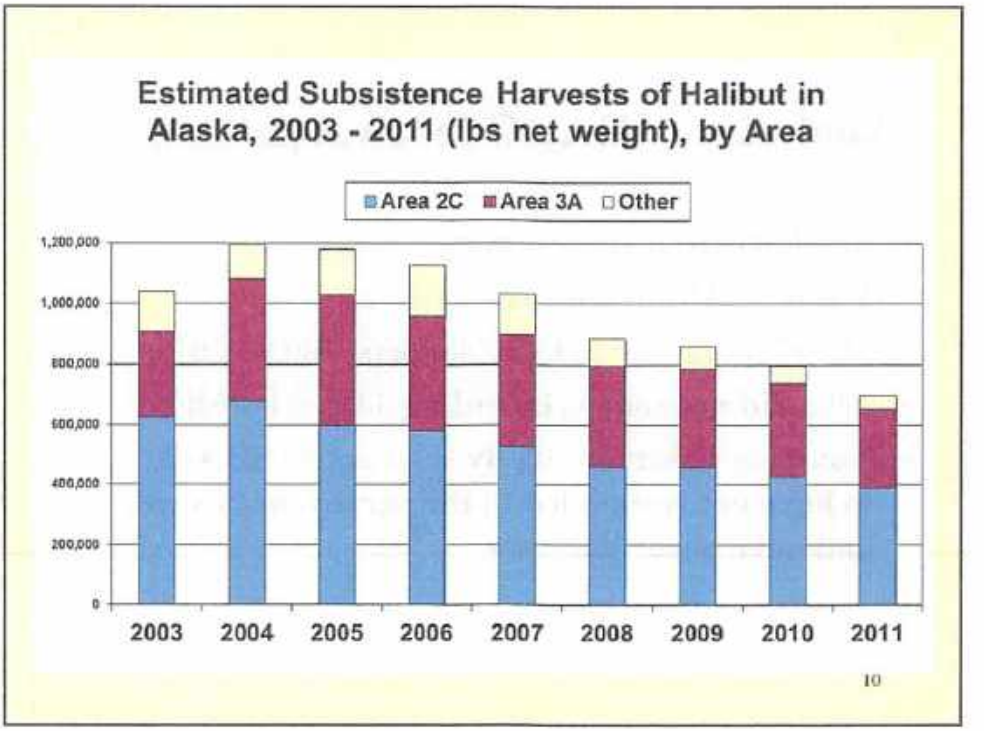
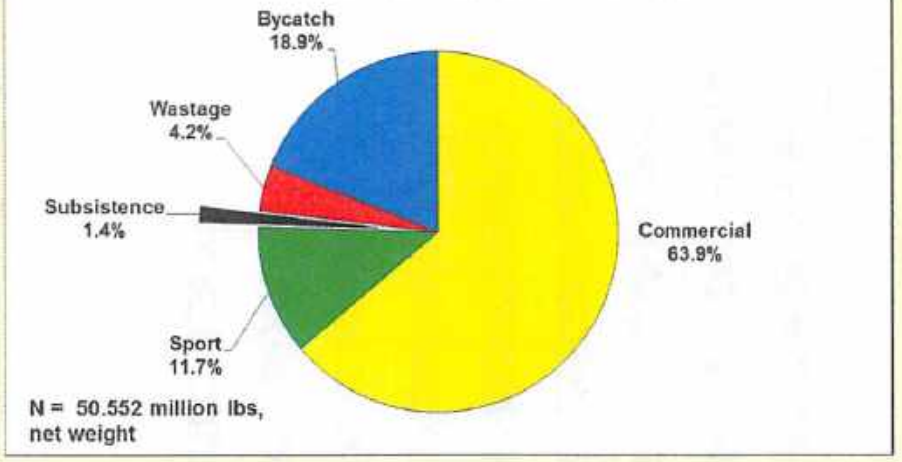

Estimated Subsistence Harvests of Halibut in Alaska, 2003 - 2011, in Pounds Net Weight
Pounds
1,400,000
1,200,000
1,000,000
800,000
600,000
400,000
200,000
0
2003
2004
2005
2006
2007
2008
2009
2010
2011
9


Estimated Subsistence Harvests of Halibut in Alaska, 2003 - 2011 (lbs net weight), by Area
Area 2C
Area 3A
Other
1,200,000
1,000,000
800,000
600,000
400,000
200,000
0
2003
2004
2005
2006
2007
2008
2009
2010
2011
10

Halibut Removals, Alaska, 2011



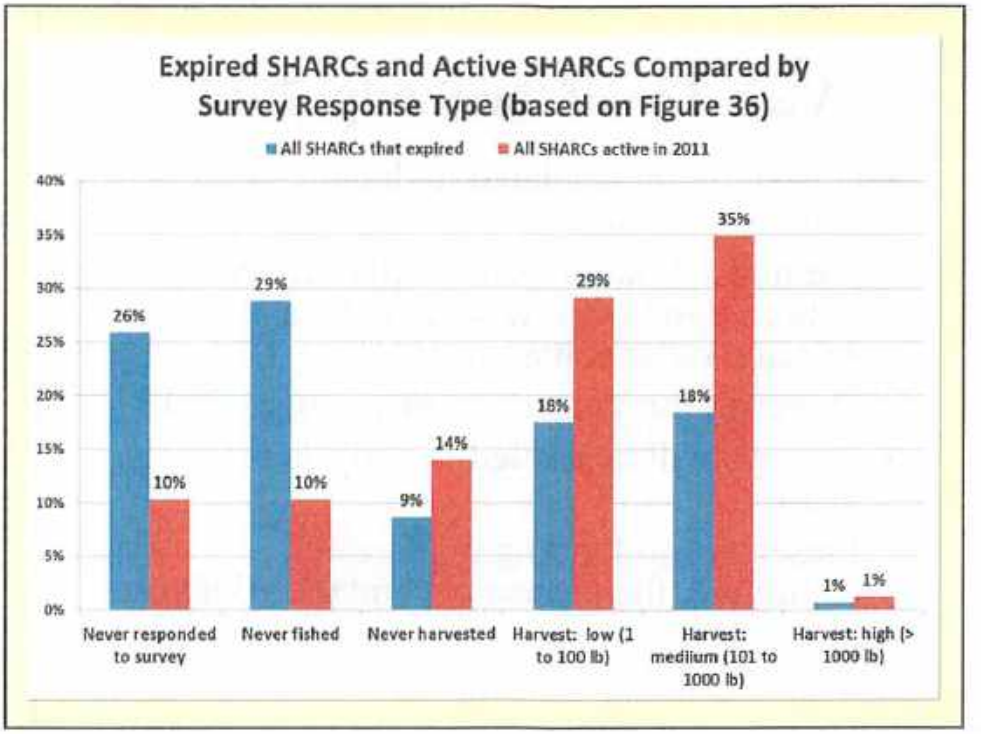
- Subsistence harvests by area ranged from 8.5% in Area 2C to 0.2% in Area 3A

11

Analysis of SHARC renewal patterns

- Rural SHARCs: renew every 2 years
- Tribal SHARCs: renew every 4 years
- 21,097 individual SHARC holders, 2003 – 2011
- **47% did not renew, including 34% who fished**
- **Non-renewals more likely than active SHARCs to have not responded to the survey, not fished, and have lower harvests**

12



Conclusions: Harvest Survey, Year 9

- Overall, Year 9 of the harvest survey was a success: good response rates and overall reliable harvest estimates
- Can discern some general patterns in the fishery since the new regulations came into effect
- RECOMMENDATIONS: continue harvest monitoring, tribal partnerships, and outreach; consider expanded outreach in Area 4

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Year Ten of the Study: 2012

- Current grant amended to document 2012 subsistence harvests
- Methods: 3 mailings to all SHARC holders; outreach and interviewing in 2C and selected other communities
- Outreach for Year 10 begins January 2013
- Surveys will be mailed in early January 2013
- Presently, no funding in place for continuing the project beyond the 10th year

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For More Information

- Division of Subsistence Website: and go to publications for draft final report
- Or: call us at 907-465-4147, or 465-3617, or 267-2353
- Or write: ADF&G, Division of Subsistence, 333 Raspberry Road, Anchorage, AK, 99518
- Or contact NMFS at: 1-800-304-4846 (option 2) or .htm

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NOAA Fisheries Office of Law Enforcement
Alaska Enforcement Division
Report to the
North Pacific Fisheries Management Council

December 2012 Report
Covering Quarters 1 through 4 of FY2012

NOAA Fisheries Office of Law Enforcement
Alaska Enforcement Division
P.O. Box 21767
Juneau, AK 99802

TO REPORT VIOLATIONS:
Call 1-800-853-1964

ALL INFORMATION CONTAINED IN THIS REPORT IS PRELIMINARY AND SUBJECT TO CHANGE

Summary

The Alaska Enforcement Division utilizes a staff of uniformed law Enforcement Officers (EO) and Special Agents (SA), and partnerships with State and other Federal agencies to provide effective enforcement for an area comprised of 842,000 square miles of Exclusive Economic Zone (3 to 200 nautical miles) off the coast of Alaska, 2,690 islands and 6,600 miles of coastline.

Enforcement officers are deployed in field office locations that are specifically aligned with those Alaska ports receiving the highest volumes of federally managed fish. They provide patrol on the docks, on OLE, State, or Coast Guard vessels at sea, and via aircraft. Enforcement Officers also provide outreach and education to the industry and public in a variety of settings throughout the year. Special Agents conduct investigations of significant civil and criminal violations.

In FY2012, AKD employed 23 sworn personnel and 7 support staff to accomplish its widely varied and geographically dispersed activities. During FY2012, AKD's sworn personnel dedicated approximately 24,189 hours to federal fisheries and marine species enforcement activities. Of these hours, approximately 2,197 were dedicated to outreach and education; approximately 5,459 hours were dedicated to patrols, inspections, and monitoring; and approximately 16,533 hours were dedicated to Investigations. An additional 3,133 hours were spent traveling in support of these activities.

Education and Outreach

AKD personnel engage in extensive and ongoing outreach and education activities to provide marine resource users with current and accurate regulatory information to facilitate their compliance with the regulations. During FY2012, AKD Officers and Agents spent over 2197 hours providing outreach and education activities to the public. AKD personnel staffed booths at the following major organized events and venues:

- The Pacific Marine Expo in Seattle, WA
- The Anchors Aweigh Boat Show in Anchorage, AK
- WhaleFest in Sitka, AK
- Southeast Alaska Sport & Recreation Show in Juneau, AK
- The Alaska State Fairs in Palmer & Haines, AK
- ComFish in Kodiak, AK
- The Great Alaska Sportsman Show in Anchorage, AK
- Marine Safety Day in Valdez, AK
- The Alaska Aviation and Technology Trade Show in Anchorage, AK
- Whalefest in Kodiak, AK
- Juneau Maritime Festival in Juneau, AK

The hours cited above do not include the number of hours AKD personnel spend on daily direct contacts with the public on the water, on the docks and boat launches, and in processing facilities. AKD personnel also responded to hundreds of individual telephonic and electronic inquiries regarding the regulations.

During FY2012, AKD personnel also held a series of outreach meetings with vessel operators and processors in Dutch Harbor to explain Amendment 91. NOAA OLE staff addressed the regulations specific to their interests and answered their regulatory questions.

Patrol, Monitoring, and Inspections

In FY2012, AKD personnel spent 5,459 hours conducting patrols to provide visible deterrence for potential violators, monitor fishing and other marine activities, detect violations, conduct compliance inspections for matters under their purview, and to provide information and guidance to the public regarding regulations. Patrols are conducted at sea, onshore, and in the air and utilize both agency-owned and partner agency platforms. AKD conducted 194 vessel inspections during these patrol activities.

FY2012 data show an additional 904 incidents documented by AKD personnel that did not result in cases. These incidents include activities such as inspections, recordkeeping and reporting errors, allowing salmon to pass an observer collection point, and exceeding maximum allowable groundfish. Of the 904 incidents not resulting in cases, 213 unique incidents resulted in 291 identified violations. The remaining incidents identified no violations and were closed for various reasons, including: community oriented policing/problem solving contacts, unfounded complaints, inspections, or preliminary investigations, which are open and under continuing investigation (96).

Investigations

Reports or complaints alleging violations are investigated thoroughly and promptly by AKD personnel. Enforcement Officers typically investigate limited scope and shorter duration violations, many of which result in verbal or written warnings, or the issuance of Summary Settlements. Special Agents typically investigate larger scale and more complex violations that may take months or years to resolve.

In FY2012, AKD personnel documented approximately 629 violations within 482 cases. Of these violations, approximately 67 percent were for domestic violations of the Magnuson-Stevens Act (MSA), 14 percent were for international fishing violations of the MSA, 7 percent were violations of protected species laws under the Marine Mammal Protection Act (MMPA) or Endangered Species Act (ESA), and 9 percent were for violations of the International Pacific Halibut Regulations.

The following table identifies the violation types by regulation:

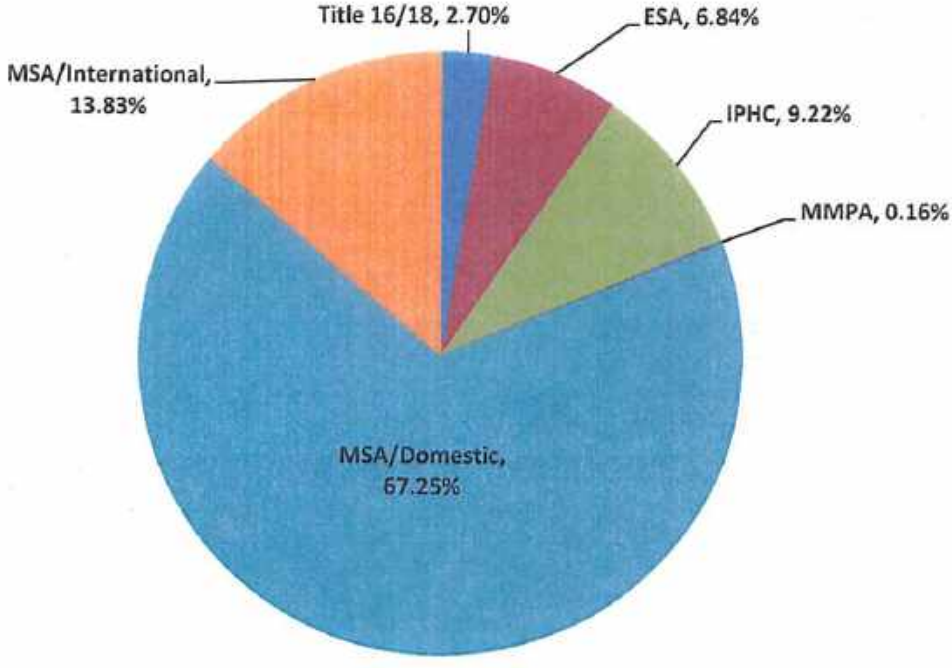
NOAA FISHERIES OFFICE OF LAW ENFORCEMENT TOTAL NUMBER OF VIOLATIONS INVESTIGATED DURING FY2012 682 Cases & Multiple Counts/197 Unique Incidents & Multiple Counts* Query Date: 10/25/2012--Date Range: 10/1/2011-10/1/2012			
Activity/Program	**Regulation**	**General Violation Descriptions**	**# of**
Criminal	US Code Title 16	Forcibly Assault, Harass, Sexually Intimidate Observer, Marine Mammal Violations, Mislabeling, False Statements, Endangered Species Take, Fishing Outside Internal Waters	19
	US Code Title 18	False Statements on Log Books	2
MMPA	50 CFR 216	Illegal Take or Possession of MM Parts, MMA certificate violations	1
ESA	50 CFR 222- 224, 229	3 Nautical Mile No Transit Zone, humpback whale approach, authorization permit	45
International Fishing	50 CFR 300	Charter Violations	51
		Subsistence Halibut Violations	29
		Other Halibut Regulations	11
MSA - General Domestic Fisheries	50 CFR 600	Various general prohibitions	9
MSA - Alaska EEZ Fisheries	50 CFR 679.4	Permit Violations	8
	50 CFR 679.5	Recordkeeping & Reporting Violations	12
	50 CFR 679.7	(a) Groundfish of the GOA and BSAI (majority are overages, reporting violations)	240
		(b) Prohibitions specific to GOA (pollock)	31
		(f) IFQ fisheries (Overages, reporting violations, vessel caps)	110
		(g) Groundfish observer program	62
		Other 679.7 Violations	29
	50 CFR 679.20-27	Other Subpart B Management Measures	71
	50 CFR 679.22	Closures	6
	50 CFR 679.24	Gear Limitations	8
(continues)	50 CFR 679.28	Equipment Requirements (VMS)	11

MSA - Alaska EEZ Fisheries (cont'd)	50 CFR 42	Prohibitions Specific to IFQ Sablefish	7
	50 CFR 679.50	Observer Program Requirements	15
	50 CFR 679.63	Flowscale Violations	3
	50 CFR 679.93	Amendment 80 Program caps and sideboard limits	7
	50 CFR 680.7	Crab Landing/Harvest and Permit/Recordkeeping Violations	5
International Pacific Halibut Regulations	IPHC Section 13	Size Limits	2
	IPHC Section 15	Area 4 Clearance Violations	54
	IPHC Section 16	Logbook Violations	8
	IPHC Section 17	Receipt & Possession of Halibut Violations	1
	IPHC Section 19	Fishing Gear/Buoy Marking Violations	3
	IPHC Sections 25-28	Sport Fishing Violations	18

***Note: Some cases identify more than one violation; other cases were dismissed after investigation; 4 cases merged into 1**

***Note: Includes only those violations where the regulation has been identified; excludes identified state regulations, not yet identified, and no violations.**

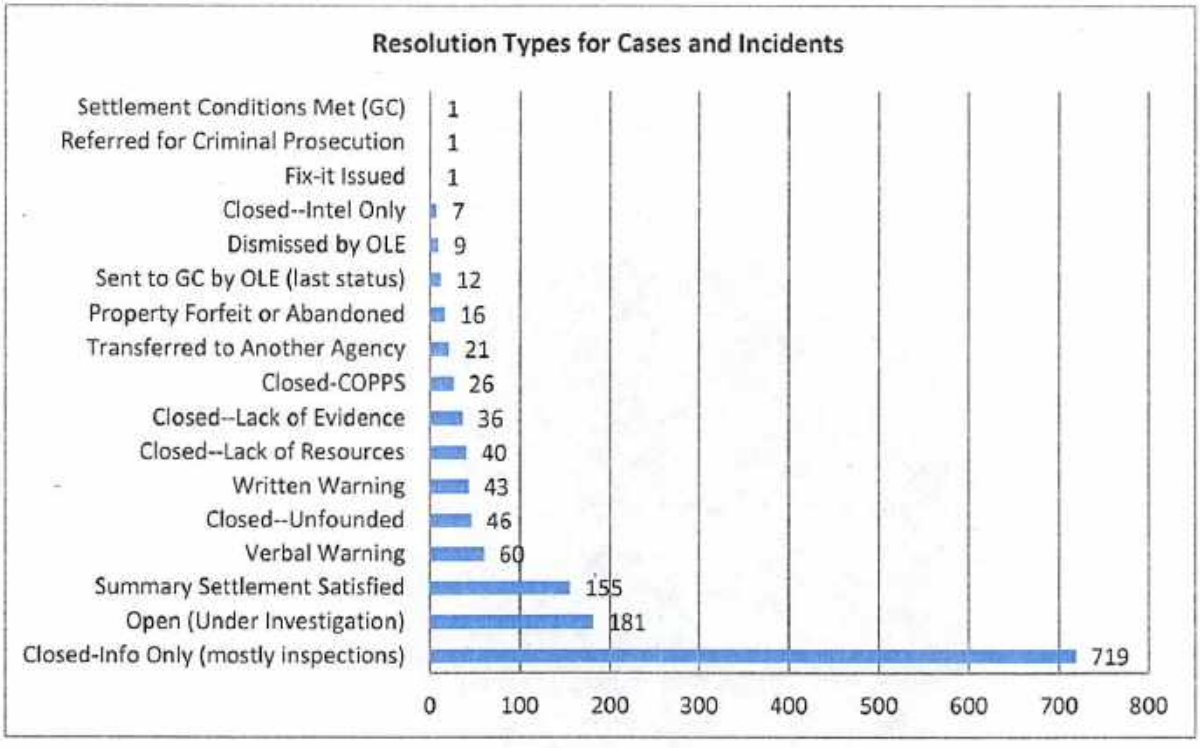
Violation Type by Percentage



Case Resolutions

In FY2012, a large number of incidents and cases were resolved.[1] AKD sworn staff issued 60 verbal warnings, 1 fix-it notice, and 43 written warnings. 204 Summary Settlements were paid by respondents valued at $809,065.76 for violations of regulations under NOAA OLE jurisdiction. Property valued at $115,192.30 was forfeited or abandoned in 28 cases, and there was one seizure of property valued at $37,515. Thirty cases were sent to General Counsel Enforcement Section for issuance of a Notice of Violation and Assessment.

Some incidents and cases were resolved in other ways. Twenty-six incidents were resolved by education and problem-solving, 82 incidents were closed for lack of evidence or were unfounded, and 40 incidents were closed for lack of resources. Twenty-one incidents were transferred to other agencies. The table below provides additional specific detail. The incidents closed for information only are representative of vessel boardings by our JEA partners.



[1] Incidents and cases are often documented in one fiscal year and resolved in a later year, so these statistics do not necessarily correlate to activities documented in FY2012. Also, this is a look at unique cases/incidents, some of which may include multiple violation counts or types.

Partnerships

NOAA OLE partners with the State of Alaska Wildlife Troopers (AWT) and the US Coast Guard to accomplish its marine resource conservation mission. This partnering includes joint patrols and operations, as well as independent activities dedicated to Federal fisheries. For FY2012, NOAA OLE provided a combined total of $1,083,515[2] to AWT through a Joint Enforcement Agreement to provide reimbursement for supplemental patrol and inspection work. This includes 5,350 hours of work by Public Safety Technicians and Wildlife Troopers, and 1200 personnel hours for vessel and aircraft support. Under this program, the AWT will perform up to 42 full offload audits, a minimum of 140 inspections of processor facilities and vessel boardings, and 300 hours of vessel time.

The US Coast Guard conducts fisheries patrol activities throughout the year. In FY2012, the US Coast Guard referred 12 cases for further investigation by NOAA OLE.

Major Cases in FY2012 - Examples of Recent Cases

Lacey Act Violations - A sentencing hearing for Arne Fuglvog was concluded on February 7, 2012, where Fuglvog was sentenced to 5 months imprisonment, required to publish a public apology in the National Fisherman's magazine, pay a $50,000 fine and make a $100,000 community service payment that will fund grants to support fish habitat in the coastal areas of the Gulf of Alaska. Fuglvog was charged with falsely reporting the location where he caught fish as part of the individual fishing quota program in violation of the Lacey Act.

Freddie Joe Hankins, captain of Fuglvog's fishing vessel, was recently sentenced for falsifying landing reports under his IFQ permit. Fuglvog testified at the Hankins trial. Hankins was sentenced on November 8 to pay fines totaling $25,000, pay a community service fee of $75,000, serve three years' probation under electronic monitoring at all times, and publish a statement acknowledging his wrongdoing in National Fisherman magazine.

Lacey Act Violations and Conspiracy - Douglas Linn Smith of Craig, Alaska, was sentenced to one year in federal prison after pleading guilty to two felony charges of conspiracy to violate the Lacey Act and a single violation of the Lacey Act for the illegal take, transport, sale, and attempted sale of marine mammal hard parts on the open market. NOAA OLE Agents assisted in this investigation led by the U.S. Fish & Wildlife Service.

Magnuson-Stevens Act Violation - Blue Ace LLC and James Rogers have agreed to pay $57,760, with the remaining $14,440 of the $72,200 NOVA penalty suspended for a period of one year. They have also agreed to provide guidance to all the Blue North Fisheries fleet vessel operators regarding compliance with closed areas and observer requirements. The F/V Blue Ace was

[2] The term of the FY2012 Joint Enforcement Agreement is July 1, 2012, to June 30, 2013.

observed fishing in the Bogoslof district of the BSAI in February, 2009. Upon further investigation, it was determined that the vessel was fishing for Pacific cod in an area closed for directed fishing. The investigation also revealed that the vessel operator, James Rogers, made attempts to cover up the illegal activity by failing to complete required paperwork, failure to notify the on-board observer of the activity, and by leaving the area.

Magnuson-Stevens Act Violation - In 2012 the operator of the F/V PROVIDENCE was issued a $64,260 NOVA for fishing in area 3A for IFQ halibut and reporting the fish were harvested from area 3B. OLE is required to submit all case packages to GCES for a determination to retain or forward a case to the US Attorney's office for prosecution. The fact pattern in this case involved a singular event.

Magnuson-Stevens Act; High Seas Driftnet (HSDN) Fisheries Enforcement Act Violation - An investigation into the illegal HSDN fishing activities aboard the F/FV BANGUN PERKASA resulted in a Decree of Forfeiture of the vessel and its catch to NOAA. The catch onboard was not suitable for human consumption, but most was suitable for bait and sold for approximately $33,000. The vessel's ownership could not be determined. The master and crew were returned to their countries of origin. NOAA has been working through the complex contracting processes to put the scrapping/recycling project out to bid and expects this in early 2013.

Lacey Act Violations - On June 4, 2012, Nicholai Yakunin and Kristjansson Laxfoss both entered a guilty plea in US District Court in Anchorage, AK for their role in the 2009 case involving the C/P Lady Gundy and the F/V Wonderworker and retaining, processing, and transporting halibut without permits. Both subjects plead guilty to a Lacey Act violation and Yakunin was sentenced to a fine of $3,000 and placed on three years of probation. Laxfoss was sentenced to a fine of $2,000 and placed on two years of probation. During their term of probation, Yakunin and Laxfoss agreed to not violate any state or federal fisheries laws while acting as crewmen or masters of vessels operating within the jurisdiction of the U.S. or the State of Alaska.

Marine Mammal Protection Act - Edward R. Schlief was convicted and sentenced in federal court in Anchorage for falsely advertising seal skin bow hunting tabs as being made by Alaska Natives. He received three years of probation and a $7,500 fine. Schlief, owner and operator of Alaska Bowhunting Supply LLC, is not an Alaska Native or a member of any Indian tribe or organization. He produced and sold bow hunting finger tabs made from seal skins by non-Native Alaskans that he marketed and advertised as having been made in Alaska by Alaskan Natives between August 2005 and October 2008.

Advisories & Education for the Fleet

- AKD will work with NOAA Fisheries, Alaska Region, and Sustainable Fisheries regulatory staff to assist with the redevelopment of flow scale regulations, based on OLE lessons learned, that will help reduce fraud and increase compliance.

- In the spring of 2012, NOAA OLE seized the catch and cited six vessels for Steller Sea Lion rookery incursion violations. To prevent additional, similar violations, OLE issued a notification to the fleet citing the regulations that describe how the boundaries of Steller sea lion haul out and rookery areas are determined. Tables 4, 5, 6, and 12 of 50 CFR 679 and Table 1 of 50 CFR 226 list these areas. Footnote 1 to the tables delineates that *"Where two sets of coordinates are given, the baseline extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point."* The fleet was encouraged to ensure their familiarity and understanding of these regulations and coordinates when fishing near Ugak Island near Kodiak and other identified areas.

- The restructured North Pacific Groundfish Observer Program begins January 1, 2013. OLE did not receive any additional funding or personnel to support the expansion of the Observer Program; however OLE anticipates a significant workload increase in the number of observer-reported or related violations. This expectation is consistent with the introduction of other new programs such as Amendment 80 and 91. Observer harassment, intimidation, and assault remain the highest priority violations for OLE personnel. An increase in observer-related complaints will have an impact on OLE's ability to respond to other lower-priority violations and activities. Outreach activities to provide information and answer questions about the program are scheduled to begin in December and continue into the New Year.

17th COAST GUARD DISTRICT
ENFORCEMENT REPORT

October – November 2012

Prepared By: LT Anthony Kenne
Response and Enforcement Branch
Coast Guard District
P.O. Box 25517
Juneau, AK 99802-5517

Table of Contents **Page**

Appendices

Figures

List of Abbreviations

CFVS – Commercial Fishing Vessel Safety
FBS - Russian Federal Border Service
FF/V – Foreign Fishing Vessel
GOA – Gulf of Alaska
HC-130 – USCG Fixed-Wing Aircraft
HEC/MEC – High/Medium Endurance Cutters
HH65/60 – CG helicopter
HSDN – High Seas Drift Net
MBL – US/Russian Maritime Boundary
NPSC – North Pacific SAR Coordinator
SAR – Search and Rescue
UMIB –Urgent Marine Info Broadcast
WLB – 180ft or 225ft Buoy Tender
WPB – 110ft Patrol Boat

I. High Seas Drift Net Enforcement (HSDN)

Coast Guard Seventeenth District enforcement personnel attended the North Pacific Anadromous Fish Commission's annual meeting in St. Petersburg, Russia from 07-13 October. During this meeting, the HSDN case for the FF/V DA CHENG was briefed, and the USCG led working group updated and approved the Enforcement Committee's terms of reference.

II. US/Russian Maritime Boundary Line (MBL) Enforcement

Activity along the MBL was moderate over the reporting period with between 20 and 40 vessels operating in the region. USCGC SHERMAN patrolled the MBL in late October, with no vessels detected actively fishing along the line. Coast Guard Aircraft patrolled the MBL on 5 different days over the reporting period logging more than 30 flight hours in support of this mission. The Coast Guard Seventeenth District attended the U.S./Russian Commanders' meeting in Petropavlovsk Kamchatka from 01-05 October. All parties agreed to continued cooperation in 2013 to include information sharing and joint operations.

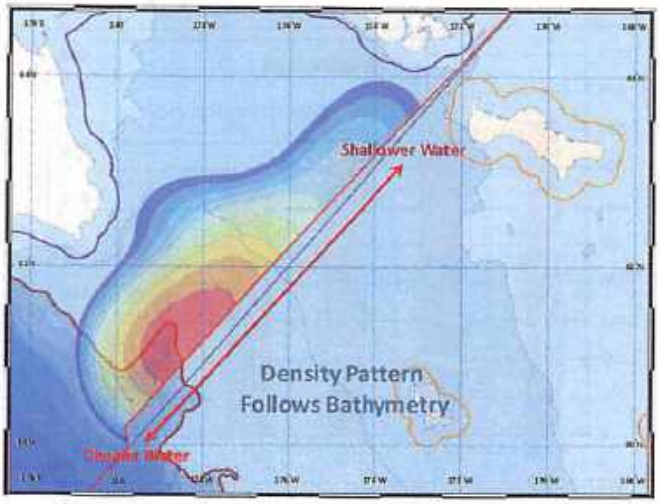


Figure 1: Historical MBL Vessel Density

III. Donut Hole Activity

There has been no activity noted in the Donut Hole over the reporting period.

IV. Steller Sea Lions and Critical Habitat Enforcement

Coast Guard cutters and aircraft are tasked with monitoring more than 151 critical habitat areas around the state each month. During the reporting period, assets monitored critical habitat areas on a near daily basis, looking for fisheries or transit violations in these locations a total of 285 different times between October and late November.

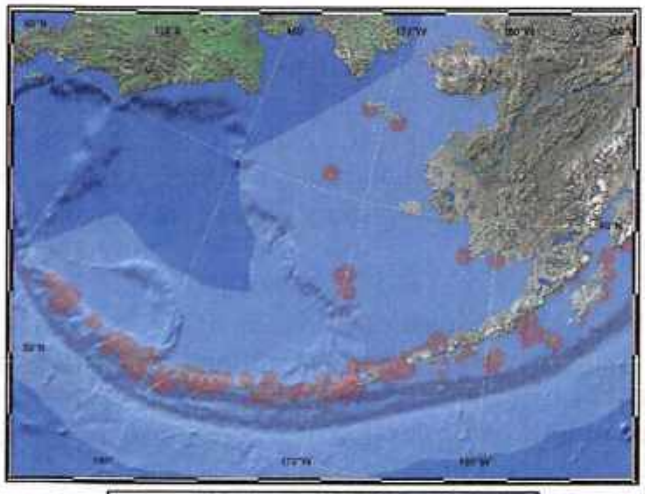


Figure 2: SSL Critical Habitats

V. Fishing Vessel Boarding Statistics

There were 64 domestic fisheries and fishing vessel safety boardings during the reporting period. These boardings resulted in a total of 43 safety violations on 20 vessels and nine fisheries violations on seven vessels. Figures 3 and 4 show the historic trends for boardings and violations.

Figure 3. Fisheries Boardings By Year

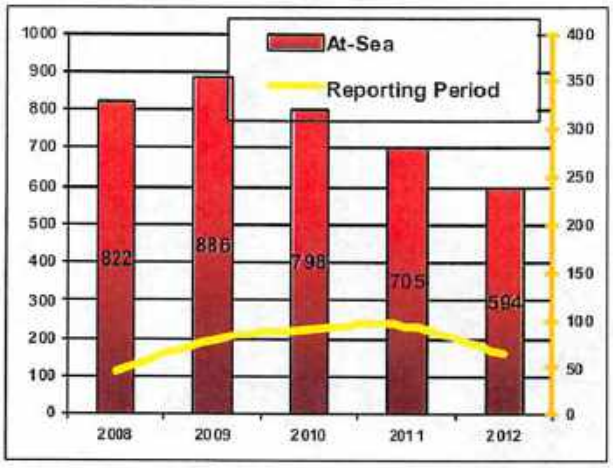
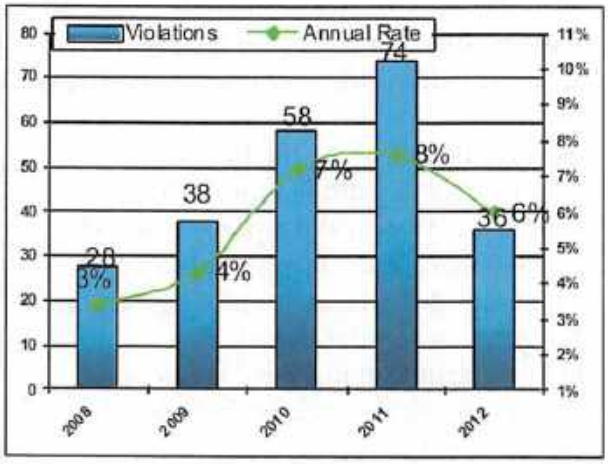


Figure 4. Fisheries Violations by Year



Oct - Nov 2011 Boardings

F/V Boardings (at sea): 92
Boarding w/fisheries violations: 10
Violation Rate:.....10.9%

Oct – Nov 2012 Boardings

F/V Boardings (at sea): 64
Boarding w/fisheries violations: 07
Violation Rate:.....10.9%

VI. IFQ Enforcement

There were two IFQ, Charter, and Recreational halibut boardings over the reporting period with one violation noted. F/V CARLYNN was detected by an AIRSTA Sitka MH-60 aircraft working gear approximately one hour after the IFQ halibut closure on the 7th of November. While the vessel claimed to be fishing for shrimp, the vessels did have IFQ halibut on board, and was in violation of the provision requiring vessels with IFQ halibut to maintain continuous transit during closed periods. Additionally, two crab vessels were issued violations for retention of halibut while engaged in the crab fishery. There were two Sablefish boardings during the reporting period with no violations.

VII. Crab Fisheries Enforcement

The Coast Guard has maintained a significant presence around the crab fleets since the fishery opened on the 15th of October. USCGC BERTHOLF and USCGC SHERMAN have boarded a total of 18 crab boats in the last month and a half including 12 red king crab boats, four St. Matthew's blue king crab boats, and two golden king crab boats. The MH-60 that was forward deployed to Cold Bay to for SAR returned to Kodiak in early November as the RKC TAC had been reached. Five crab boats have been issued violations for logbook errors, two have been issued violations for illegal retention of

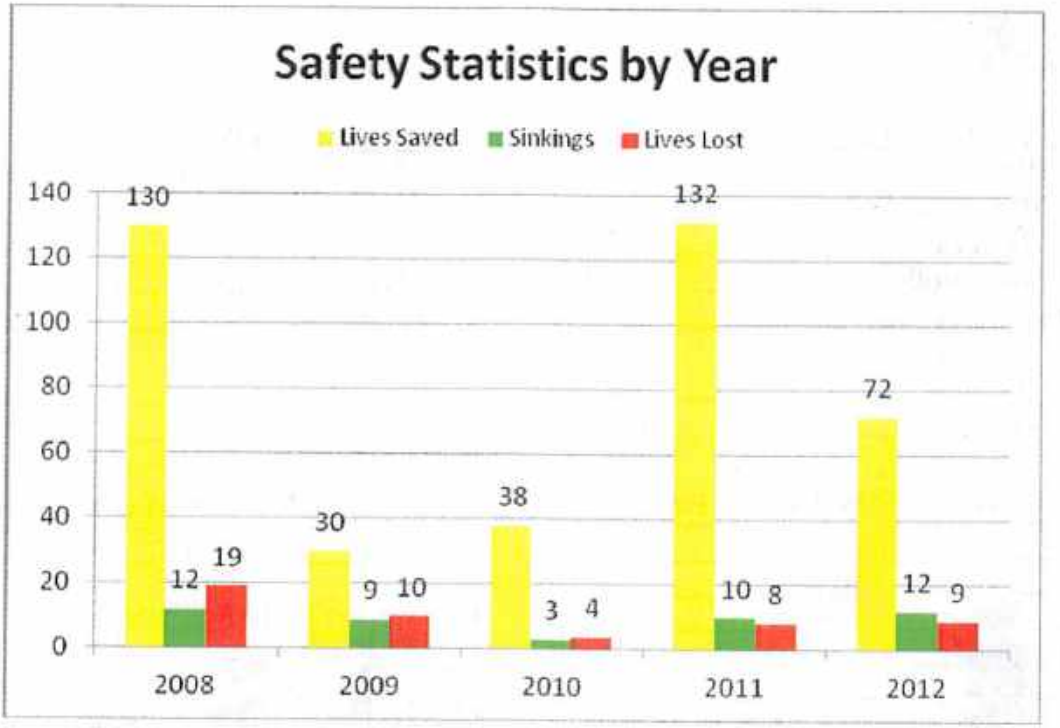
halibut, and one for failure to meet observer coverage requirements during a previous quarter.

VIII. Commercial Fishing Vessel Safety/Search and Rescue Cases

During the reporting period, 20 vessels with a total of 43 safety violations were detected. There were seven *voyage terminations* during the reporting period, five of which were associated with Southeast Alaska dive fisheries. A significant number of these safety violations were associated with insufficient immersion suits, and survival craft, but violations were also issued for expired hydrostatic releases on EPRIBs, expired EPIRBs, insufficient firefighting equipment, visual distress signals, and insufficient PFDs. A comprehensive list of violations can be found in Appendix C.

There were 19 SAR cases, resulting in eight lives saved, two lives lost, and two vessels lost. Appendix A provides a comprehensive list of search and rescue cases involving fishing vessels over the reporting period.

Figure 5. Historical Overview of CFVS Statistics



IX. Coast Guard Resource Summary

Figures **6** and **7** show the historical and projected *annual* HC-130 aircraft law enforcement hours and Medium and High Endurance Cutter days used in the Seventeenth District. Figures **9** and **10** show the same information over the last three years for the *reporting period only*.

Figure 6. Annual HC-130 Hours

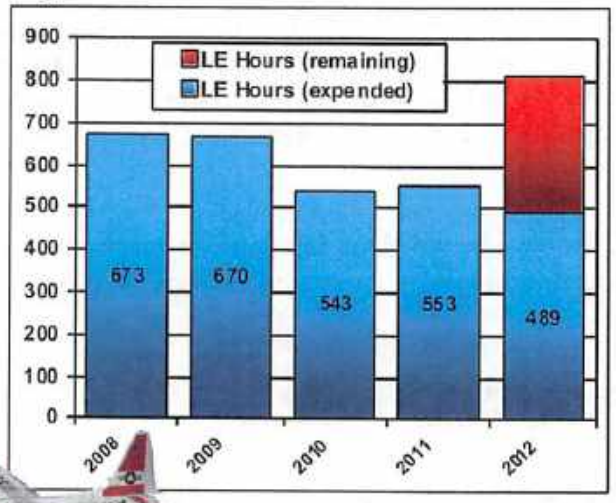
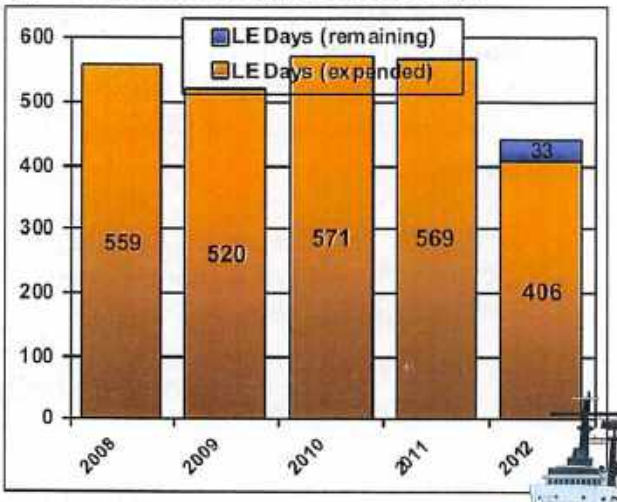


Figure 7. Annual Major Cutter Days



OCT 2011 – NOV 2011

2 WHECs patrolled.....72 days
1 WMECs patrolled.....10 days
1 WLB patrolled.....3 days
5 WPBs patrolled.....44 days
Total Cutter patrol.....129 days

HC-130s flew.....63 hours
HH-60/65s flew.....166 hours

OCT 2012 – NOV 2012

3 WHECs patrolled.....72 days
0 WMECs patrolled.....0 days
0 WLBs patrolled.....0 days
5 WPBs patrolled.....63days
Total Cutter patrol.....135 days

HC-130s flew.....67 hours
HH-60/65s flew.....145 hours

Figure 8. OCT - NOV HC-130 Hours

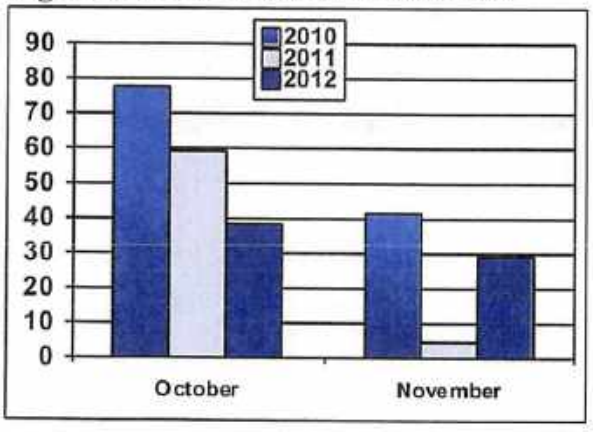
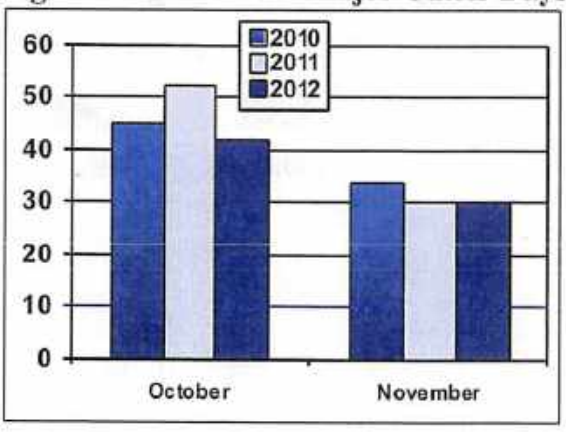


Figure 9. OCT - NOV Major Cutter Days



Appendix A
October – November 2012
Search and Rescue Cases

Date	Vessel	Case Specifics
30-Sep-12	F/V MYSTERY LADY	Sector Anchorage received a report from the F/V MYSTERY LADY that 02 people on a transit from that vessel to the beach capsized their dingy and were stranded on the beach. MYSTERY LADY was approximately 300 yards off the beach and was unable to recover them due to the weather. SECANC confirmed the persons didn't have survival equipment and the persons on the beach were unable to make contact with MYSTERY LADY. Sector Anchorage assumed SMC and requested for the immediate launch of FOL Cordova. CGR-6544 arrived on scene and confirmed the two hunters were not in distress and didn't need Coast Guard assistance. Case Closed.
10-Oct-12	F/V MISS SALLY	Sector Juneau received a call requesting assistance for a 32-ft F/V disabled in Naha Bay with 02 POB. Vessel was not in distress; however there was no answer to Sector Juneau's MARB. Sector Juneau launched Station Ketchikan to assist. CG-47260 took vessel in tow and returned safely to Ketchikan. Case Closed.
11-Oct-12	F/V KODIAK ISLE	Communication Station (COMMSTA) Kodiak received a report of the F/V KODIAK ISLE hitting a rock and taking on water on Sitkinak Island, approximately 80 NM south of the Air Station Kodiak. COMMSTA Kodiak and Sector Anchorage issued a UMIB on both VHF and HF. D17CC requested the immediate launch of a helicopter and a C-130. Sector Anchorage assumed SMC. The C-130 arrived on scene and confirmed all 05 POB were safely on the beach. Once the helicopter arrived, they hoisted all personnel from the beach and transported them safely back to Air Station Kodiak to local EMS. Case Closed.
11-Oct-12	F/V FLYING OCEAN	Sector Anchorage received a report of a man overboard on the F/V FLYING OCEAN. Crewman became tangled in the line of the crab pot and was pulled overboard. Sector Anchorage assumed SMC, issued a UMIB and requested the launch of A/S Kodiak. CGC HICKORY was also diverted. CGR 6005, 6006 and 1790 from A/S Kodiak conducted searches. Nine separate searches were completed without finding the crewman. The case was suspended.

Date	Vessel	Case Specifics
12-Oct-12	TUG CAPT HENDREN	D17 Command Center received a 406 Mhz beacon SARSAT alert for the 70 FT tug CAPT HENDREN. D17 CC also received information from the Alaska State Troopers in Nome that the CAPT HENDREN was taking on water after running aground in Stephens Pass just west of St Michael. D17 CC assumed SMC, launched A/S Kodiak C130 and diverted CGC MIDGETT w/ AVDET embarked. Both POB had donned survival suits and entered a life raft with canopy. The life raft was initially tied off to the vessel but was later freed and drifted ashore. Persons ashore assisted the victims and took them to the health clinic at St Michael. They were wet and mildly hypothermic but otherwise in good condition. CGC MIDGETT and CG-1790 were stood down prior to arriving on scene. CAPT HENGREN has 1000 gallons of diesel on board and was previously involved in gold dredging operations near Nome. No pollution sighted. Sector Anchorage investigation pends. Case closed for SAR.
14-Oct-12	F/V CLIPPER EPIC	D17CC received a report from the F/V CLIPPER EPIC of a 51YOM who had suffered electrical shock with 480 volts while changing a fuse. The crewman reported to the master with a black and swollen right hand with pain in the affected area. The crewman did not want to be MEDEVAC'd and requested to remain with the vessel until NPOC Dutch Harbor. The Duty flight surgeon concurred that MEDEVAC was not needed but recommended that the crewman be given 1 dose of hydrocodiene every six hours for the pain and to ice and elevate the hand. Case Closed.
16-Oct-12	F/V LUCKY	Sector Anchorage received a report of a 28' F/V striking a submerged object and losing steering, the vessel was not taking on water and was disabled and adrift. Sector Anchorage issued a Marine Assistance Request Broadcast with negative results. Sector Anchorage assumed SMC and launched Station Valdez CG-45691 to assist. Station Valdez CG-45691 arrived on scene, took the vessel in tow and safely moored the vessel in Valdez. Case Closed.
20-Oct-12	F/V POTLUCK	Sector Juneau received report of F/V POTLUCK disabled in Icy Strait due to fuel issues. The Tug MARAUDER responded to UMIB but was uncomfortable towing with the line supplied by POTLUCK. Sector Juneau launched CGR-45671 who arrived on scene, towed the F/V to Hoonah and returned safely to Juneau. Case Closed.

Date	Vessel	Case Specifics
23-Oct-12	F/V PATRICIA KAY	D17CC received a call from the Kodiak Police Dept. dispatch reporting a partial call received and asked if the Coast Guard received a call for a medical emergency. The dispatcher was able to get a name of the individual before the call dropped. Dispatch tracked the name and spoke with the family members who confirmed he is on the PATRICIA KAY diving for sea cucumbers IVO Alitak Bay. D17CC directed COMMSTA Kodiak and Sector Anchorage to make callouts, Sector Anchorage made contact with the F/V PATRICIA KAY and confirmed the medical emergency. A 24 YOM had to surface quickly due to an out of air situation. After resting on the deck of the vessel the diver started feeling weak and the master of F/V PATRICIA KAY called for assistance. DFS was consulted and recommended a MEDEVAC. CGR6006 launched and met with the F/V PATRICIA KAY in Alitak Bay. The diver was evaluated by the rescue swimmer and hoisted off the PATRICIA KAY. The diver was transferred to the care of Kodiak EMS in stable condition. Case Closed.
23-Oct-12	F/V DARLIN MICHELLE	Sector Juneau received a report that the Captain of F/V DARLIN MICHELLE fell overboard. Crewmember attempted to pull him out of the water by his life jacket but was unsuccessful when the life jacket broke off. Sector Juneau issued a UMIB and numerous Good Sam's responded. CGR-1701 overheard UMIB and diverted to assist from previous scheduled mission. Air Station Sitka launched CGR-6034 who conducted three searches without finding the operson overboard. ACTSUS Granted.
02-Nov-12	Flare	Sector Anchorage received 02 reports in Kodiak of an orange flare sighted in between Kodiak and Woody Island. Sector broadcasted a UMIB and Air Station Kodiak launched a MH-60 to respond. Search completed with negative results. ACTSUS Granted.

Date	Vessel	Case Specifics
04-Nov-12	F/V DUTCH ISLE	Sector Juneau Command Center received a report from the Canadian Coast Guard Station in Prince Rupert in regards to the 39' F/V DUTCH ISLE reporting they were taking on water in Gem Cove, approximately 20 NM East of Ketchikan in George Inlet. Sector Juneau issued a UMIB and requested the immediate launch of Station Ketchikan 47261 to assist. CG-47261 arrived on scene and evaluated and determined they were unable to come alongside due to the weather and location of the vessel near the rocks. Station Ketchikan launched CG-25772 to assist in taking the 02 POB off the vessel, and safely transferred them to CG-47261. One of the people (62 YOM) that was recovered complained of chest pains and was immediately transferred from to local EMS at Wall Marina. Case Closed.
05-Nov-12	F/V ALASKA SPIRIT	D17 Command Center received notification from Sector Anchorage regarding a 41 YOM onboard the FV ALASKA SPIRIT who had been vomiting blood since midnight 05 Nov. ALASKA SPIRIT was approximately 10 NM outside of St Paul Harbor and requested CG assistance. A MARB was offered and accepted. FV DETERMINED answered broadcast and effected transfer to EMS ashore. Patient was taken to the St. Paul Clinic for further evaluation. Case Closed.
07-Nov-12	Unknown 406 EPIRB	D17 Command Center received a 406 Beacon First Alert approx 680NM south of Kodiak Island. No registration information was available within SARSAT database for the active beacon. A UMIB and EGC message were issued. The AMVER vessel, M/V SAGA PIONEER diverted to the area and observed no signs of distress. A/S Kodiak was directed to launch a C130 which arrived on scene and conducted search with NEGRES. ACTSUS Granted.
07-Nov-12	F/V ZONE FIVE	Kodiak received initial request for MEDEVAC from F/V ZONE FIVE, a 105-ft crab vessel with a 39 YOM crewmember showing signs of possible heart attack. Vitals, patient condition and medical history were reported to duty flight surgeon. The duty flight surgeon determined that heart attack was unlikely and that condition was not life threatening. Vessel administered pain medication as advised by the duty flight surgeon. Vessel intends to transit to St. Paul and seek further treatment from the St. Paul clinic. The St. Paul clinic has been advised and COMMSTA Kodiak will continue 4 hour communications schedule until vessel arrives at approximately 0900V 08 NOV 12. Case closed

Date	Vessel	Case Specifics
08-Nov-12	Red Flare	Sector Anchorage received a report of a single red/orange flare IVO Homer, Alaska. CGC HICKORY reported no visual sightings within area. Sector Anchorage issued a UMIB with negative results and requested the launch of an MH-60 helicopter from Air Station Kodiak. CGR-6003 launched to conduct a 2 hour search of the southern end of the flare cone consisting of Eldridge Passage to Gull Island in Kachemak Bay with negative results. CGC HICKORY was requested to search for approximately 2 hours in the vicinity of the southwestern end of Homer Spit with negative results. CGC HICKORY conducted first light search with negative results. ACTSUS granted.
11-Nov-12	Unknown 406 EPRIB	D17CC received a 406 MHz unregistered ELT IVO the Cold Bay / Sand Point areas of the Alaska Peninsula. Did not resolve to one consistent position. D17CC assumed SMC, launched Air Station Kodiak C130 after calls to Sand Point and Cold Bay airports revealed no signs of distress or audible signals. Sector Anchorage sent UMIB on VHF from Cold Bay tower, which was overheard by plane's owner on his scanner. He drove into the airport and found his ELT alerting with a very weak 121.5 signal. Stood down C130 and UMIBs; Case closed.
13-Nov-12	F/V CHATHAM	District 17 Command Center (D17CC) received a 406 EPIRB Unlocated First Alert from the 36' F/V CHATHAM home ported from Sitka, AK. D17CC conducted preliminary communications with owner/operator and all registration information with no confirmation that vessel was underway and in distress. Updated SARSAT data provided a Ambiguity Resolution position to Hoonah Harbor. Sector Juneau conducted call outs with negative results and issued a shotgun UMIB with negative results. D17CC requested for the immediate launch of an MH-60 helicopter from Air Station Sitka. Hoonah Harbormaster confirmed beacon ID and vessel not in distress. Air Station Sitka stood down. Case Closed.
14-Nov-12	F/V KARIN LYNN	Sector Anchorage received report from F/V KARIN LYNN snapped their rudder post and was DIW. No CG assistance was requested. Good Sam vsl VALIANT towed KARIN LYNN to Dutch Harbor. Case Closed.

Appendix B

October – November 2012

Federal Fisheries Boardings without Violations

Date	Vessel	Species	Area
10/01/2012	CADILLAC	430	
10/09/2012	FLOWER GIRL	895	659
10/10/2012	KNIGHTRIDER	895	659
10/10/2012	NANCY MARIE	895	659
10/13/2012	SPRYDEN	895	659
10/16/2012	COURSER	895	659
10/22/2012	VIXEN	921	517
10/22/2012	BARANOF	921	517
10/22/2012	CASCADE MARINER	921	517
10/25/2012	VICKIE RAE	110	620
10/25/2012	AMBER NICOLE	110	620
10/25/2012	ARCTIC SEA	921	517
10/25/2012	NORTH SEA	921	517
10/25/2012	PRIVATEER	815	659
10/25/2012	SWEET LISA	815	659
10/27/2012	KODIAK	921	517
10/28/2012	ACE	815	659
10/29/2012	KARIN LYNN	922	521
10/29/2012	NORDIC MARINER	922	521
10/29/2012	VALIANT	922	524
10/30/2012	RAMBLIN ROSE	922	521
11/02/2012	PACIFIC SOUNDER		543
11/02/2012	PATRICIA LEE	923	542
11/04/2012	ARCTIC ICE	200	542
11/05/2012	OSTRICH	815	659
11/05/2012	SUGARFOOT	815	659
11/05/2012	ALEUTIAN NO. 1	923	541
11/05/2012	JUDI B	710	541
11/06/2012	ALASKAN STAR	110	610
11/06/2012	PACIFIC NOMAD	910	659
11/10/2012	PACIFIC DAWN	710	659
11/11/2012	BLUE BALLARD	110	519
11/12/2012	GLACIER BAY	110	517

Date	Vessel	Species	Area
11/15/2012	SEA DANCER	110	649
11/17/2012	LILLI ANN	110	516
11/23/1012	DAGON	815	
11/25/2012	BLUE GADUS	110	517

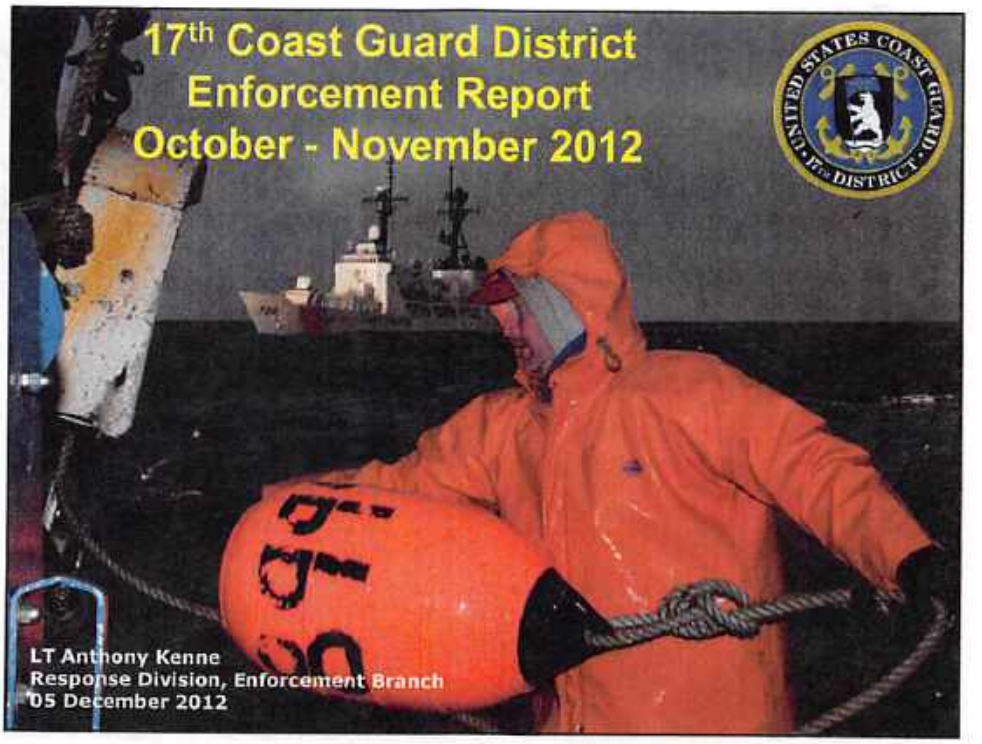
Appendix C

October – November 2012

Federal Fisheries Boardings with Violations

Date	Unit	Vessel Name	Fishery	Details
10/03/2012	MUSTANG	ELEON	110	Issued a violation for failure to properly secure the overboard discharge on the vessel's marine sanitation device.
10/08/2012	STA KETCHIKAN	AMBER LYNN	UNK	Voyage terminated for no survival craft.
10/09/2012	STA KETCHIKAN	MISS SALI	N/A	Issued a violation for no strobe on immersion suit.
10/09/2012	STA KETCHIKAN	TWILA DAWN	895	Issued violations for liferaft inspection and VDS.
10/10/2012	STA KETCHIKAN	STUBBY SUE	895	Issued violations for insufficient lifering, fire extinguishers, and vessel numbering.
10/10/2012	STA KETCHIKAN	PACIFIC FISHER	895	Issued violations for immersion suits, survival craft, life ring, garbage placard, and EPIRB.
10/18/2012	STA KETCHIKAN	CHASIN TAIL	430	Voyage terminated for no immersion suits and life ring not in serviceable condition.
10/20/2012	STA KETCHIKAN	CHERYL	895	Issued violations for insufficient retro-reflective tape and expired EPIRB.
10/20/2012	STA KETCHIKAN	NORTHERN CHASE	895	Voyage terminated for unserviceable immersion suits, no survival craft, VDS, fire extinguishers, overboard discharge of sewage, and no life ring.
10/21/2012	STA KETCHIKAN	SHARI GAIL	961	Issued violations for marking and lights on immersion suits, expired hydrostatic release on the life raft, SPD, expired EPIRB.
10/21/2012	BERTHOLF	CONTROLLER BAY	921	Issued a violation for logbook errors.
10/23/2012	BERTHOLF	NORTHWESTERN	921	Issued a violation for logbook errors.
10/23/2012	BERTHOLF	ROLLO	921	Issued a violation for logbook errors.
10/25/2012	NAUSHON	SEA U LATER	815	Issued a violation for one of the vessel's immersion suits.
10/25/2012	NAUSHON	WINSTON CHURCHILL	815	Issued a violation for an insufficient life ring.
10/25/2012	BERTHOLF	SANDRA FIVE	921	Issued a violation for retention of prohibited species for personal use.
10/25/2012	BERTHOLF	EARLY DAWN	921	Issued violations for logbook errors and retention of prohibited species for personal use.
10/25/2012	NAUSHON	EKITA	815	Issued violations for unserviceable life ring and immersion suits.
10/27/2012	BERTHOLF	ATLANTICO	921	Issued violations for insufficient observer coverage in a previous quarter and for logbook errors.
10/28/2012	NAUSHON	FAR AWAY	815	Issued violations for strobe lights and vessel registration.

Date	Unit	Vessel Name	Fishery	Details
11/01/2012	STA KETCHIKAN	ORCA SONG	815	Voyage terminated for insufficient survival craft.
11/01/2012	STA KETCHIKAN	AMANDA GEM	815	Voyage terminated for insufficient survival craft.
11/07/2012	AIRSTA SITKA	CARLYNN	200	Vessel detected working gear after the closure of the IFQ Halibut fishery in violation of continuous transit provisions when the fishery is closed. VSL claimed to be working shrimp gear.
11/09/2012	STA KETCHIKAN	AMANDA GEM	815	Voyage terminated for insufficient survival craft.
11/11/2012	NAUSHON	JEANNIE X	110	Issued violations for vessel registration, insufficient life ring, and official numbering.
11/12/2012	STA KETCHIKAN	SILVER SURFER	815	Voyage terminated for insufficient immersion suits, navigation lights, VDS, and life ring.
11/14/2012	STA KETCHIKAN	KAY LYNN		Issued a violation for improper navigation lights.



SAR Stats 14 March - 22 April 2012

19 F/V SAR Cases
08 Lives Saved
2 Vessel Lost
2 Fatalities

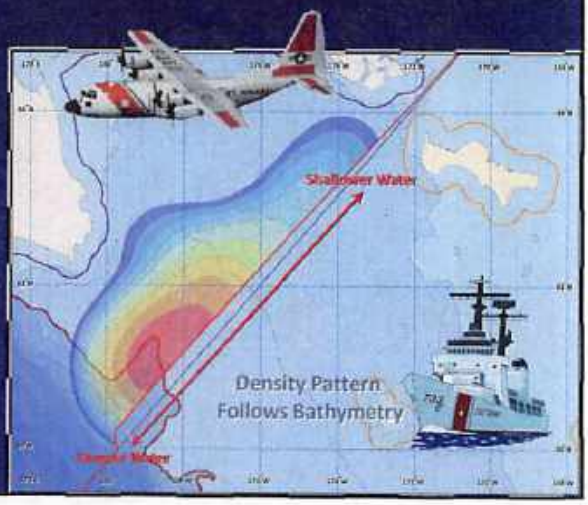
43 Safety Violations

Common Problems:

- Missing or unserviceable life raft (5)
- Missing or unserviceable immersion suits (3)
- Life raft inspections/hydrostatic release (3)
- Visual distress signals (3)
- Life rings (9)
- Firefighting equipment (2)
- EPIRB (3)
- Markings or lights on immersion suits (6)
- Sound producing device (1)
- Navigation lights (2)
- Marine sanitation device/sewage discharge (2)
- Vessel numbering (2)
- Vessel registration (2)

Maritime Boundary Line

- No Incursions detected in October or November
- USCGC SHERMAN patrolled the line in October
- C130's flew 30+ hours along the MBL



Critical Habitat Enforcement

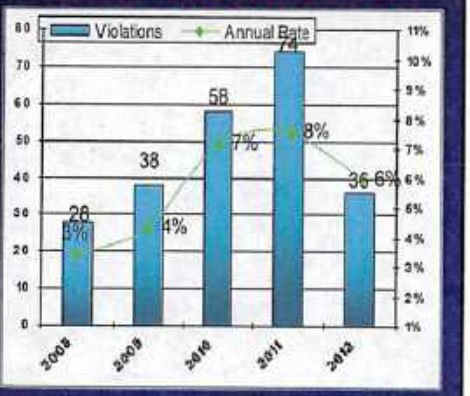
151 Critical Habitat Areas

285 area checks between October and November.

Fishing Vessel Boardings & Fisheries Violations

Vessel Boardings

Vessels With Violations



IFQ Enforcement

02 IFQ, Charter and Recreational Halibut Boardings

- **01 Vessel failed to maintain continuous transit during a closed period.**

2 IFQ Sablefish Boardings – 0 Violations

Crab Enforcement

Crab fisheries began on 15 October

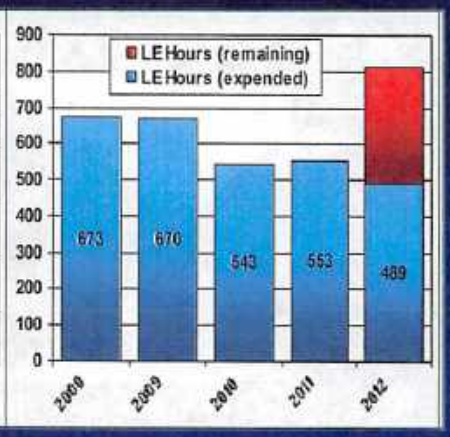
18 Boardings:
-12 Red King Crab
- 4 Blue King Crab
- 2 Golden King Crab

MH60 Jayhawk deployed to Cold Bay 08 October – 08 November for SAR response.

Major Cutter & C-130 Effort

Major Cutter Days

Aircraft Hours



Questions?

LT Anthony Kenne
Response Division, Enforcement Branch
05 December 2012

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: B Items

	NAME *(PLEASE PRINT)*	TESTIFYING ON BEHALF OF:
1	DIAN FALVEY	ALFA
2	Frank Kelty	City of Unalaska
3	BRENT PAINE	UCB
4	~~[illegible]~~ Rhonda Hubbard	Hybrid CV & CP Assoc.
5	BETH STEWART	Peninsula Fisherman's Coalition
6	David Polushkin	K-Bay fisheries Assoc.
7	Jim Hubbard	Kruzof Fisheries LLC
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person " to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

Beth Stewart

Peninsula Fishermen's Coalition

Beth Stewart, Executive Director

2767 John Street, Juneau, AK 99801

Phone: 907.364.3646 Cell Phone: 907.635.4336 bethontheroad@gmail.com

Eric Olson, Chairman

December 5, 2012

North Pacific Fishery Management Council

605 West 4th Avenue

Anchorage, AK 99501

In Re: 2013 Observer Program

Dear Chairman Olson:

The Peninsula Fishermen's Coalition supports the implementation of an Observer Coverage Plan that will enhance data collection and provide assurances that bycatch estimates in the Western Gulf are improved.

We have followed the Council's new program closely and were largely satisfied with NMFS' efforts to seek public participation in developing the 2013. However as January draws closer, we have some concerns that we would like to share with you.

We have had very little contact with NMFS in the last three months, and no contact at all with observer contractor that will be serving our fleet. We realize that all new programs have implementation issues. However, we thought that a company that has never worked in rural Alaska before would make some effort to work with our fleet. This fleet of vessels under 58' have not carried observers before.

This program will be implemented in a few short weeks. We ask that the Council encourage NMFS to make every effort to work directly with the small vessels during this time. King Cove and Sand Point are very remote small towns with minimal State or Federal agency contact.

Both communities can be difficult to reach due to limited air service. Other services are likewise quite limited. Fishing trips are planned around weather, which can be severe, making the 72 hour notification rule difficult. Another difficulty arises when vessels are fishing to far from town to deliver. The plants offer tender service for these areas. If a vessel cannot drop an observer at the tender, it will be costly for the vessel.

If this program is going to be the success that the Council, NMFS, and the fleet want, it will take a special effort during the implementation phase.

Thank you for considering our comments.

Sincerely,

Beth Stewart

Kiley Thompson, President (F/V Decision)

A.J. Newman, Vice President (F/V Lady Lee Dawn)

Ben Ley, Treasurer (F/V Alaskan Lady)

Mike Alfeiri (F/V Ocean Storm)

Jody Cook (F/V Cape Reliant)

John de Groen (F/V Primus)

Tom Evich (F/V Karen Evich

Dwain Foster (F/V Heather Margene

Steven Galovin (F/V Shawna Rae)

Art Holmberg (F/V Tern)

Melvin Larsen (F/V Temptation)

Robin Larsen (F/V Courtney Noral)

Taylor Lundgren (F/V Primus)

Tom Manos (F/V Alaskan Lady)

Pete Schoenberg (F/V Equinox)

Corey Wilson (F/V Justin Case & F/V Miss Courtney Kim)

November 12, 2012

To: Governor Sean Parnell
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young

Subject: Restructured North Pacific Observer Program and 2013 Deployment Plan

Dear Alaska Leaders,

In 2010 the North Pacific Fishery Management Council (Council) approved restructuring the North Pacific Observer Program. A final rule to implement the program is scheduled for early December publication. The undersigned members of the fishing industry cannot support this program that doubles costs, reduces coverage in high volume fisheries with substantial chinook and halibut bycatch, and fails to provide a workable monitoring system for small vessels.

We are willing to pay our fair share of observer coverage costs and recognize that at-sea data is needed for conservation and management of the resource. We are concerned about salmon and halibut bycatch and believe fisheries with high bycatch must be the priority for observer coverage. We believe at-sea data can be collected from Alaska's previously unobserved, community based vessels without causing fleet consolidation, job loss, or disruption of business operations. We have identified electronic monitoring as the tool that works for the small, fixed gear boats.

The National Marine Fisheries Service (NMFS) has consistently ignored the concerns of fishermen most affected by the program. NMFS is ready to implement a plan that reduces coverage in high volume fisheries with substantial chinook and halibut bycatch, doubles the cost of an observer day relative to current levels, assigns over half the observed trips to vessels that account for less than 12% of the catch, and places the largest economic burden on the 1,300 small boats that operate out of Alaska's coastal communities.

NMFS has provided insufficient opportunity for public comment on the 2013 observer deployment plan, no specificity and therefore no opportunity for comment on deployment logistics for small boats, and little to no analysis of logistical costs imposed on individual fishing businesses.

The undersigned individuals cannot support full implementation of the restructured observer program as proposed for 2013. **We request your assistance in holding NMFS accountable for addressing stakeholder concerns prior to implementation of the restructured program or, at minimum, <u>prior to deployment of observers on the small fixed gear vessels assigned to the "vessel selected pool</u>."**

Thank you for your support of Alaska's coastal fishermen.

Name	Address	Signature
1. Carl A. Peterson	Box 593 Sitka, Alaska 99835	Carl A. Peterson
2. Pat Kehoe	PO Box 1615 Sitka	Pat Kehoe
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4. BEN LAWRIE	2015 CASCADE CIR RD SITKA, AK 99835	
5. LINDA DANNER	Box 1313 Sitka, AK 99835	Linda Danner

flyseahaylance@yahoo.com

5. Lance Preston PO Box 6416 Sitka, AK 99835
6. Don Seesz 114 Harbor Mtn. Rd. Sitka, AK 99835
7. Kathleen Warm 507 Katlian St., Sitka, AK
8. Richie Davis 2347 Kevin Ct. Juneau Alaska 99801
9. Tom Alorsen 1959 Dodge Circle Sitka AK 99835
10. Bert R Bergman 801 Charles St. Sitka, AK 99835
11. David & Deborah Lyons PO Box 379 Sitka AK 99835
12. Carter Hughes C.O. SPC 507 Katlian St. Sitka
13. Ceri Malein P O Box 3114 Sitka
14. Tad Fujioka 214 Shotsun Alley Sitka
15. John Murray 224 Observatory St Sitka
16. Matt Donohoe P.O Box 3114 Sitka
17. Mary Ann Peterson P.O. Box 573 Sitka 99835
18. Fred Fayette Box 6338 Sitka AK
19. Eric W. Jordan 103 Gibson Place, Sitka, AK
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25. Brett Zanglein 403 Mills St Sitka AK 99835
26. Ron Consterdine 3156 F Beck Rd Rice WA
27. Carolyn Nichols 111 Knutson Dr. Sitka AK 99835
28. Nancy Behnken 117 Jeff Davis St. Sitka AK 99835
29. Charlie Wilber 705 Etolin Sitka AK 99835
30. Terry Perensovich 506 Baranof St Sitka, AK.
31. Robert E. Riggs 2316 HPR Sitka AK.
32.

Concerns with the Restructured Observer Program and 2013 Deployment Plan

A final rule to restructure the North Pacific Observer Program is scheduled for early December publication with implementation in January 2013. The 2013 Observer Deployment Plan was revealed in October 2012 after observer contracts had be signed, allowing only minimal opportunity for public comment and only minor revisions. Deployment details for small vessels still have not been revealed, effectively preempting public comment. Despite active and informed participation by Alaska's coastal fishermen, the restructured program in general and the 2013 Deployment Plan in particular fail to meet resource objectives, control costs, or minimize impacts to Alaska's small fishing businesses.

Throughout the two-year process to restructure the North Pacific Observer Program, fishermen have consistently advocated for:

- Establishing observer coverage levels on a fishery specific basis with emphasis on high impact bycatch fisheries;
- Incorporating deployment strategies that maximize cost effectiveness;
- Providing small vessels with electronic monitoring as an alternative to human observers concurrent with program implementation.

The Council has heard these concerns and often endorsed them. In October 2012 the Council recommended the National Marine Fisheries Service (NMFS) amend the 2013 Deployment Plan to prioritize coverage in bycatch limited fisheries and to do so by reducing observer assignments in the "vessel selected pool." The Council also requested NMFS provide a cost accounting report and a strategic plan for implementing electronic monitoring, but did not tie these requests to the 2013 Deployment Plan. Throughout the restructuring process, the Council has deferred to NMFS to address concerns raised by stakeholders instead of engaging in the normal process of identifying alternatives and incorporating stakeholder input to develop workable solutions. The result of this unusual process is that NMFS has not been held accountable for addressing concerns prior to implementation.

While we support the Council's October 2012 recommendations, we need assurance that observer coverage will be re-prioritized to high bycatch fisheries, that program costs will be controlled, **and that observers will not be deployed on small vessels until deployment details are revealed, analyzed and resolved, and electronic monitoring is available as an alternative to human observers.**

More specifically, our concerns with the 2013 deployment plan are the following:

1. **Equal probability of deployment**—the deployment plan assigns all fishing trips with an equal probability of observer coverage—whether the trip is taken by an 80 foot vessel that harvests hundreds of thousands of pounds or a 42 foot boat harvesting 500 pounds. As a result, over 50% of the observed trips will be assigned to small fixed gear vessels that account for less than 12% of the groundfish and halibut harvested off Alaska. Shifting deployment to small fixed gear boats reduces coverage on high volume and high bycatch fisheries—most notably Gulf pollock fisheries that account for Chinook bycatch. The Council's recommendation to "prioritize" coverage of PSC limited fisheries restates objectives NMFS has ignored to date. While we support the Council's recommendation, NMFS' response to the recommendation remains unknown—yet NMFS intends to implement the program in two months.

2. **Failure to contain costs**— In October 2012 fishermen learned that the deployment plan increases the cost of an observer day from the current $467 to approximately $1,000. The deployment plan emphasizes a random deployment approach to obtain unbiased data and does not sufficiently consider alternative stratified sampling approaches that could provide unbiased data in a more cost effective manner. Doubling the costs halves the number of observer days and undermines bycatch management objectives that are vitally important to Alaska's fisheries. The Council has requested a detailed cost accounting but has taken no action to control observer coverage costs in 2013.

3. **No alternative to human observers for the small boat fleet**—Stakeholder testimony and Council motions for the past two years, including the Council's May 2011 comment on the proposed rule, requested an alternative to human observers for the small boat fleet. Electronic Monitoring (EM) was identified in EA/RIR as the alternative that minimizes impacts to the small boat fleet. In Alaska, EM project collaborators specifically designed a pilot program in partnership with NMFS to evaluate EM in the halibut and sablefish fisheries to ensure EM would be operational in 2013. Yet the restructured observer program fails to provide this alternative and makes no commitment to ever providing an alternative to human observers. NMFS has not devoted the necessary resources to provide a viable alternative to human observers despite three years of notice and good faith industry cooperation.

4. **Definition of a fishing "trip"**--The definition of a fishing trip still allows "gaming" of the system. Cod vessels that deliver to tenders will be able to complete an entire season before ending a "trip," since trip is defined as a shore-side delivery. As a result, vessels not selected for observer coverage on their first trip can deliver off-shore to tenders until the season ends and thereby avoid coverage for the entire season. The definition also still lacks quantity of gear set or fish harvested, which allows a vessel to fish for one day in a non-productive area, satisfy the observer "trip" requirement, drop off the observer and then join the rest of the fleet to fish in areas with higher catch and, of more concern, bycatch.

5. **"Vessel selected" boats have 100% coverage for two or three months**-- Stakeholders have repeatedly commented that the proposed requirement for boats in the "vessel selected" pool to carry observers for all trips during a three months period is overly burdensome and inequitable, particularly when compared to "trip selected" vessels that have a 13% probability of being selected one trip at a time. The Council's recommendation to reduce the requirement to two months still assigns the most burdensome observer requirements to the smallest fixed gear boats. *Until electronic monitoring is available as an alternative to human observers*, observers should be assigned to small boats on a trip by trip basis.

6. **No Logistical details for the "vessel selected" pool**---Logistical deployment details for the "vessel selected" pool still have not been revealed, hence the industry has not been able to evaluate or comment on these critical and potentially costly provisions. Potential costs include room and board for an observer between trips and insurance to protect against liability. <u>These costs have never been analyzed</u>. While logistical details are specified for vessels in the "trip selected pool" (over 57.5 feet), the deployment plan directs fishermen in the "vessel selected pool" to work with the observer contractor to resolve logistics. The selected observer contractor is based on the East Coast and has no prior experience in Alaska.

Again, we cannot support deployment of observers in the vessel selected pool until these concerns have been addressed by NMFS. We are willing to pay the observer fee in 2013 and we are willing to work with the agency to resolve the concerns identified above.

Rhonda Hubbard

December 4, 2012

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Agenda Item B-2-NMFS Management Report (Observer Program)

Mr. Olson & Members of the Council-
My name is Oystein Lone, the operator/co-owner of the 98' *F/V-C/P Pacific Sounder* based out of Dutch Harbor Alaska. We fish crab, pot cod, and longline for sablefish, halibut and turbot in the BSAI. The sablefish and turbot are both blast frozen at sea. The halibut (iced), crab and cod are delivered to town. We operate as a *C/P* in some fisheries and a *C/V* in others. I consider myself a new entrant into these fisheries, since I purchased the vessel in 2011.

I am going to keep this short. We have previously submitted letters to the Council and NMFS and would be happy to provide copies if you want more in-depth information. Please email me oysteinlone@frontier.com or call (206) 965-9539.

Currently our annual observer costs are around $30,000. Under the new observer program our costs will skyrocket to over $110,000 per year, if we stay at the same daily rate as before. Under this new plan we will be paying 8% to 10% of our gross stock on sablefish, halibut, and turbot towards observers. This will be our highest annual vessel expense next to crew expenses. I have not included pot cod in this because it is not going to be viable to do with 100% coverage.

My partners and I intend to join the ACSA program next year as part of our annual shipyard program. With the increased observer costs we're not sure if that will be possible. The observer costs will also impact our two-year shipyard plans, forcing us to make cuts there as well. In fact, we are also discussing even postponing our whole shipyard program due to these increased costs.

I urge the Council to take another hard look at this plan and make sure it is equitable. How can increasing our costs 366% in one year be fair? How do you expect me to stay in business under this plan? There has to be some common sense under this new observer program before this is implemented. Thank you.

Sincerely,

Oystein Lone

Owner/Operator
F/V Pacific Sounder