

EXECUTIVE SUMMARY

This Regulatory Impact Review/Environmental Assessment/Initial Regulatory Flexibility Analysis (RIR/EA/IRFA) evaluates the costs and benefits, environmental impacts, and small entity impacts of a proposed regulatory amendment. The proposed amendment would revise the current GRS program to remove the minimum groundfish retention standards. The proposed action would also require the Amendment 80 sector to report to the Council the sector's groundfish retention performance for the year. This action is needed to mitigate management and enforcement costs that were not foreseen when the regulation was promulgated. In addition, this action is needed to mitigate higher than expected compliance costs of the groundfish retention standard borne by the non-AFA trawl catcher processors.

The Council has yet to adopt a purpose and need statement for this action. In developing its alternatives, the Council spoke to its rationale for undertaking this action.

The Council identified two reasons for removing the groundfish retention standards. First, the Council stated that the removal of the groundfish retention standards is necessary due to the difficulty of monitoring performance and the potential high costs of prosecuting violations of the requirement, particularly at the cooperative level. These difficulties and potential costs arise from the need to verify estimates of retention and substantiate records for each vessel in a cooperative. In addition, the Council noted that estimates of groundfish retention used to establish the groundfish retention standards in Amendment 79 differ substantially from measures employed in the implementation of Amendment 79. These differences may result in substantially greater compliance costs than anticipated at the time of Council action.

This analysis considers two alternatives. Under Alternative 1 (no action), the GRS program would remain unchanged which requires non-AFA trawl catcher processors of all sizes, including those catcher processors less than 125 ft. LOA to retain and utilize a minimum percentage of groundfish caught during fishing operations, or groundfish retention standard, which is scheduled to be 85 percent in 2001 and each year after. The GRS may be applied to a cooperative by aggregating the retention rate of all vessels assigned to a cooperative. Alternative 2 would remove groundfish retention requirements included in the GRS program. The alternative also includes a requirement that the Amendment 80 sector would report to the Council on annual basis the sector's groundfish retention performance

Regulatory Effect of the Alternatives

Under Alternative 1, the GRS program would remain unchanged which requires non-AFA trawl catcher processors of all sizes, including those catcher processors less than 125 ft. LOA to retain and utilize a minimum percentage of groundfish caught during fishing operations, or groundfish retention standard.

As the GRS increases to 85 percent in 2011, vessels that met the GRS regulatory requirement in 2010, will face additional challenges meeting this standard. Many participants in this sector have expressed strong reservations whether it will be possible to achieve the 2011 GRS percentages under existing regulatory provisions. The likelihood that additional vessels may be unable to meet the GRS in coming year may unnecessarily increase compliance and enforcement costs, considering that the Council's objectives of Amendment 79 appear to be met.

In addition, provisions of Amendment 80, which promote cooperative formation and are intended to increase retention and utilization of groundfish in the non-AFA trawl catcher processor sector, will be undermined as more vessels are unable to meet the regulatory standard. There is little incentive under this alternative for an Amendment 80 cooperative to include underperforming vessels due to the potential for reduced retention rates at the cooperative level. Therefore, the GRS may unduly disadvantage some participants, or force vessel operators to consolidate their catch or retire vessels that may be unable to meet the 2011 retention standard without the benefits of the Amendment 80 catch share program.

As noted in Section 2.2.6, monitoring and enforcement of violations of the retention standard is complex, challenging, and potentially very costly. Since the sufficiency of data sets for prosecution purposes must be evaluated for each alleged GRS violation, the difficulty of prosecution increases greatly with a violation involving a cooperative of multiple vessels (or multiple cooperatives) because reliable data must be available for each vessel. OLE experiences with investigations of GRS compliance of a single vessel's potential violation suggest that the GRS cannot be practicably monitored and enforced.

Alternative 2 would remove the required minimum groundfish retention standard for the Amendment 80 sector. The Amendment 80 sector would instead be required to internally monitor the groundfish retention rates and provide an annual report on groundfish retention rates for the sector. The retention performance report could be submitted in conjunction with the Amendment 80 cooperative report, which is due annually on March 1st.

In removing the required minimum groundfish retention standards for the Amendment 80 sector, the groundfish retention rate could continue rising, stay the same, or decrease. It is difficult to predict how retention rates might change with the removal of the standards, but the sector has indicated that higher rates than those currently are not likely to be attainable in the future, which reduces an argument for increasing retention rates under this alternative. Much of the recent increase in the retention rate of the Amendment 80 sector can be attributed to the sector's adjustment to the GRS program during the 2008 through 2010 period and adjustments to rules for 100 percent retention of pollock and Pacific cod. In fact, improvements in the sector's retention rates through 2009 would appear to have met Council objectives of significantly higher retention of groundfish and better utilization. In addition, the Amendment 80 sector has operated under a cooperative system for nearly three years in a manner that seems to facilitate compliance with the existing GRS. However, with the removal of the groundfish retention standard for the Amendment 80 sector, there is no direct regulatory incentive for the sector to further improve its retention. Although non-regulatory incentives (such as the sector's stated commitment to enter a civil contract that would hold each entity accountable to meet retention standards, public pressure, and the knowledge that the Council could take future action should retention rates decrease) may lead the Amendment 80 sector to maintain (or even improve on) current retention rates.

The recently released draft 2010 Steller Sea Lion Biological Opinion could also impact the proposed action. The biological opinion includes a proposed Reasonable and Prudent Alternative (RPA) that would modify groundfish management in the Aleutian Islands to limit competition between commercial fishing for groundfish and the Steller sea lions. One of the likely impacts from the proposed RPA is an increased difficulty for the Amendment 80 sector to achieve continued high retention rates. Historically, the Atka mackerel fishery has had relatively high retention rates. The loss of Atka mackerel harvests from areas 543, 542, and 541 could put downward pressure on the overall groundfish rate for the sector as retention in the Atka mackerel fisheries, will not be able to compensate for lower retention rates in other groundfish fisheries.

If the sector maintains its current high retention rate, the sector could experience continued lower net revenues from additional holding/processing, transporting, and transferring fish that are of relatively low value or even in some cases unmarketable. However, given the lack of regulatory incentives in the proposed action, there is a potential that retention rates for the Amendment 80 sector could decrease over time, increasing net revenues for the sector. The extent of the change to net revenues from the removal of

the retention standards cannot be determined with any certainty. The magnitude of the change depends on 1) how much the additional fish retained decreases the vessel's hold space available for more valuable product; 2) whether there will be any revenue earned from product derived from the additional retained fish; and 3) the willingness and success of the Amendment 80 sector in administering and monitoring internal sector groundfish retention standards. However, the ability for cooperative formation combined with continued changes in technology, fishing techniques, and developing markets could affect net revenues associated with changes in retention rates. Smaller Amendment 80 vessels are disproportionately affected by retention, as they are more likely to be constrained by hold space, and have less capacity to process a variety of fish.

Although the removal of GRS from federal regulations will not reduce the observer requirements for the Amendment 80 sector or the eliminate the need for weighing all groundfish on a certified flow scale, the removal of the standard would eliminate the need for NOAA OLE to enforce and prosecute a GRS violation, thereby reducing the financial burden for the agency. Although the total cost saving for NOAA OLE is not known, the agency's recently gained experience with enforcing the GRS compliance, as noted in Section 2.2.6, shows that enforcement costs associated with GRS would be extremely high and would only increase under a multi cooperative GRS compliance standard under proposed Amendment 93. As a result, the costs saving from the elimination of compliance monitoring would be substantial.

Environmental Effects of the Alternatives

This action would likely have no impacts on non-specified species, forage species, seabirds, habitat, or the ecosystem previously considered in the harvest specification EIS (NMFS 2007a). Therefore, this analysis will focus on the environmental components that could potentially be affected by this action, namely groundfish stocks, prohibited species, benthic habitat, and Steller sea lions.

Effects on groundfish stocks from the proposed action should not be significant. Discarded catch by the Amendment 80 sector would not affect the condition of groundfish stocks more than any other removal (retained catch). As indicated in the PSEIS, management of these stocks does not allow the fishing mortality rate to exceed the overfishing level.

The effects of the groundfish fisheries in the BSAI on prohibited species are primarily managed by conservation measures developed and recommended by the NPFMC cover the entire history of the FMPs for the BSAI and implemented by federal regulation. These measures include prohibited species catch (PSC) limits on a year round and seasonal basis, year round and seasonal area closures, and gear restrictions. As a result of these management measures, changes in the retention rates by the Amendment 80 sector are likely not to impact prohibited species.

As the Amendment 80 sector operates trawl gear in benthic habitat areas, it is possible that these operations could contribute to impacts on the habitat and mortality. It is not possible to determine the extent of these fisheries contributions to changes in benthic habitat areas, or mortality, or how Alternative 2 may impact benthic habitat areas, compared with Alternative 1 (no action). However, all nonpelagic trawl vessels targeting flatfish in the Bering Sea, including the Amendment 80 sector, are required to use elevated devices on trawl sweeps to raise them off the seafloor. Studies have shown that these devices are effective in reducing trawl sweep impact effect to sea whips and reduced mortality to *C. bairdi* and *C. opilio* crabs. Based on the evaluation criteria used in previous analyses and the likelihood the sector will continue to fish in similar manner, albeit continuing to maintain the sector's current level of groundfish retention or lower, there is likely no effects to the benthic habitat as result of this action.

With regards to SSLs, this proposed action would likely not result in changes in the fisheries that could increase the potential for incidental takes or disturbance of SSLs. Although future fishing behavior cannot be determined with any certainty, the Amendment 80 sector will likely continue to fish a manner that maintains the sector's current retention of groundfish in the BSAI area. As such, the proposed alternative would likely not result in changes to the location or timing of the groundfish fisheries or the gear type that would be used in these fisheries in a manner that would increase interactions with SSLs.

Eric Olsen, Chairman

December 11, 2010

North Pacific Fishery Management Council

Anchorage, Alaska

Subject: Western Gulf P. cod Trawl A Season Opening Date Change

Dear Chairman Olsen:

We would like the Council to initiate an amendment to change the trawl A season opening date in the P. cod fishery in the Western Gulf.

The current January 20 opening was set when the Council was trying to ensure that all of the BSAI and GOA trawl fisheries began at the same time in order to spread out the fleets. Since that time, AFA was enacted and the Council has adopted several measures in the Gulf that also alleviate the concerns that kept the uniform opening dates in place.

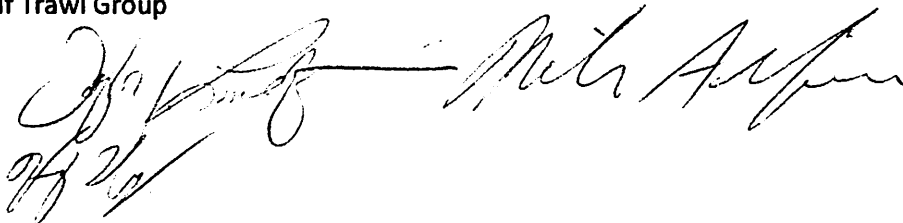
Therefore we believe that when Amendment 83 (GOA sector split) is implemented the WGOA P.cod trawl A season should begin around February 15. We recommend a range of dates for analysis between February 15 and March 1.

In the WGOA the cod do not begin to aggregate until mid to late February. With the earlier opening date, some vessels will go out fishing and this could result in higher bycatch rates and a race for TAC in the trawl sector.

We support the AP motion, and hope that the council will add this item to its agenda in a manner that would allow for implementation when Amendment 83 takes effect.

Thank you for your consideration,

Western Gulf Trawl Group



Comments concerning GOA Chinook Bycatch

Sand Point and King Cove Pollock Fleet

We are Western GOA fishermen engaging in salmon, crab, groundfish and Pollock trawling. Our communities rely heavily on the fishing industry.

Eastern Aleutian Cooperative Surveys.



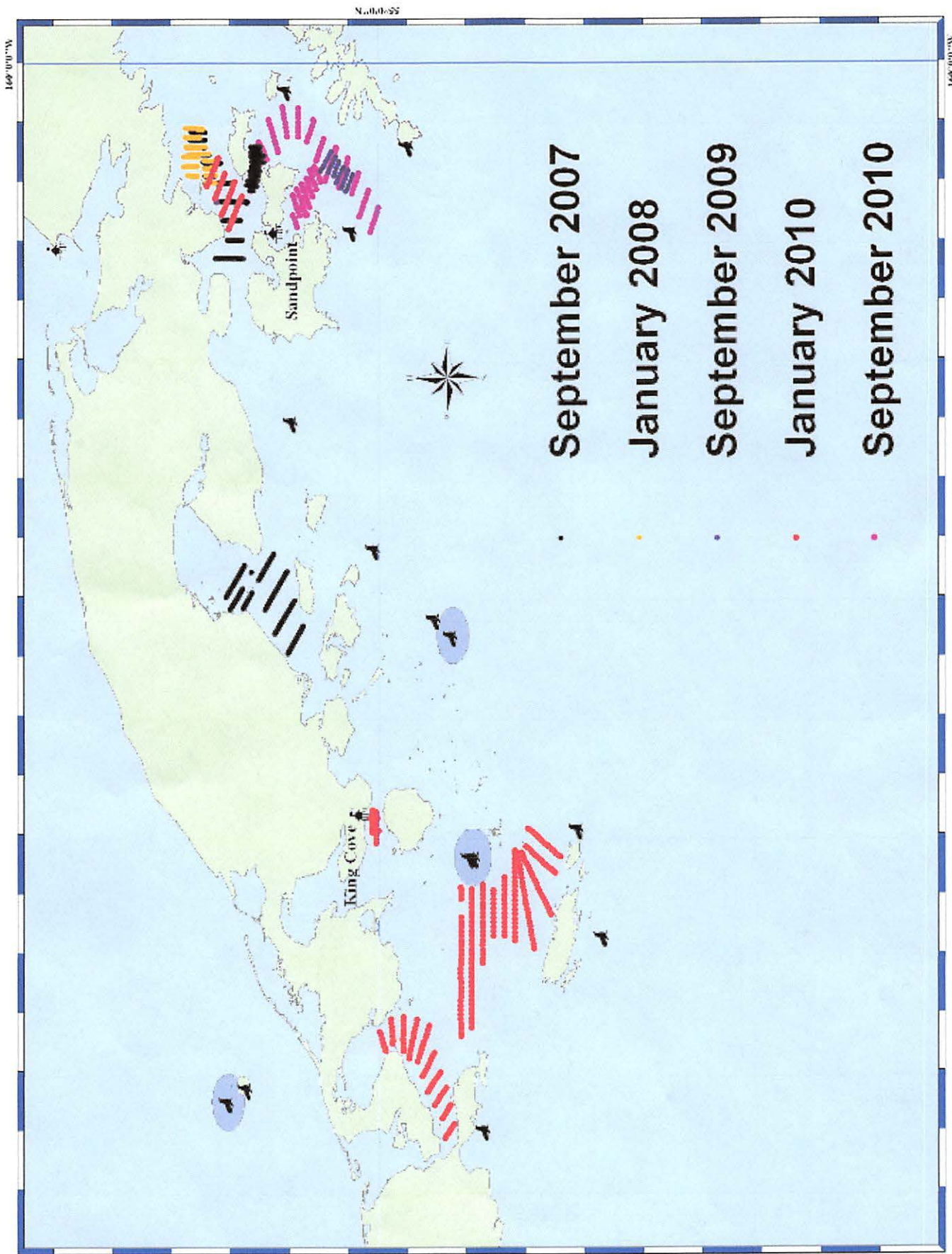
Martin Dorn NMFS/AFSC & Vidar G. Wespestad RAI/AEB

Survey developed to assist the NMFS GOA Pollock survey by investigating variation in distribution of Pollock

Recently the survey has been expanded to survey krill and forage fish, and in 2010 marine mammal observations were added.

Preliminary results of the 2010 survey indicate that krill abundance was very high in 2010 and the biomass of Pollock and forage fish presumably accounted for the high abundance of Chinook in the area. The survey captured a total of 4 Chinook during it's ~~test tows~~ test tows.

Normally, 1 or 2 are taken over the course of the survey. The Chinook taken averaged 3 kg.



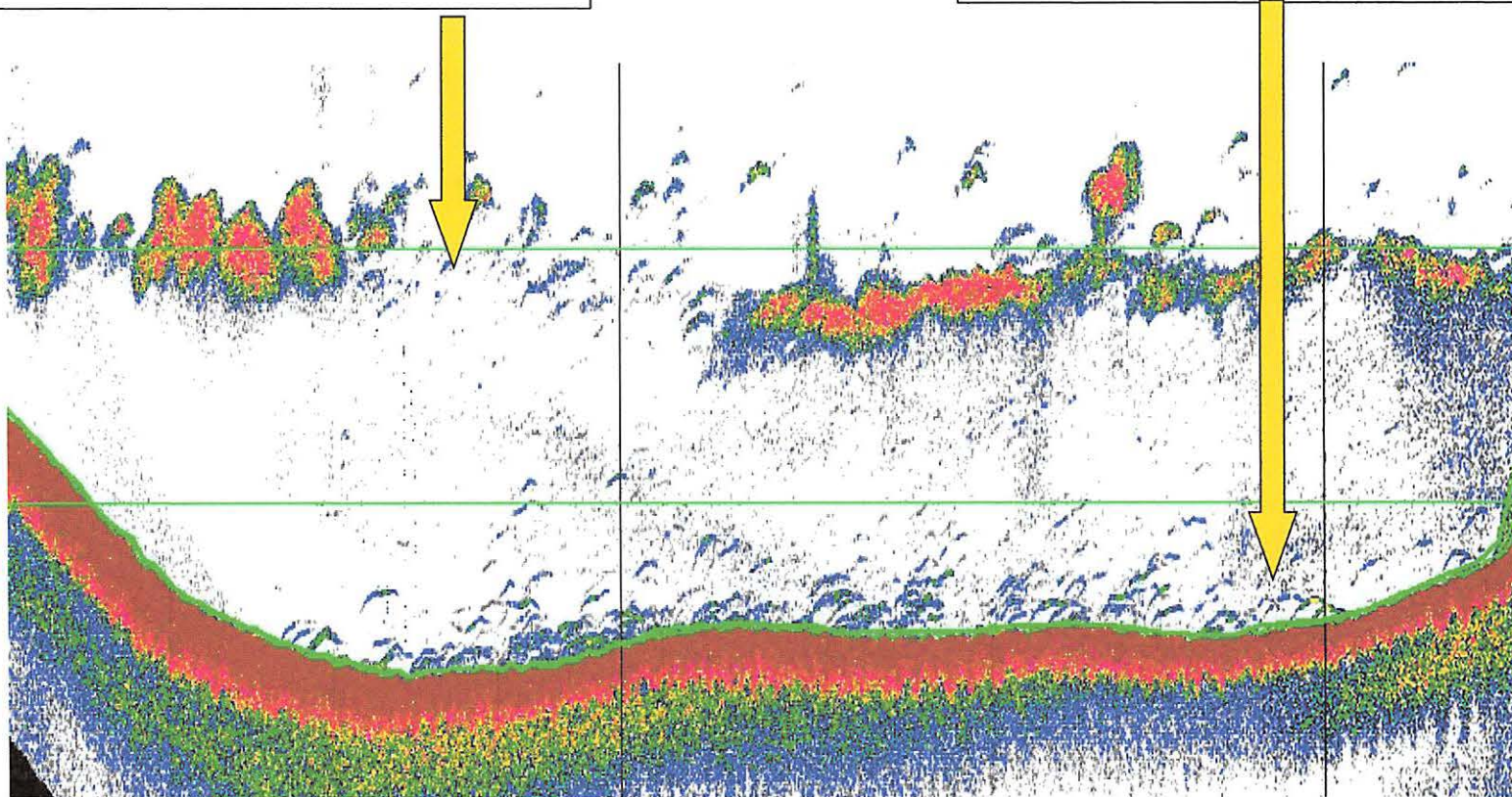
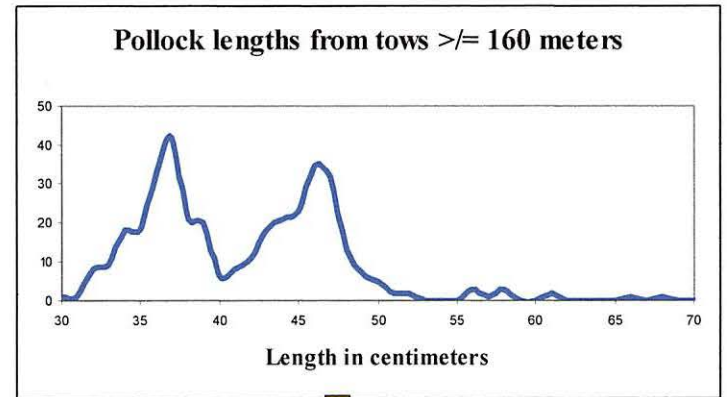
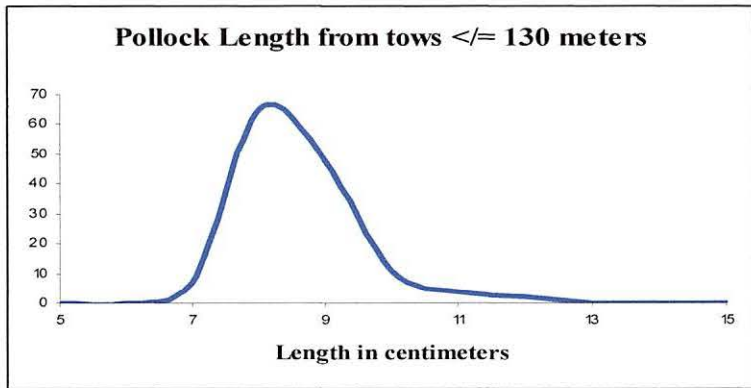
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• January 2008

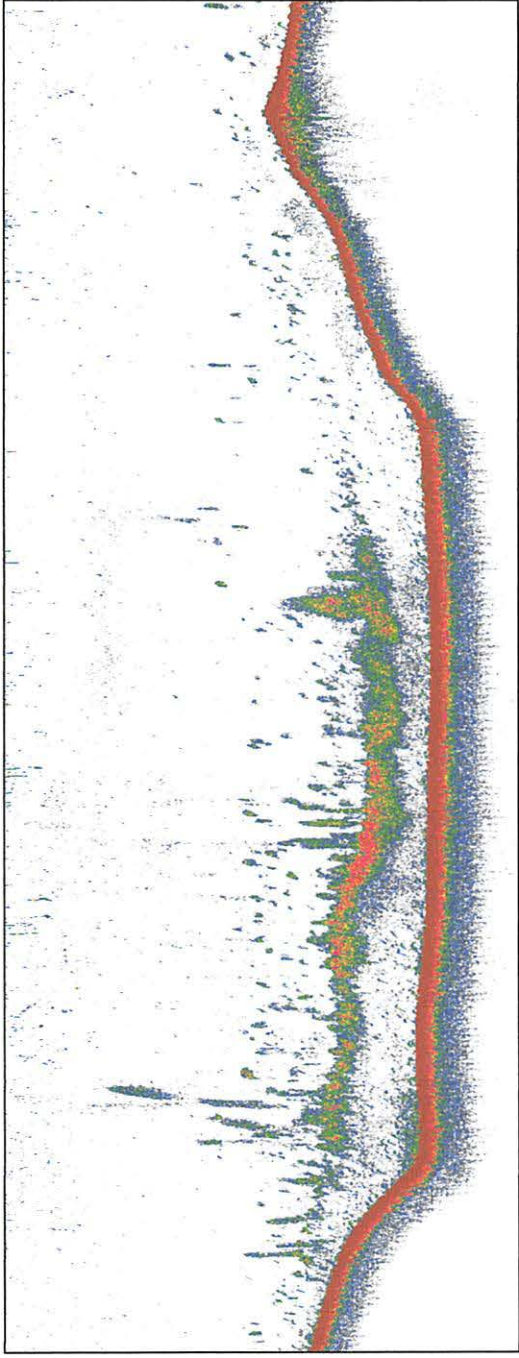
• September 2009

• January 2010

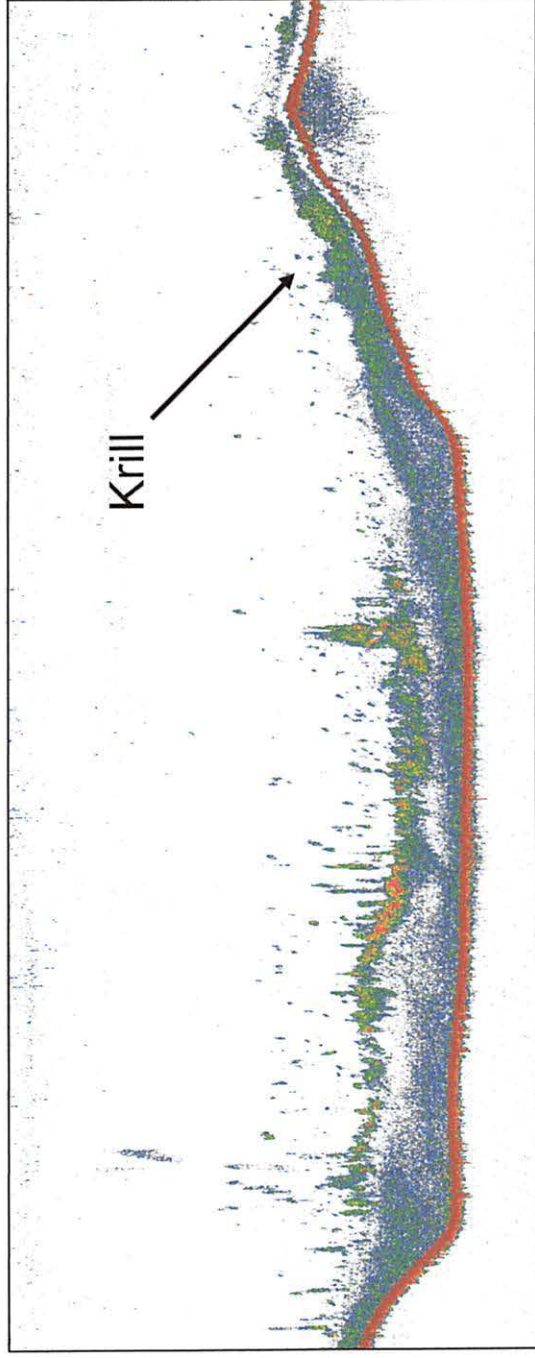
• September 2010



38 kHz echosounder



120 kHz echosounder



2010 Fishery

- Total take? No question that Chinook bycatch was higher, but.....
- In Area 610, there is a question of total take. Only large vessels were observed, while vessels 60 ft. and under were unobserved, yet delivered unsorted catches. A compilation of fish tickets produced a count of about 10,000 Chinook delivered to processing plants. The **observed** GOA boats have 7,451 fish in the pollock fishery and 4,256 in other fisheries. The extrapolation from the observed catch may be erroneously higher than the actual catch, we strongly believe this to be much lower.

Western GOA Chinook Salmon Bycatch Avoidance Plan.

It should be recognized that this is an anomalous year and Chinook appear to be much more abundant than in previous years.

The fishermen in the Western GOA acknowledge that they need to take action to keep bycatch below the 40,000 fish ESA limit. These are the following actions we are willing to undertake to reduce the bycatch.

- Full retention is currently practiced, but it should become a regulatory requirement to insure full compliance. Validation – Observation – best to propose looking into development or purchase of video monitoring systems. It may be better to help design a sampling system than to have a 100% mandated program.
- Reduced trip limits to reduce tow time and make it more attractive to fish when Chinook vulnerability is lower.
- Adjustment of time periods, (ie; moving D season into A, B & C seasons). In moving the fisheries to earlier in the fall this will exclude late fall periods of higher Chinook abundance.
- Due to the restricted fishing areas in Area 610, we opposed the use of HOTSPOT closures in the Western GOA.
- At this time, we are not in support of, or opposed to the creation of mandatory bycatch co-ops until we learn more about there pro & cons.
- Investigation of the feasibility of using salmon excluders in trawls.