

Essential Fish Habitat (EFH)

Status Report

to

North Pacific Fishery Management Council

Michael Payne

April 11, 2001

Litigation Summary

Plaintiffs argue that the defendants developed and approved FMP amendments that violate the MSA are arbitrary, capricious and contrary to law in violation of the APA.

The amendment did not:

- (1) Contain an adequate assessment of the effects of fishing and fishing gear on EFH;**
- (2) Contain an adequate identification and assessment of potential measures to minimize adverse effects of fishing on EFH;**
- (3) Failed to impose practicable measures to minimize the impact of fishing activities on EFH.**

Plaintiffs claim that bottom trawling and other fishing activities harm EFH.

- Various fishery management measures can be used to protect EFH from the effects of fishing activities such as these. However, defendants have failed to investigate adequately certain measures to determine whether they are practicable.**
- Defendants have failed to identify, include, and implement practicable measures to protect EFH in these waters. These failures violate non-discretionary duties imposed upon defendants by the plain language of the MSA and implementing regulations.**
- Additionally, plaintiffs argue that the defendants' approved these amendments in reliance upon inadequate environmental analyses in violation of the NEPA.**

Plaintiffs claim that the EA contains an inadequate evaluation of the environmental effects of the proposed action. Therefore, the EA lacks justification for the agency's finding of no significant impact by and fails to:

- Evaluate the long-term or cumulative impacts of approving the amendments on EFH affected by ongoing fishing activities, including but not limited to bottom trawling;
- Adequately evaluate practicable methods to minimize the effect of fishing on EFH; and
- Address an adequate range of alternatives.

Court Decision Summary

Plaintiffs asked the court to consider:

- A declaratory judgment that defendants violated the MSA, NEPA, and the APA by approving the North Pacific EFH groundfish amendments;
- A remand of the legally deficient sections of the EFH groundfish amendments to defendants with instructions to revise them, and by a date certain, to comport with the requirements of the MSA, including the requirement to assess and minimize the adverse effects of fishing gears on EFH to the extent practicable, and
- An order requiring defendants to prepare a new analysis that complies with NEPA to accompany the revised EFH groundfish amendments and to include in that NEPA analysis an assessment of the long-term and cumulative environmental impacts of minimizing the adverse effects of fishing on EFH, along with a detailed assessment of alternative methods for protecting EFH.

Court Decision Summary (continued)

On September 14, 2000, the U.S. District Court for the District of Columbia issued the following memorandum opinion and order in the EFH lawsuit;

- The EFH Amendments did not violate the MSA, but they did violate NEPA. Therefore, the court ordered the Defendants to perform a new and thorough EA or EIS for all the challenge amendments, including Amendments 55/55, in compliance with the requirements of NEPA.
- The court issued a permanent injunction, enjoining Federal defendants from enforcing the EFH amendments until the Secretary performs a new, thorough, and legally adequate EA or EIS for each EFH Amendment, in compliance with the requirements of NEPA.

MSFCMA Claim

In determining whether the actions of the Defendants were non-compliant with the MSA and therefore in violation of the APA, the court applied a highly deferential standard of review of the agency's actions given the highly complicated scientific data that the agency must interpret. The court concluded that the Secretary's approval of Amendments 55/55 was reasonable, finding that the Secretary approved the amendments after considering whether the amendments complied with the MSA, given how little scientific information was available to the Council at that time.

The court also determined that it was reasonable for the Secretary to conclude that the amendments did not need to include additional protective measures, given the lack of scientific evidence available to the Council and the Secretary and the existing protective measures already in place.

NEPA Claim

In determining whether the actions of the Federal defendants were non-compliant with NEPA and therefore in violation of the APA, the court reviewed the EAs and concluded that each of the EAs were insufficient and failed to comply with the requirements of NEPA and the regulations promulgated by CEQ and NOAA. The court based this decision on several deficiencies:

- The EAs did not consider the factors for determining significance in deciding whether an EIS was necessary as outlined in NOAA's own Administrative Order on NEPA.
- All of the EAs discuss the environmental impacts of the proposed action and alternative(s) in vague and general terms, without discussing what the impact would be to the specific EFHs that the Amendments are intended to protect; and
- All of the EAs spent more time describing the proposed alternative and the requirements of NEPA than actually analyzing the proposed alternative and complying with the requirements of NEPA; and

NEPA Claim (continued)

- The EAs failed to consider all relevant and feasible alternatives and failed to fully explain the environmental impact of the proposed action and alternatives.
- The EAs did not meet the following four factors set for evaluating the legal adequacy of an EA or a FONSI.
 - 1) The EAs did not take a "hard look" at the problem (the court found that there was no substantive discussion of the actual environmental consequences and impacts of fishing on the designated EFHs).
 - 2) The EAs failed to identify the relevant areas of environmental concern (the court found that the EAs only discuss fish habitats in general terms, describing the types of EFHs that should be protected, but not specifying which EFHs needed protection and why).
 - 3) The EAs failed to make a convincing case that the impacts from the action were insignificant.
 - 4) Finally, the EAs failed to demonstrate that any significant impacts were mitigated by the alternative selected.

NMFS - TIMETABLE AND STATUS OF EIS ANALYSIS

Where are we now?

- Settlement discussions relative to the timetable for completion of the EFH EIS on the NPFMC FMPs are ongoing. The timetable we are working on at this time is consistent with that used to develop the groundfish EIS - 24 months; however, this is still under negotiation.
- NMFS/AKR is developing of Notice of Intent to conduct scoping on actions that need to be addressed by NMFS and the alternatives that might be examined in the NEPA analysis. This notice must describe the scoping process including logistics for meetings.

Where are we now? (continued)

- Concurrent with the scoping process, we are developing technical teams:
 - a) to standardized an analytical approach to quantify, to the extent practicable, the impact of fishing activities on EFH for each of the FMPs; how much habitat is needed to achieve MSY or some comparable metric of fisheries sustainability for each FMP; how much is currently being fished; how much is protected already; and finally,
 - b) to consider options for designating EFH other than the status quo.

Final Thoughts

Since the focus of the AOC v. Daley is the effects of fishing on EFH, the portion of the EIS dealing with options to address fishing impacts is considered most important. Therefore, it is critical that we are clear in how we measure these potential impacts and , to the extent practicable, whether alternatives are present to minimize any potential adverse effects.

Finally, NMFS recommends that this be a NPFMC issue for each of the following meetings to, at a minimum provide an update, but more importantly to get a buy-in on the analytical approach used to quantify impacts and identify EFH for each FMP.

Status of Action on FMP Amendments
 Report to Council April 11, 2001

FMP Amendment Status: <u>Actions Since February 2001 Council Meeting</u>	Date of Council Action	Start Regional Review	Transmittal Date of proposal to NMFS Headquarters for Review	Proposed FMP Amendment Notice of Availability Published	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Groundfish FMPs						
Amends. 48/48: Reform TAC specification process	April 1998	6-2-1998				
Amends. 54/54: IFQ program changes	October 1998	10-1-1999				
Amends. 60/58/10: LLP 1, crab recent participation, etc. <u>Decision day is April 18, 2001</u>	October 1998; April 1999	7-28-1999	Jan. 2, 2001	Jan. 17, 2001 66 FR 3976 <u>Comment period end Mar 19, 2001</u>	<u>Mar 30, 2001</u> <u>66 FR 17397</u> <u>Comment period end April 30, 2001</u>	
Amend. 60 GOA: Cook Inlet bottom trawl ban	Sept 2000	<i>Analysis rec. from Council staff 3-19-2001</i>				
Amends. 61/61/13/8: AFA management of co-ops and sideboards	June 1999 June 2000 Sep. 2000	<i>EIS and PR docs in internal review & revision</i>				
Amends. 65/65: HAPC Part 1	April 2000	<i>Letter to Council 1-31-2001</i>				
Amend. 66 BSAI: Remove squid CDQ – Approved 8-30-00	June 1999	8-15-1999	May 15, 2000	May 30, 2000 65 FR 34434	Jul. 17, 2000 65 FR 44018	<u>Mar 7, 2001</u> <u>66 FR</u> <u>13672</u>
Amend. 67 BSAI: LLP 2, gear and Pcod endorsements	April 2000	3-12-2001				

Status of Action on FMP Amendments
 Report to Council April 11, 2001

FMP Amendment Status: <u>Actions</u> <u>Since February</u> <u>2001 Council</u> <u>Meeting</u>	Date of Council Action	Start Regional Review	Transmittal Date of proposal to NMFS Headquarters for Review	Proposed FMP Amendment Notice of Availability Published	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Crab FMP						
Scallop FMP						
Salmon FMP						
Amend. 6: Over- fishing definition	February 1999	3-30-99				

Status of Action on Regulatory Amendments
 Report to Council April 11, 2001

Regulatory Amendment Status: <u>Actions</u> <u>Since February</u> <u>2001 Council</u> <u>Meeting</u>	Date of Council Action	Start Regional Review of Proposed Rule	Transmittal Date of Proposed Rule to NMFS Headquarters	Proposed Rule Published in <u>Federal Register</u>	Final Rule Published in <u>Federal Register</u>
Groundfish Regulations					
IFQ Omnibus 3	NMFS	May 20, 1998	June 1, 2000	Dec. 14, 2000 65 FR 78126; Comments due Jan. 16, 2001	<i>Draft final rule sent to HQ March 8, 2001</i>
Recordkeeping and Reporting rule changes for 2001	NMFS	Aug. 31, 2000	Nov. 28, 2000	<i>Draft PR under review at HQ; revisions sent to HQ 4-3-2001</i>	
Commercial Operator's Annual Report (COAR)	June 1999	Sept. 16, 1999	Aug. 3, 2000	Dec. 14, 2000 65 FR 78131; Comments due Jan. 16, 2001	<i>Draft final rule sent to HQ March 30, 2001</i>
Length overall (LOA) definition revision	NMFS	Oct. 15, 2000	Jan. 25, 2001	<i>Draft PR under review at HQ</i>	
DSR full retention and donation rules	June 1999	<i>Analysis received from Council staff 10-25-00</i>			
Revision to appeals regulations re. timing of motions	NMFS				
Revision of IR-IU rules	February 1999				
HMAP					

Regulatory Amendment Status: <u>Actions Since February 2001 Council Meeting</u>	Date of Council Action	Start Regional Review of Proposed Rule	Transmittal Date of Proposed Rule to NMFS Headquarters	Proposed Rule Published in <u>Federal Register</u>	Final Rule Published in <u>Federal Register</u>
Halibut Regulations					
Halibut annual management measures	IPHC January 2001	<u>Feb. 23, 2001</u>	<u>March 5, 2001</u>		<u>March 21, 2001</u> <u>66 FR 15801</u> <u>Effective</u> <u>March 15, 2001</u>
Halibut charter boat GHL	February 2000: December 2000	<u>Feb. 26, 2001</u>			
Halibut Subsistence fishing provisions	October 2000	Analysis received from Council staff 2-2-01			
Halibut 4D/4E issues: trip limits; location of catch	October 1998	<i>Proposed rule and analysis under construction.</i>			
Crab Regulations					
Crab LLP license and vessel buyback program	Congress December 2000	<i>Proposed rule and analysis under construction at HQ with Region assist.</i>			
Crab CDQ season start date	October 1998	Nov. 27, 2000			

Status of Emergency Rules and Other Actions
 Report to Council April 11, 2001

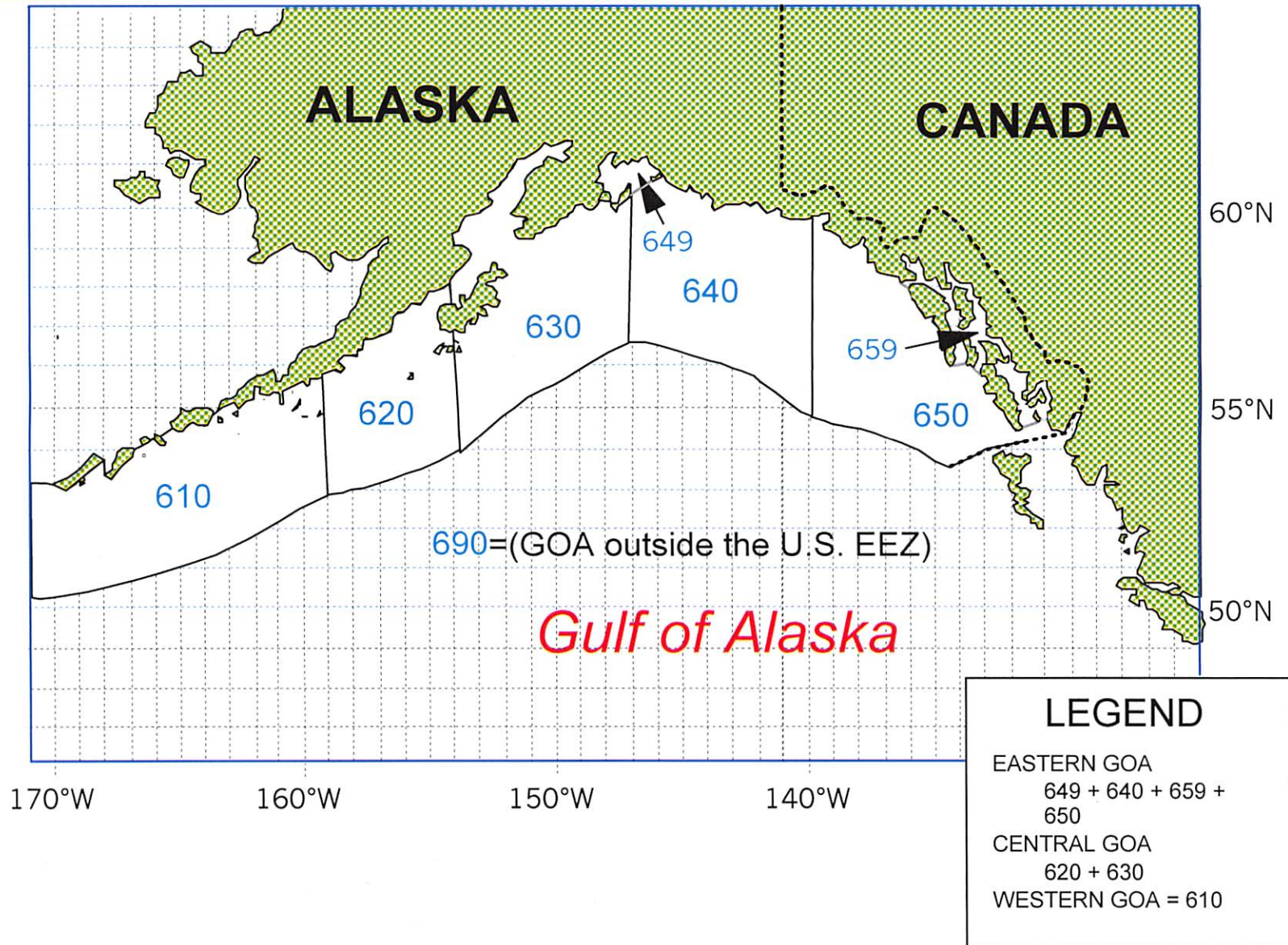
Emergency Rules and Other Actions Status: <u>Since February 2001 Council Meeting</u>	Date of Council Action	Start Regional Review	Transmittal Date of Action to NMFS Headquarters	Proposed Action Published in Federal Register, if any	Final Action Published in Federal Register
Emergency Rule Actions					
Emergency rule to implement SSL protect. measures; final 2001 TACs	NMFS	Jan. 8, 2001	Jan. 11, 2001		Filed by OFR Jan. 18, 2001; Published Jan. 22, 2001 66 FR 7276
Corrections to ER implementing SSL protect. measures; final 2001 TACs	NMFS				<u>March 20, 2001</u> <u>66 FR 15656</u>
Amendment to ER implementing SSL protect. measures to relax restrictions on small vessels	NMFS				<u>March 29, 2001</u> <u>66 FR 17083</u>
Adjustment to ER implementing SSL protect. measures; 2001 TACs to adj. halibut bycatch lim.	NMFS				<u>March 29, 2001</u> <u>66 FR 17087</u>
Other Actions					
Notice extending public comment period on Draft Groundfish PSEIS to June 25, 2001					<u>March 23, 2001</u> <u>66 FR 16226</u>

APRIL, 2001

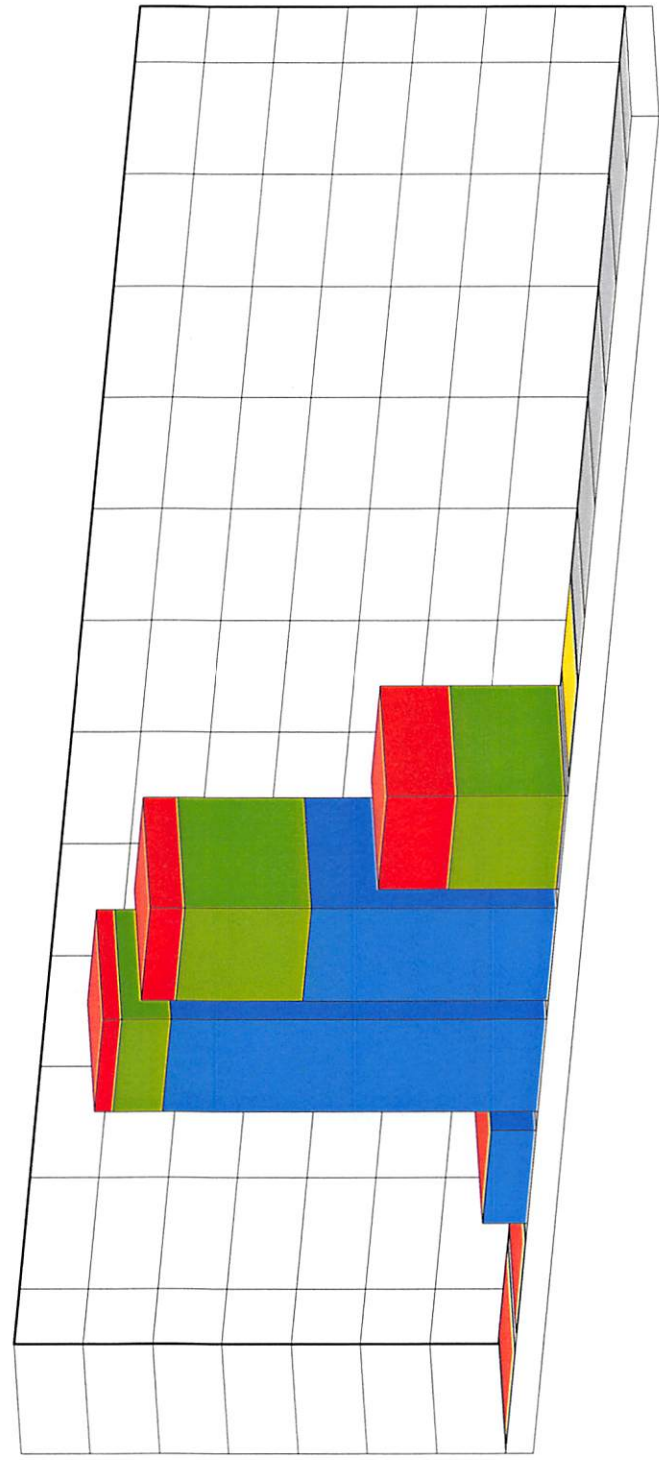
**NMFS FISHERIES
MANAGEMENT
REPORT**



GOA REPORTING AREAS



2001 WESTERN & CENTRAL GOA POLLOCK CATCH





2001 WESTERN & CENTRAL GOA POLLOCK CATCH

	'A' TAC Specified	'A' Catch	'B' TAC Adjusted	'B' Catch	Total A/B Catch	Total A/B TAC
610	7,707	9,720	2,011	1,950	11,669	11,561
620 Out	560	14	280	94	108	
630 Out	5,474	5,068	2,964	3,974	9,043	8,211
Shelikof	12,413	5,007	12,413	3,954	8,961	18,619

Open Status

610 01/20 - 01/29
 03/15 - 03/16
 03/21 - 03/21 noon to midnight

620 Outside Closed

630 Outside 01/20 - 02/14
 03/15 - 03/17

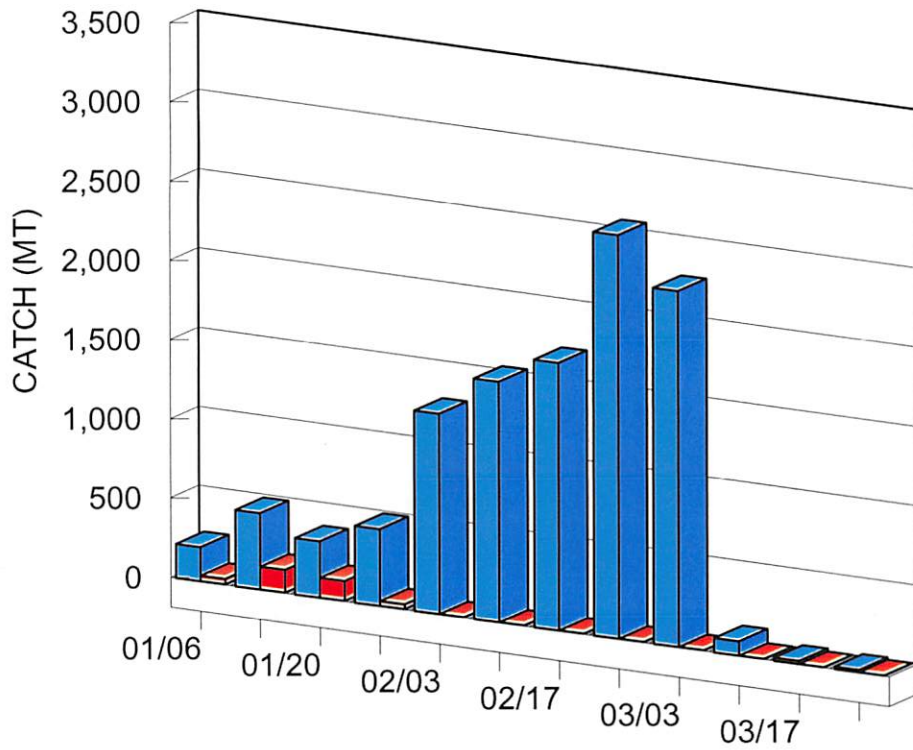
Shelikof Strait 01/20 - 03/01 by regulation
 03/15 -

(through 3/24/01)

2001 GOA 'A' SEASON PCOD CATCH BY MANAGEMENT AREA & WEEK

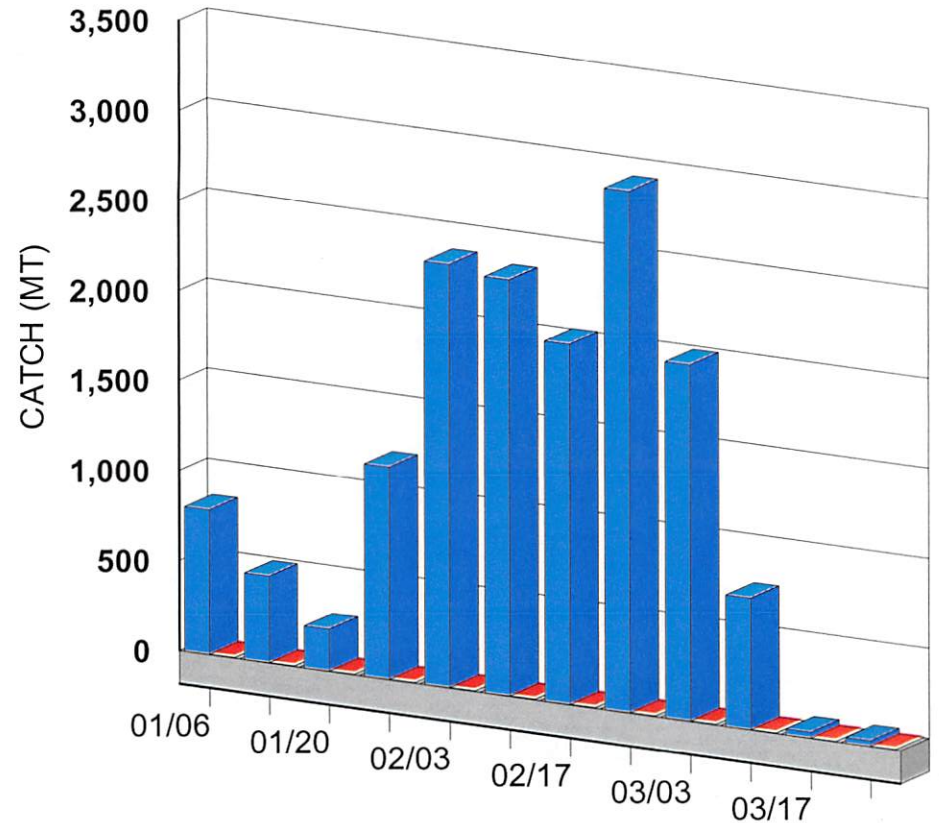
WESTERN GOA

■ WESTERN INSHORE
■ WESTERN OFFSHORE



CENTRAL GOA

■ CENTRAL INSHORE
■ CENTRAL OFFSHORE



(through 3/24/01)



2001 GOA 'A' SEASON PCOD CATCH BY MANAGEMENT AREA

	Total	Inshore	Offshore
Western TAC	10,980	9,882	1,098
Western Catch	11,258	10,921	336
Central TAC	18,150	16,335	1,815
Central Catch	15,033	15,033	0

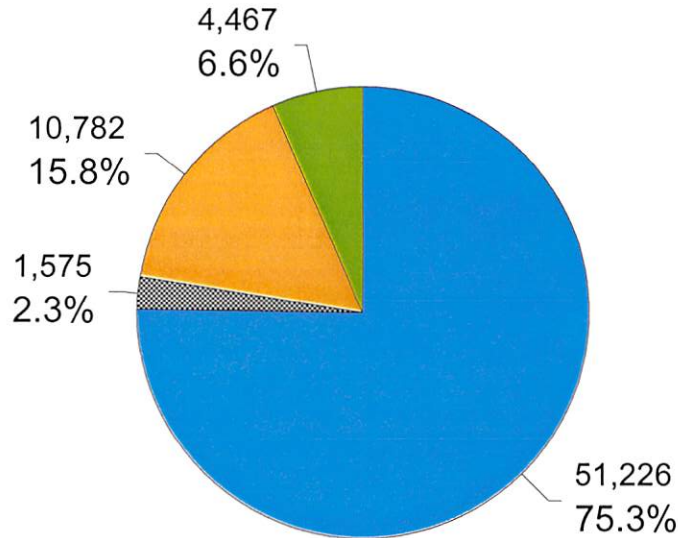
Closure Status

	Open	Re-opens
Western Inshore	01/01 - 02/27	06/10
Western Offshore	01/18 -	
Central Inshore	01/01 - 03/04	06/10
Central Offshore	01/18 -	

(through 3/24/01)

2001 GOA GROUND FISH CATCH & HALIBUT MORTALITY BY GEAR & TARGET FISHERY

GROUND FISH CATCH (MT)



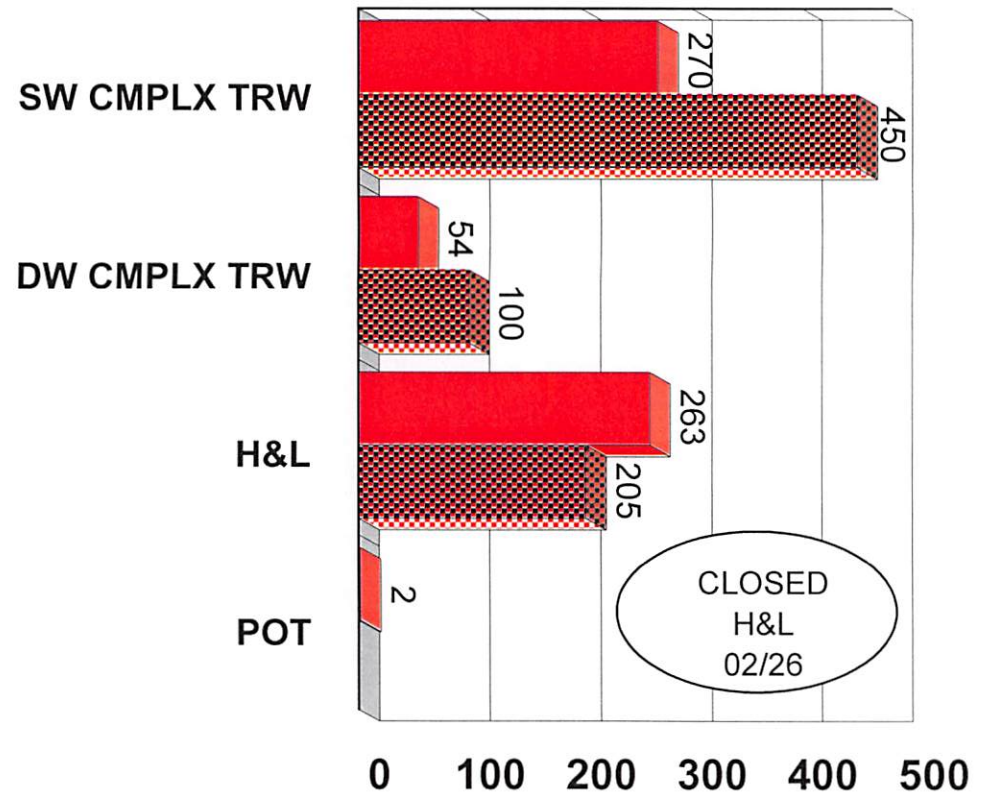
Total: 68,050

- SW Cmplx Trw
- DW Cmplx Trw
- H&L
- POT

SW COMPLEX = shallow water complex; pollock, Pacific cod, shallow water flatfish, flathead sole, Atka mackerel, and "other species"

DW COMPLEX = deep water complex; sablefish, rockfish, rex sole, Arrowtooth flounder, and deep water flatfish. Pot is exempt.

HALIBUT MORTALITY (MT)



- HALIBUT MORTALITY
- SEASONAL MORTALITY ALLOCATION

through 3/24/01)



2001 TARGET SPECIES

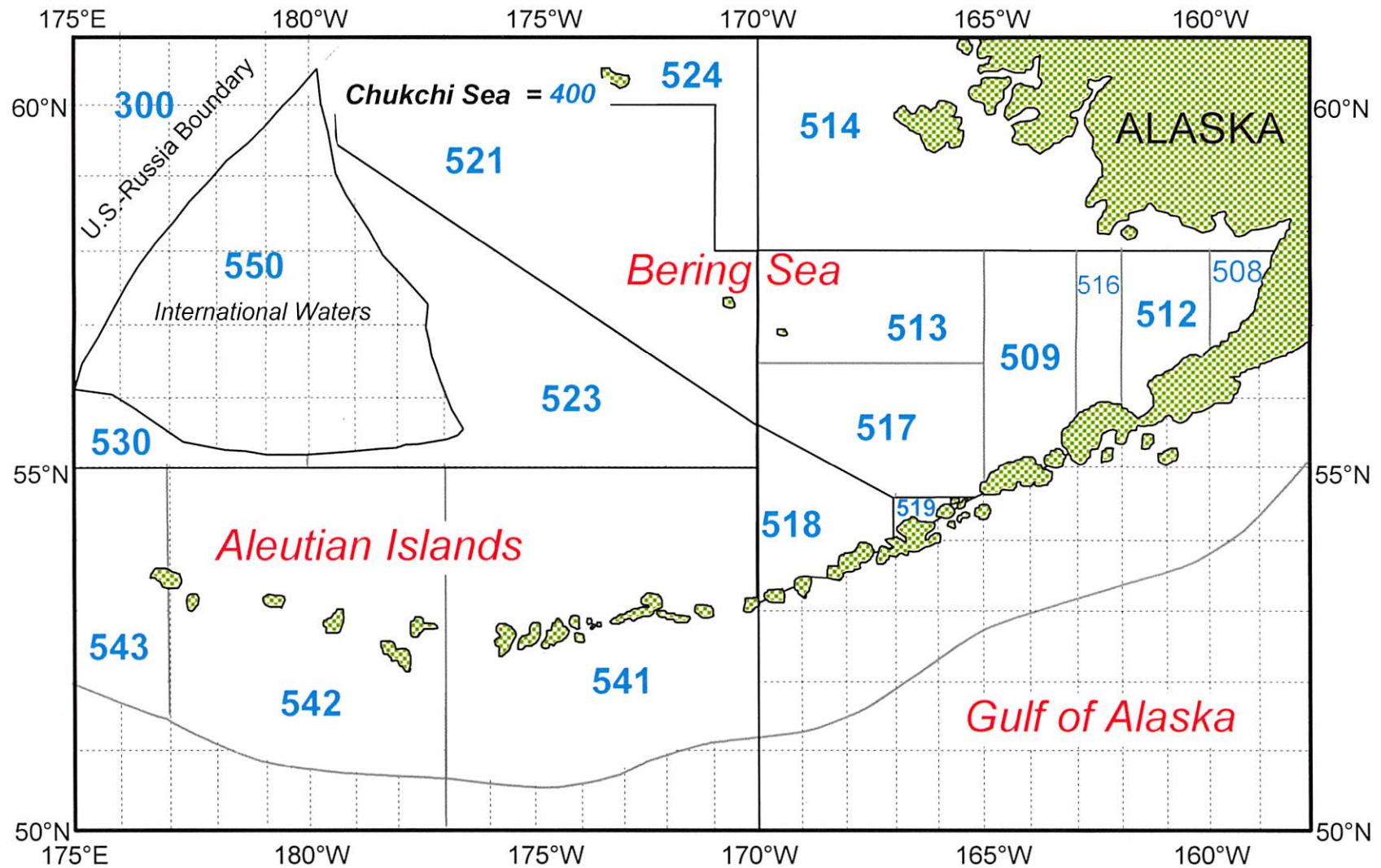
ARTH	Arrowtooth flounder, sablefish, and Greenland turbot
ATKA	Atka mackerel
FLTS	flathead sole
DFLT	Deep water flatfish: Dover sole and Greenland turbot
SFLT	Shallow water flatfish includes flatfish not including deep water flatfish, flathead sole, Rex sole, or Arrowtooth flounder
OFLT	Other flatfish includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder
ORCK	Other rockfish includes all Sebastes and Sebastolobus species except for Pacific Ocean perch, sharpchin, northern, shortraker, and roughey rockfish
OTHR	Other species includes sculpins, sharks, skates and octopus.
PCOD	Pacific cod
PLCK	Pollock is defined by catch composition, not reported gear type: pollock, Atka mackerel, and "other" species
ROCK	All rockfish
RSOL	Rocksole, flathead sole, and other flatfish
YSOL	Yellowfin sole



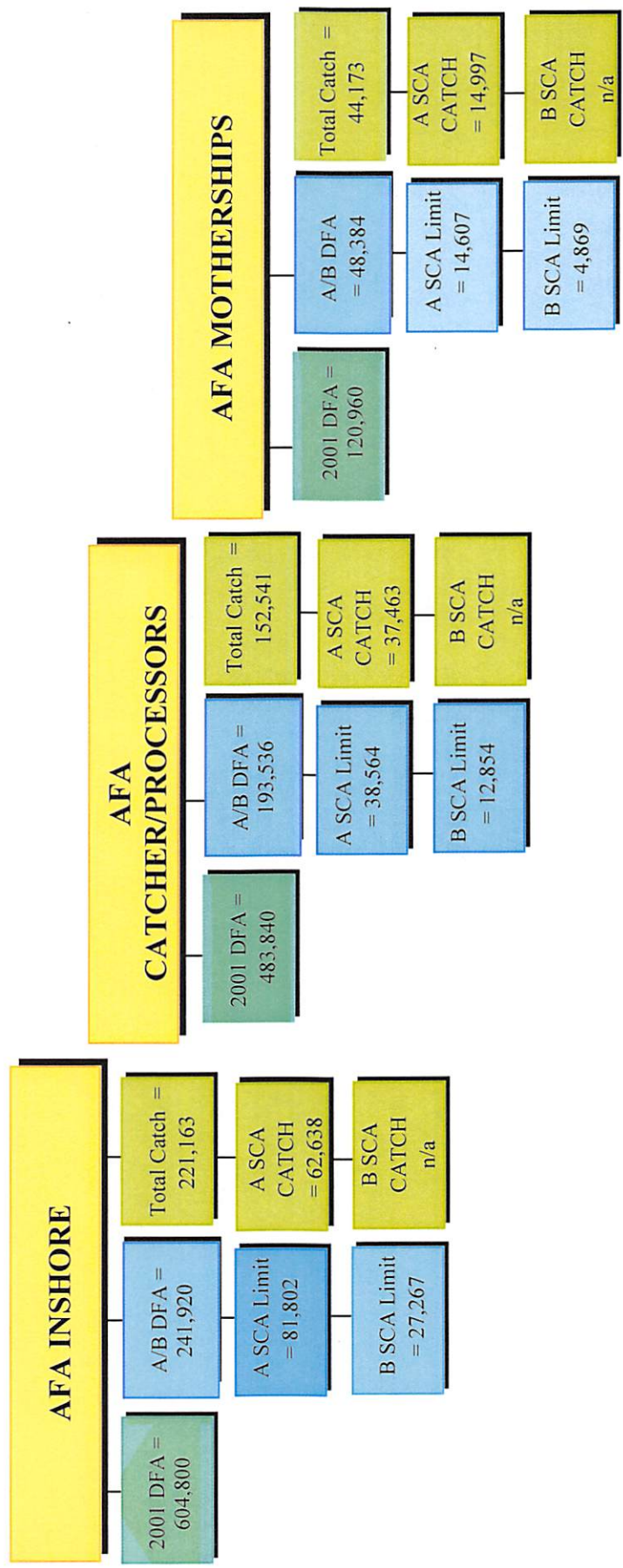
SHALLOW WATER
COMPLEX
pollock, Pacific cod,
shallow-water flatfish,
flathead sole, Atka
mackerel, and "other
species"

DEEP WATER COMPLEX
sablefish, rockfish, rex sole,
arrowtooth flounder, and
deep-water flatfish

BSAI REPORTING AREAS



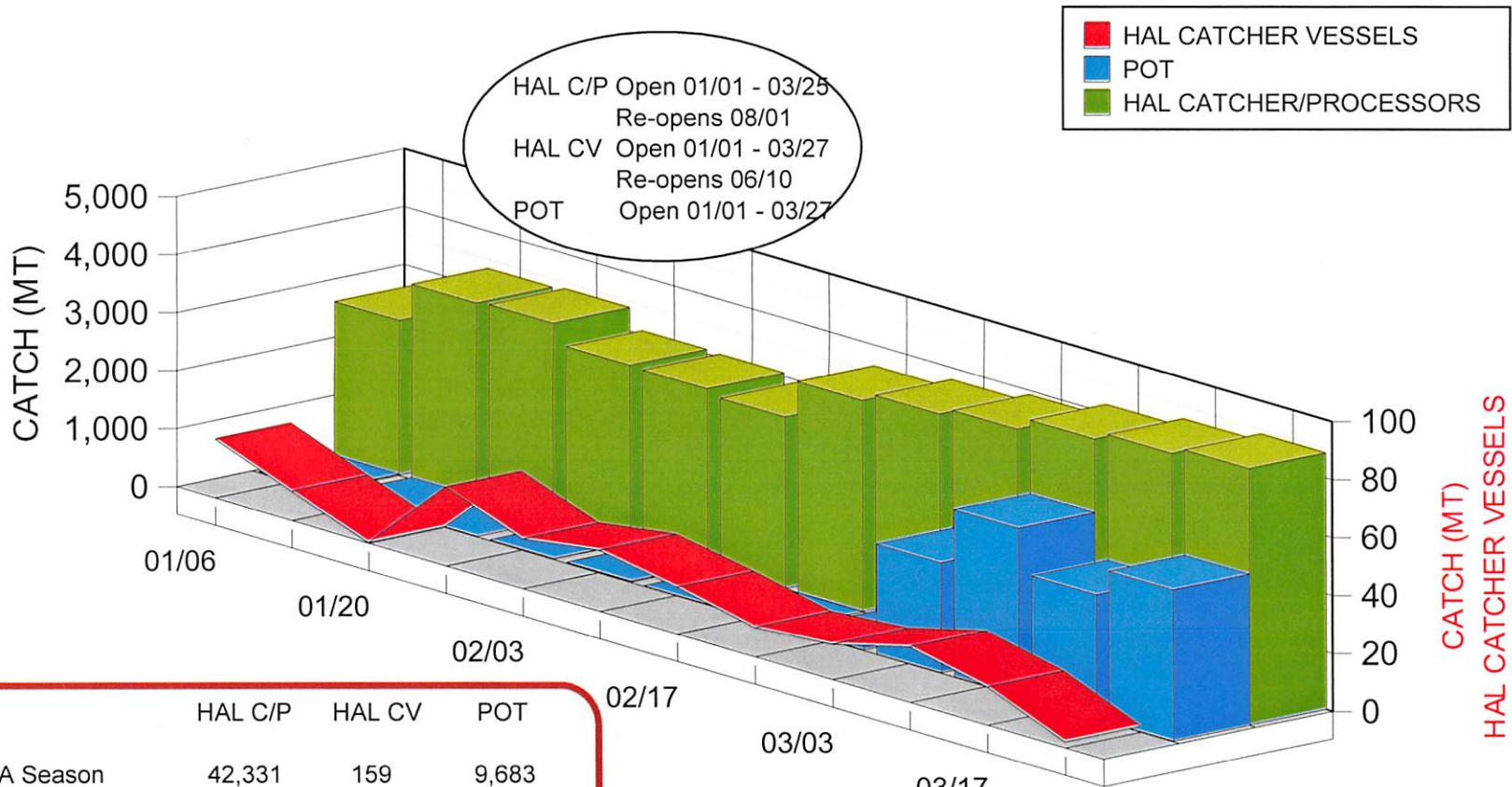
2001 BERING SEA AFA POLLOCK A/B SEASON FISHERIES



DFA = directed fishing allowance
SCA = Steller Sea Lion Conservation Area

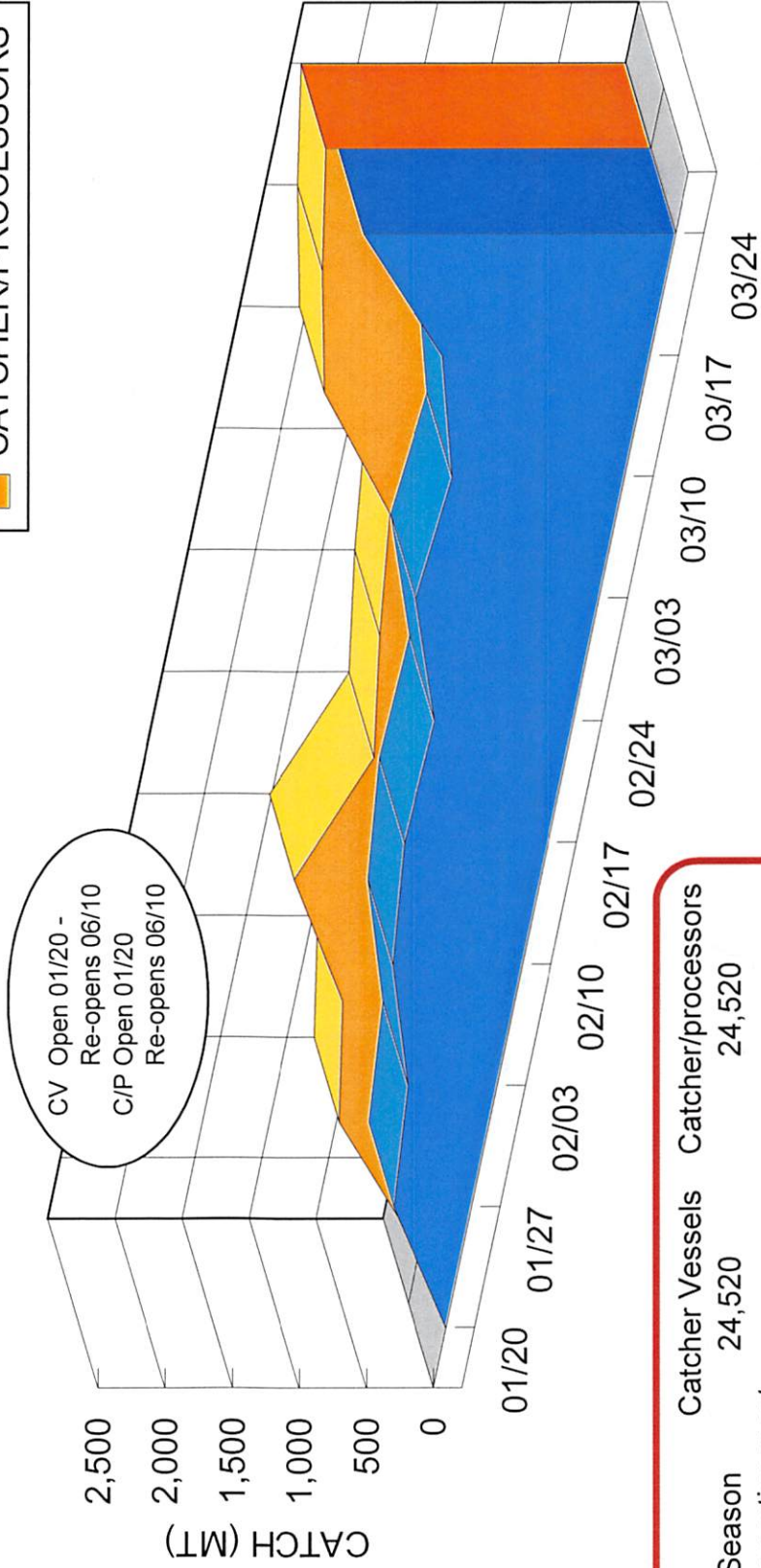
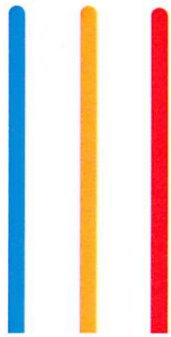
(through 03/24/01)

2001 BSAI FIXED GEAR PACIFIC COD CATCH



(through 3/24/01)

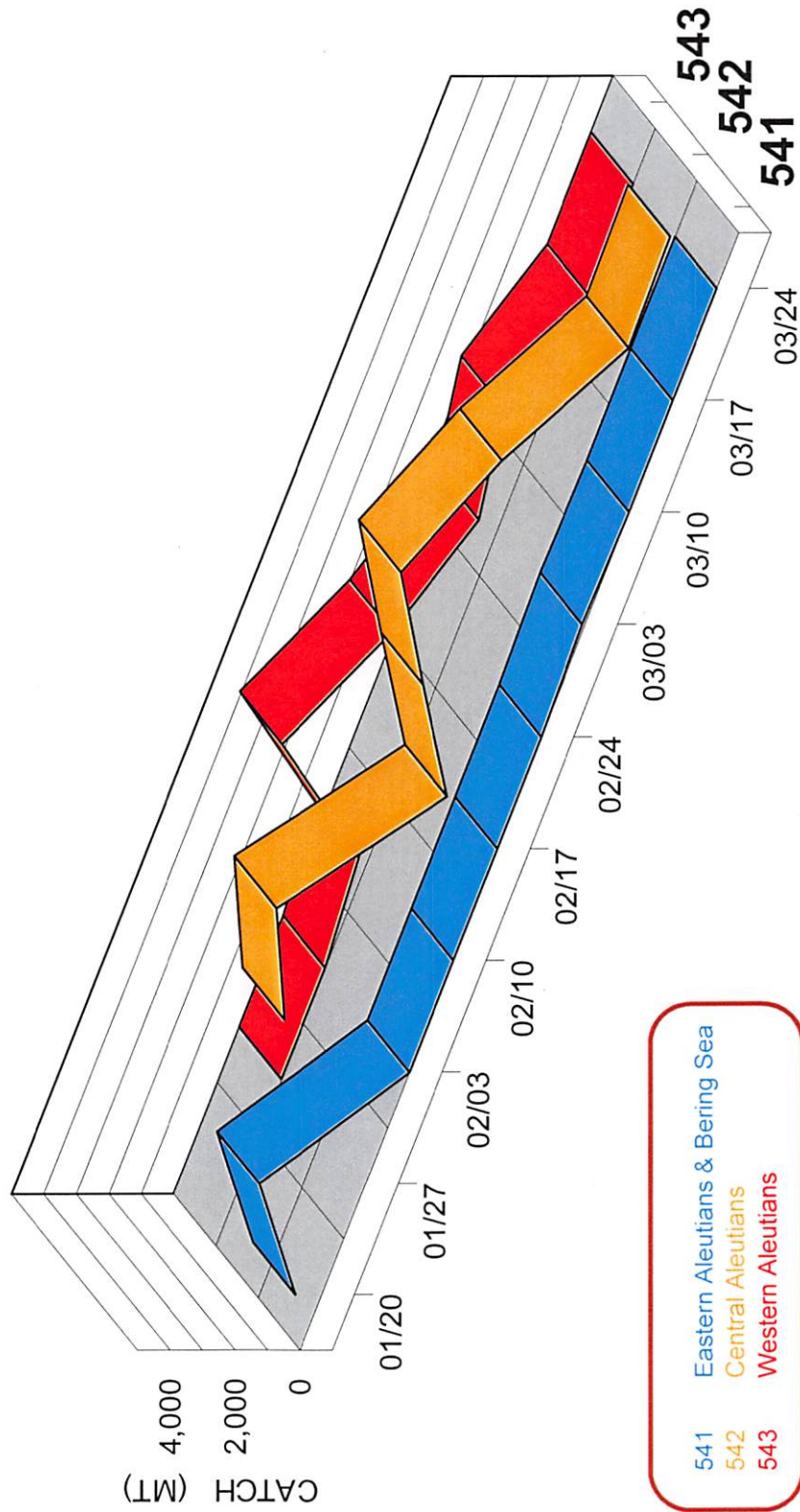
2001 BSAI PACIFIC COD TRAWL GEAR CATCH



A Season	Catcher Vessels	Catcher/processors
Apportionment	24,520	24,520
Total catch, mt	10,841	13,797

(through 3/24/01)

2001 ALEUTIAN ISLANDS 'A' SEASON ATKA MACKEREL CATCH



2001 ALEUTIAN ISLANDS 'A' SEASON ATKA MACKEREL CATCH

	541	542	543
A Season Apportionment	3,572	15,540	12,904
Total 'A' Season Catch	4,228	16,597	8,365
Critical Habitat Apportionment	0	7,148	6,194
Amount Taken Inside CH	0	6,805	5,688

Closure Status

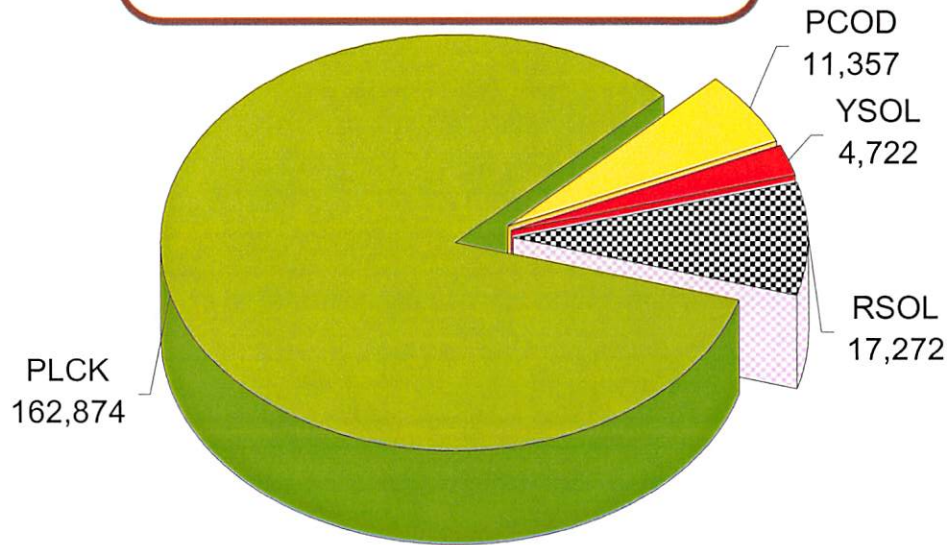
	Open	Re-opens
541	01/20 - 01/23	09/01
542	01/20 - 02/28	09/01
542 CH	01/20 - 02/02	
543	01/20 - 03/07	09/01
543 CH	01/20 - 02/13	

(through 3/24/01)

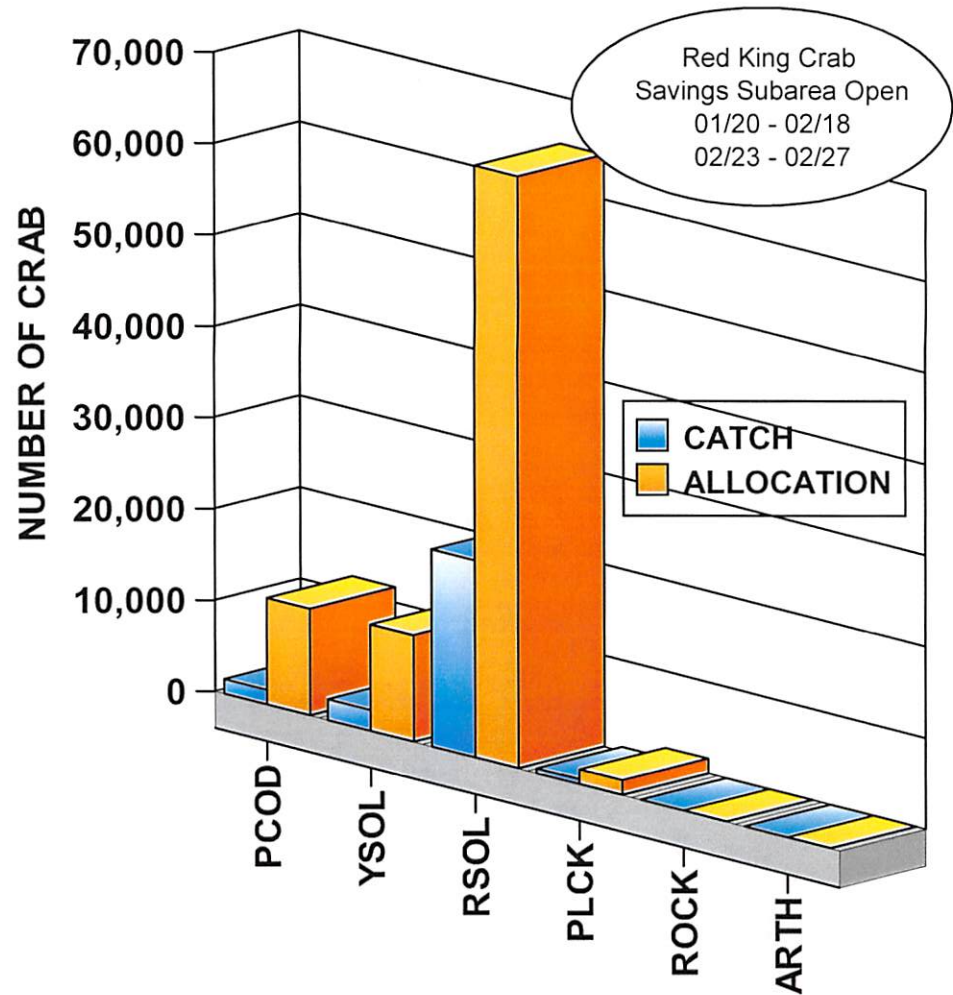
2001 1st QTR BSAI TRAWL GEAR GROUND FISH & INCIDENTAL RED KING CRAB CATCH

GROUND FISH CATCH (MT)

TOTAL MT GROUND FISH	196,326
TOTAL NO. RED KING CRAB	25,958
ZONE 1 RKC ALLOCATION	89,725
RKC ALLOCATION, RKC SAVINGS SUBAREA	22,674

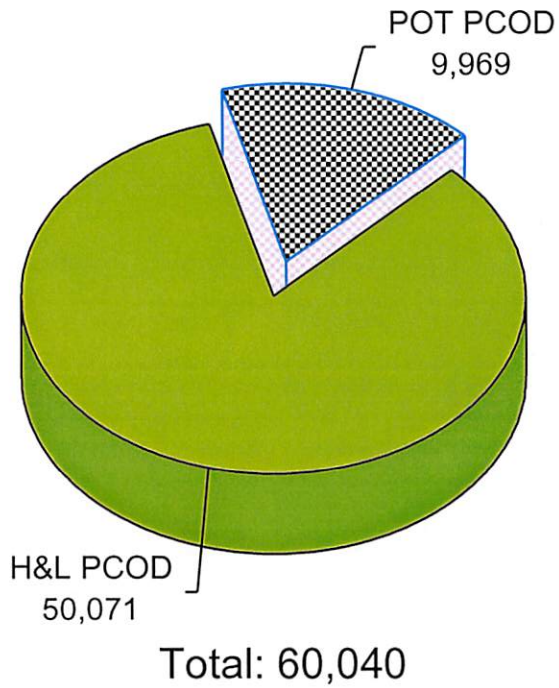


RED KING CRAB INCIDENTAL CATCH

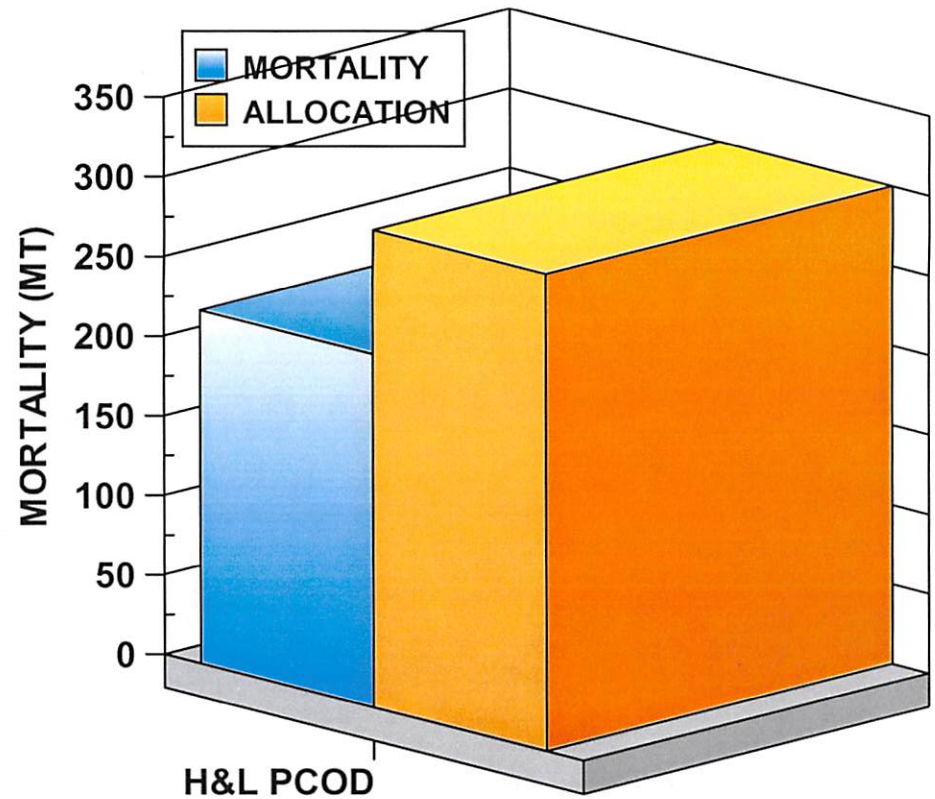


2001 BSAI 1st SEASON H&L/POT GEAR GROUND FISH CATCH & HALIBUT MORTALITY BY TARGET FISHERY

GROUND FISH CATCH (MT)



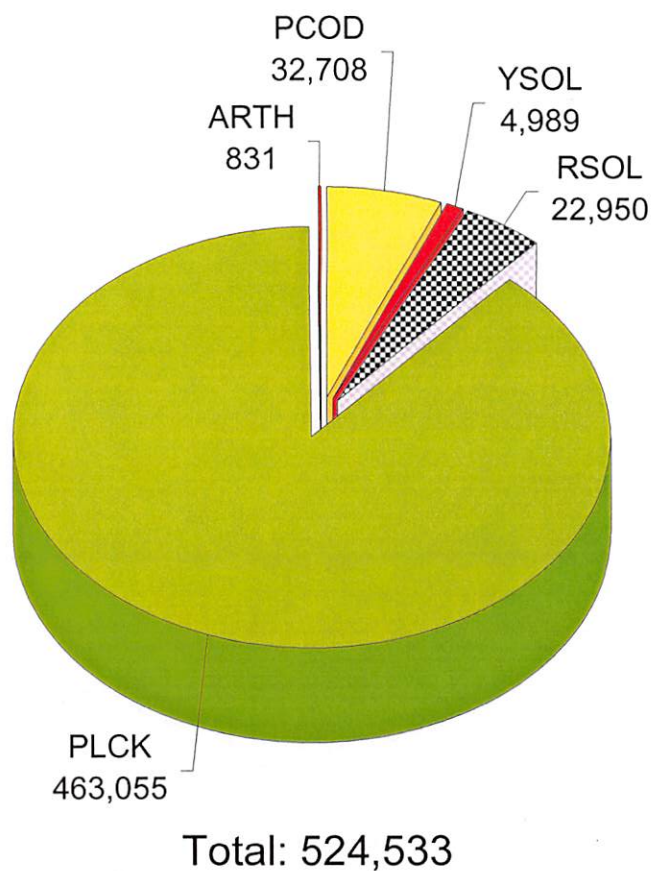
HALIBUT MORTALITY* & SEASONAL ALLOCATIONS



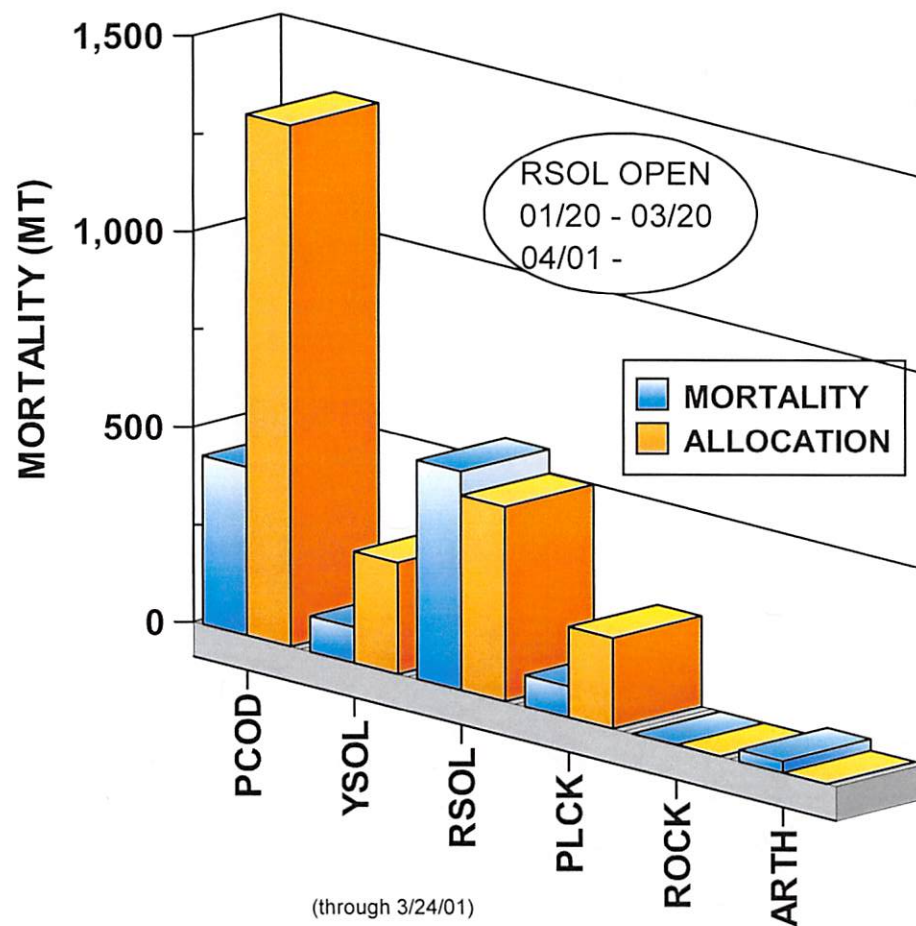
(through 3/24/01)
*Pot PCOD fishery took 1 mt of halibut mortality

2001 1st QTR TRAWL GEAR BSAI GROUND FISH CATCH & HALIBUT MORTALITY BY TARGET FISHERY

GROUND FISH CATCH (MT)



HALIBUT MORTALITY & SEASONAL ALLOCATIONS



2001 GULF OF ALASKA GROUND FISH QUOTAS
AND PRELIMINARY CATCH IN ROUND METRIC TONS

Data are from Weekly Production and Observer Reports through 03/31/01
Quotas are based on Final Specifications

	TOTAL CATCH	QUOTA	REMAINING QUOTA	% TAKEN	LAST WK CATCH
WEST. CENT PLCK					
Pollock 610	11,681	11,561	-120	101	4
Pollock 620	318	587	269	54	396
Pollock 630	9,039	8,211	-828	110	1
Pollock - Shelikof	16,610	17,018	408	98	7,643
WESTERN GULF					
Arrowtooth Flounder	831	8,000	7,169	10	33
Deep Water Flatfish	2	280	278	1	0
Shallow Water Flatfish	86	4,500	4,414	2	5
Flathead Sole	142	2,000	1,858	7	24
Rex Sole	210	1,230	1,020	17	4
Pacific Ocean Perch	3	1,280	1,277	0	0
Shortraker/Rougheye	11	210	199	5	4
Pelagic Shelf Rockfish	11	550	539	2	0
Northern Rockfish	47	600	553	8	0
Other Rockfish	1	20	19	5	0
Pacific Cod - Inshore	10,942	9,882	-1,060	111	23
Pacific Cod - Offshore	336	1,098	762	31	0
Sablefish (Hook & Line)	56	1,608	1,552	3	56
Sablefish (Trawl)	13	402	389	3	5
Thornyhead	75	420	345	18	10
CENTRAL GULF					
Arrowtooth Flounder	2,725	25,000	22,275	11	264
Deep Water Flatfish	63	2,710	2,647	2	1
Shallow Water Flatfish	1,043	12,950	11,907	8	25
Flathead Sole	300	5,000	4,700	6	21
Rex Sole	357	5,660	5,303	6	76
Pacific Ocean Perch	2	9,610	9,608	0	0
Shortraker/Rougheye	16	930	914	2	5
Pelagic Shelf Rockfish	24	4,080	4,056	1	0
Northern rockfish	54	4,280	4,226	1	0
Other Rockfish	10	740	730	1	0
Pacific Cod - Inshore	15,074	16,335	1,261	92	45
Pacific Cod - Offshore	0	1,815	1,815	0	0
Sablefish (Hook & Line)	152	4,328	4,176	4	63
Sablefish (Trawl)	7	1,082	1,075	1	0
Thornyhead	10	970	960	1	1
EASTERN GULF					
Shortraker/Rougheye	46	590	544	8	4
Pacific Cod - Inshore	69	3,204	3,135	2	1
Pacific Cod - Offshore	0	356	356	0	0
Thornyhead	11	920	909	1	2
WEST YAKUTAT					
Arrowtooth Flounder	16	2,500	2,484	1	0
Deep Water Flatfish	13	1,240	1,227	1	13
Shallow Water Flatfish	0	790	790	0	0
Flathead Sole	0	1,440	1,440	0	0
Rex Sole	0	1,540	1,540	0	0
Pacific Ocean Perch	14	870	856	2	0
Other Rockfish	3	150	147	2	0
Pelagic Shelf Rockfish	1	580	579	0	0
Pollock	2,331	2,235	-96	104	0
Sablefish (Hook & Line)	52	1,789	1,737	3	39
Sablefish (Trawl)	2	271	269	1	1
SOUTHEAST					
Arrowtooth Flounder	64	2,500	2,436	3	1
Deep Water Flatfish	0	1,070	1,070	0	0
Shallow Water Flatfish	0	1,160	1,160	0	0
Flathead Sole	0	620	620	0	0
Rex Sole	0	1,010	1,010	0	0
Pacific Ocean Perch	0	1,750	1,750	0	0
Other Rockfish	7	100	93	7	0
Pelagic Shelf Rockfish	10	770	760	1	0

Pollock	0	6,460	6,460	0	0
Demersal Shelf Rockfish	126	330	204	38	1
Sablefish (Hook & Line)	230	3,360	3,130	7	74
ENTIRE GOA					
Other Species	2,436	13,619	11,183	18	217
Atka Mackerel	2	600	598	0	0

TOTALS:	75,684	216,771	141,087	35	9,065

2001 BERING SEA & ALEUTIANS GROUND FISH QUOTAS
 AND PRELIMINARY CATCH IN ROUND METRIC TONS

Data are from Weekly Production and Observer Reports through 03/31/01
 Quotas are based on Final Specifications

	TOTAL CATCH	QUOTA	REMAINING QUOTA	% TAKEN	LAST WK CATCH
BERING SEA					
Other Rockfish	52	307	255	17	2
Pacific Ocean Perch	25	1,471	1,446	2	12
Sharpchin/Northern	0	16	16	0	0
Shorotraker/Rougheye	0	99	99	0	0
Sablefish (Fixed Gear)	22	624	602	4	2
Sablefish (Trawl)	57	663	606	9	4
Greenland Turbot	211	5,206	4,995	4	14
Pollock - Inshore	231,719	241,920	10,201	96	9,197
Pollock - AFA Offshore	173,772	193,536	19,764	90	15,474
Pollock - AFA Mothership	48,341	48,384	43	100	4,167
Pollock - Incidental Ctch	11,916	50,400	38,484	24	1,171
ALEUTIAN ISLANDS					
Other Rockfish	168	575	407	29	2
Pacific Ocean Perch, East	115	2,683	2,568	4	1
Pacific Ocean Perch, Cent	159	2,368	2,209	7	8
Pacific Ocean Perch, West	177	4,385	4,208	4	0
Sharpchin/Northern	2,423	6,239	3,816	39	39
Shorotraker/Rougheye Trawl	13	590	577	2	0
Non-Trawl	79	253	174	31	3
Atka Mackerel - Eastern	4,422	3,572	-850	124	2
- Jig	0	72	72	0	0
Atka Mackerel - Central	16,874	15,540	-1,334	109	164
Atka Mackerel - Western	8,448	12,904	4,456	65	16
Sablefish (Fixed Gear)	18	1,500	1,482	1	17
Sablefish (Trawl)	1	531	530	0	0
Greenland Turbot	25	2,564	2,539	1	4
Pollock - Incidental Ctch	439	2,000	1,561	22	144
BERING SEA & ALEUTIANS					
Arrowtooth Flounder	6,138	18,709	12,571	33	247
Flathead Sole	3,646	34,000	30,354	11	323
Other Flatfish	1,884	23,800	21,916	8	347
Other Species	8,305	22,525	14,220	37	391
Pacific Cod (Trawl - C/P)	15,202	24,520	9,318	62	1,261
Pacific Cod (Trawl - C/V)	13,649	24,520	10,871	56	2,698
Pacific Cod (HAL C/P)	43,455	42,331	-1,124	103	610
Pacific Cod (HAL C/V)	167	159	-8	105	0
Pacific Cod (Pot)	10,708	9,683	-1,025	111	976
Pacific Cod (Jig)	0	2,087	2,087	0	0
Rock Sole	16,529	63,750	47,221	26	437
Squid	160	1,675	1,515	10	10
Yellowfin Sole	6,229	96,050	89,821	6	2,582
BOGOSLOF					
Pollock - Incidental Ctch	32	1,000	968	3	0
TOTALS:					
	625,580	963,211	337,631	65	40,324

2001 GULF OF ALASKA REPORT ON DAP HARVEST
BY GEAR TYPE

Data are from Weekly Production and Observer Reports through 03/31/01

	TRAWL	H&L	POT	OTHER	TOTAL
WEST, CENT PLCK					
Pollock 610	11,645	34	1	0	11,680
Pollock 620	318	0	0	0	318
Pollock 630	8,998	41	1	0	9,040
Pollock - Shelikof	16,381	27	3	198	16,609
WESTERN GULF					
Arrowtooth Flounder	801	30	1	0	832
Deep Water Flatfish	2	0	0	0	2
Shallow Water Flatfish	81	4	1	0	86
Flathead Sole	136	5	0	0	141
Rex Sole	210	0	0	0	210
Pacific Ocean Perch	3	0	0	0	3
Shortraker/Rougheye	7	4	0	0	11
Pelagic Shelf Rockfish	10	0	0	0	10
Northern Rockfish	46	0	0	0	46
Other Rockfish	0	1	0	0	1
Pacific Cod - Inshore	6,020	3,703	1,219	0	10,942
Pacific Cod - Offshore	0	336	0	0	336
Sablefish (Hook & Line)	0	56	0	0	56
Sablefish (Trawl)	13	0	0	0	13
Thornyhead	71	3	0	0	74
CENTRAL GULF					
Arrowtooth Flounder	2,577	147	1	0	2,725
Deep Water Flatfish	62	0	0	0	62
Shallow Water Flatfish	1,041	0	2	0	1,043
Flathead Sole	299	1	0	0	300
Rex Sole	357	0	0	0	357
Pacific Ocean Perch	1	0	0	0	1
Shortraker/Rougheye	11	5	0	0	16
Pelagic Shelf Rockfish	14	8	2	0	24
Northern rockfish	54	0	0	0	54
Other Rockfish	3	7	0	0	10
Pacific Cod - Inshore	6,435	5,531	3,109	0	15,075
Pacific Cod - Offshore	0	0	0	0	0
Sablefish (Hook & Line)	0	153	0	0	153
Sablefish (Trawl)	6	0	0	0	6
Thornyhead	5	5	0	0	10
EASTERN GULF					
Shortraker/Rougheye	19	27	0	0	46
Pacific Cod - Inshore	0	69	0	0	69
Pacific Cod - Offshore	0	0	0	0	0
Thornyhead	0	11	0	0	11
WEST YAKUTAT					
Arrowtooth Flounder	16	0	0	0	16
Deep Water Flatfish	13	0	0	0	13
Shallow Water Flatfish	0	0	0	0	0
Flathead Sole	0	0	0	0	0
Rex Sole	0	0	0	0	0
Pacific Ocean Perch	14	0	0	0	14
Other Rockfish	2	2	0	0	4
Pelagic Shelf Rockfish	1	0	0	0	1
Pollock	2,331	0	0	0	2,331
Sablefish (Hook & Line)	0	52	0	0	52
Sablefish (Trawl)	2	0	0	0	2
SOUTHEAST					
Arrowtooth Flounder	0	64	0	0	64
Deep Water Flatfish	0	0	0	0	0
Shallow Water Flatfish	0	0	0	0	0
Flathead Sole	0	0	0	0	0
Rex Sole	0	0	0	0	0
Pacific Ocean Perch	0	0	0	0	0
Other Rockfish	0	7	0	0	7
Pelagic Shelf Rockfish	0	10	0	0	10
Pollock	0	0	0	0	0

Demersal Shelf Rockfish	0	126	0	0	126
Sablefish (Hook & Line)	0	230	0	0	230
ENTIRE GOA					
Other Species	1,357	931	148	0	2,436
Mackerel	2	0	0	0	2

TOTALS:	59,364	11,630	4,488	198	75,680

2001 BERING SEA & ALEUTIANS REPORT ON DAP HARVEST
BY GEAR TYPE

Data are from Weekly Production and Observer Reports through 03/31/01

	TRAWL	H&L	POT	OTHER	TOTAL
BERING SEA					
Other Rockfish	39	11	1	0	51
Pacific Ocean Perch	24	1	0	0	25
Sharpchin/Northern	0	0	0	0	0
Shortraker/Rougheye	0	0	0	0	0
Sablefish (Fixed Gear)	0	20	2	0	22
Sablefish (Trawl)	57	0	0	0	57
Greenland Turbot	207	4	0	0	211
Pollock - Inshore	231,719	0	0	0	231,719
Pollock - AFA Offshore	173,772	0	0	0	173,772
Pollock - AFA Mothership	48,341	0	0	0	48,341
Pollock - Incidental Ctch	9,882	2,025	9	0	11,916
ALEUTIAN ISLANDS					
Other Rockfish	144	25	0	0	169
Pacific Ocean Perch, East	114	0	0	0	114
Pacific Ocean Perch, Cent	158	0	0	0	158
Pacific Ocean Perch, West	175	2	0	0	177
Sharpchin/Northern	2,394	29	0	0	2,423
Shortraker/Rougheye Trawl	13	0	0	0	13
Non-Trawl	0	78	0	0	78
Atka Mackerel - Eastern	4,416	5	1	0	4,422
- Jig	0	0	0	0	0
Atka Mackerel - Central	16,867	8	0	0	16,875
Atka Mackerel - Western	8,380	67	1	0	8,448
Sablefish (Fixed Gear)	0	18	0	0	18
Sablefish (Trawl)	1	0	0	0	1
Greenland Turbot	16	8	0	0	24
Pollock - Incidental Ctch	387	48	4	0	439
BERING SEA & ALEUTIANS					
Arrowtooth Flounder	5,955	182	0	0	6,137
Flathead Sole	3,581	65	0	0	3,646
Other Flatfish	1,854	30	1	0	1,885
Other Species	3,176	4,858	271	0	8,305
Pacific Cod (Trawl - C/P)	15,202	0	0	0	15,202
Pacific Cod (Trawl - C/V)	13,649	0	0	0	13,649
Pacific Cod (HAL C/P)	0	43,455	0	0	43,455
Pacific Cod (HAL C/V)	0	167	0	0	167
Pacific Cod (Pot)	0	0	10,708	0	10,708
Pacific Cod (Jig)	0	0	0	0	0
Rock Sole	16,511	17	1	0	16,529
Squid	160	0	0	0	160
Yellowfin Sole	6,173	27	29	0	6,229
BOGOSLOF					
Pollock - Incidental Ctch	9	23	0	0	32

TOTALS:	563,376	51,173	11,028	0	625,577

2001 GULF OF ALASKA GROUND FISH DISCARDS IN ROUND METRIC TONS
Data are from Weekly Production and Observer Reports through 03/31/01

	SHORESIDE			MOTHERSHIP		CATCHER-PROC	
	TOTAL CATCH	AT-SEA DISC	PLANT DISC	TOTAL CATCH	DISC	TOTAL CATCH	DISC
WEST, CENT PLCK							
Pollock 610	11617	56	0	0	0	63	15
Pollock 620	318	26	-18	0	0	0	0
Pollock 630	9038	31	-5	0	0	1	1
Pollock - Shelikof	16610	38	22	0	0	0	0
WESTERN GULF							
Arrowtooth Flounder	402	383	0	0	0	429	427
Deep Water Flatfish	0	0	0	0	0	2	2
Shallow Water Flatfish	76	76	0	0	0	10	5
Flathead Sole	29	17	0	0	0	112	31
Rex Sole	2	1	0	0	0	208	11
Pacific Ocean Perch	0	0	0	0	0	3	3
Shortraker/Rougheye	0	0	0	0	0	11	1
Pelagic Shelf Rockfish	10	10	0	0	0	0	0
Northern Rockfish	36	36	0	0	0	10	10
Other Rockfish	0	0	0	0	0	1	1
Pacific Cod - Inshore	7100	93	0	0	0	3841	80
Pacific Cod - Offshore	0	0	0	0	0	336	3
Sablefish (Hook & Line)	0	0	0	0	0	56	0
Sablefish (Trawl)	0	0	0	0	0	13	0
Thornyhead	0	0	0	0	0	74	7
CENTRAL GULF							
Arrowtooth Flounder	2326	960	0	24	24	375	375
Deep Water Flatfish	62	0	0	0	0	1	1
Shallow Water Flatfish	1040	123	0	0	0	3	2
Flathead Sole	222	19	0	5	0	73	4
Rex Sole	18	2	0	31	0	308	3
Pacific Ocean Perch	1	0	0	0	0	1	1
Shortraker/Rougheye	16	5	0	0	0	1	0
Pelagic Shelf Rockfish	24	14	0	0	0	0	0
Northern rockfish	47	43	0	0	0	7	7
Other Rockfish	9	1	0	0	0	2	2
Pacific Cod - Inshore	14953	317	0	9	2	112	2
Pacific Cod - Offshore	0	0	0	0	0	0	0
Sablefish (Hook & Line)	129	9	0	0	0	24	0
Sablefish (Trawl)	5	0	0	0	0	1	1
Thornyhead	3	0	0	0	0	7	2
EASTERN GULF							
Shortraker/Rougheye	46	7	0	0	0	0	0
Pacific Cod - Inshore	69	0	0	0	0	0	0
Pacific Cod - Offshore	0	0	0	0	0	0	0
Thornyhead	11	5	0	0	0	0	0
WEST YAKUTAT							
Arrowtooth Flounder	16	11	0	0	0	0	0
Deep Water Flatfish	13	0	0	0	0	0	0
Shallow Water Flatfish	0	0	0	0	0	0	0
Flathead Sole	0	0	0	0	0	0	0
Rex Sole	0	0	0	0	0	0	0
Pacific Ocean Perch	14	0	0	0	0	0	0
Other Rockfish	3	0	0	0	0	0	0
Pelagic Shelf Rockfish	1	0	0	0	0	0	0
Pollock	2331	4	0	0	0	0	0
Sablefish (Hook & Line)	46	0	0	0	0	6	0
Sablefish (Trawl)	2	0	0	0	0	0	0
SOUTHEAST							
Arrowtooth Flounder	64	64	0	0	0	0	0
Deep Water Flatfish	0	0	0	0	0	0	0
Shallow Water Flatfish	0	0	0	0	0	0	0
Flathead Sole	0	0	0	0	0	0	0
Rex Sole	0	0	0	0	0	0	0
Pacific Ocean Perch	0	0	0	0	0	0	0
Other Rockfish	7	0	0	0	0	0	0
Pelagic Shelf Rockfish	10	0	0	0	0	0	0
Pollock	0	0	0	0	0	0	0

Demersal Shelf Rockfish	126	0	0	0	0	0	0
Sablefish (Hook & Line)	230	27	0	0	0	0	0
ENTIRE GOA							
Other Species	2089	1502	0	4	4	343	343
Atka Mackerel	2	2	0	0	0	0	0

TOTALS:	69173	3882	-1	73	30	6434	1340

2001 BERING SEA & ALEUTIANS GROUND FISH DISCARDS IN ROUND METRIC TONS
Data are from Weekly Production and Observer Reports through 03/31/01

	SHORESIDE			MOTHERSHIP		CATCHER-PROC	
	TOTAL CATCH	AT-SEA DISC	PLANT DISC	TOTAL CATCH	DISC	TOTAL CATCH	DISC
BERING SEA							
Other Rockfish	2	1	0	0	0	50	13
Pacific Ocean Perch	2	2	0	0	0	23	19
Sharpchin/Northern	0	0	0	0	0	0	0
Shortraker/Rougheye	0	0	0	0	0	0	0
Sablefish (Fixed Gear)	7	0	0	0	0	15	5
Sablefish (Trawl)	0	0	0	0	0	57	4
Greenland Turbot	1	1	0	0	0	210	37
Pollock - Inshore	231719	22	0	0	0	0	0
Pollock - AFA Offshore	0	0	0	0	0	173772	67
Pollock - AFA Mothership	0	0	0	48341	412	0	0
Pollock - Incidental Ctch	625	290	0	23	1	11268	5149
ALEUTIAN ISLANDS							
Other Rockfish	0	0	0	1	1	168	123
Pacific Ocean Perch, East	1	1	0	0	0	113	104
Pacific Ocean Perch, Cent	0	0	0	0	0	158	139
Pacific Ocean Perch, West	0	0	0	0	0	177	129
Sharpchin/Northern	5	5	0	8	8	2410	2334
Shortraker/Rougheye Trawl	0	0	0	0	0	13	10
Non-Trawl	0	0	0	0	0	78	61
Atka Mackerel - Eastern	8	7	0	7	7	4407	162
- Jig	0	0	0	0	0	0	0
Atka Mackerel - Central	0	0	0	0	0	16875	882
Atka Mackerel - Western	0	0	0	0	0	8448	163
Sablefish (Fixed Gear)	0	0	0	0	0	18	1
Sablefish (Trawl)	0	0	0	0	0	1	1
Greenland Turbot	0	0	0	0	0	24	12
Pollock - Incidental Ctch	189	185	0	1	0	249	66
BERING SEA & ALEUTIANS							
Arrowtooth Flounder	141	87	0	22	15	5975	4656
Flathead Sole	460	131	0	97	39	3089	774
Other Flatfish	23	13	0	11	10	1850	1706
Other Species	475	409	0	95	94	7734	6933
Pacific Cod (Trawl - C/P)	0	0	0	0	0	15202	263
Pacific Cod (Trawl - C/V)	9777	17	0	3872	147	0	0
Pacific Cod (HAL C/P)	0	0	0	0	0	43455	661
Pacific Cod (HAL C/V)	167	0	0	0	0	0	0
Pacific Cod (Pot)	8364	5	0	1229	0	1116	0
Pacific Cod (Jig)	0	0	0	0	0	0	0
Rock Sole	817	290	0	135	76	15578	5631
Squid	0	0	0	0	0	159	134
Yellowfin Sole	223	136	0	8	7	5997	1543
BOGOSLOF							
Pollock - Incidental Ctch	0	0	0	0	0	33	2
TOTALS:	253006	1602	0	53850	817	318722	31784

4FS/AKR
 1/05/01
 1:17:02

2001 GULF OF ALASKA FISHERIES
 TRAWL HALIBUT BYCATCH MORTALITY (METRIC TONS)
 Week Ending: 03/31/01

WED	SHALLOW WATER COMPLEX		DEEP WATER COMPLEX		GRAND TOTAL
	WEEK TOTAL	CUMULATIVE TOTAL	WEEK TOTAL	CUMULATIVE TOTAL	
1/06/01	8	8	0	0	8
1/20/01	0	8	0	0	8
1/27/01	15	23	0	0	23
2/03/01	29	52	5	5	57
2/10/01	46	98	7	12	110
2/17/01	47	145	3	16	161
2/24/01	52	197	3	19	216
3/03/01	35	232	4	24	256
3/10/01	19	251	12	35	287
3/17/01	3	254	12	47	301
3/24/01	18	272	7	54	326
3/31/01	18	290	9	63	353

CAP: 550	CAP: 400
% OF CAP: 53%	% OF CAP: 16%
REMAINING: 260	REMAINING: 337

SEASONAL HALIBUT BYCATCH MORTALITY CAPS

SEASON	SHALLOW COMPLEX	DEEP COMPLEX	TOTAL
Jan 01 - Apr 01	450 MT	100 MT	550 MT
Apr 01 - Jun 10	100 MT	300 MT	400 MT
Jun 10 - Jul 01	150 MT	0 MT	150 MT
Jul 01 - Oct 01	200 MT	400 MT	600 MT
Oct 01 - Dec 31	- No Apportionment -	-	300 MT
TOTALS	900 MT	800 MT	2000 MT

Balance of 4th Quarter available for all trawl fisheries

Shallow Water Complex = pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species."
 Deep Water Complex = sablefish, rockfish, rex sole, arrowtooth flounder, and deep-water flatfish.

NMFS/AKR
04705/01
14:17:02

2001 GULF OF ALASKA FISHERIES
HOOK & LINE HALIBUT BYCATCH MORTALITY (METRIC TONS)
Week Ending: 03/31/01

OTHER HOOK & LINE
FISHERIES

WED	WEEKLY	TOTAL
01/06/01	25	25
01/13/01	45	70
01/20/01	19	89
01/27/01	18	107
02/03/01	31	138
02/10/01	43	181
02/17/01	25	206
02/24/01	53	258
03/03/01	4	262
03/10/01	1	263
03/17/01	0	263
03/24/01	0	263
03/31/01	0	264
CAP:		205
% OF SEASONAL CAP:		129%
REMAINING:		-59

2001 HOOK-AND-LINE GROUND FISH FISHERIES HALIBUT MORTALITY CAPS

SEASON	OTHER HOOK AND LINE FISHERIES
Jan 01 - May 17	205 MT
May 18 - Aug 31	0 MT
Sep 01 - Dec 31	85 MT
Annual Total:	290 MT

Sablefish fishery is exempt from halibut bycatch restrictions.
Other hook and line fisheries are all H&L fisheries except
sablefish and demersal shelf rockfish in the Southeast District.

Halibut mortality for the demersal shelf rockfish fishery,
Southeast District is not listed due to insufficient observer
coverage.

MFS/AKR
4/05/01
4:17:02

2001 GULF OF ALASKA FISHERIES
CHINOOK & OTHER SALMON BYCATCH
Week Ending:03/31/01

TRAWL GEAR

WEEK	CHINOOK SALMON		'OTHER' SALMON	
	WEEKLY NUMBER	CUMULATIVE NUMBER	WEEKLY NUMBER	CUMULATIVE NUMBER
01/06	0	0	3	3
01/20	20	20	0	3
01/27	783	803	36	39
02/03	1,620	2,422	51	90
02/10	1,514	3,936	85	175
02/17	955	4,891	29	204
02/24	771	5,662	141	346
03/03	526	6,188	108	454
03/10	92	6,280	8	462
03/17	420	6,700	177	639
03/24	836	7,536	325	964
03/31	1,324	8,860	293	1,257

NOTE: No PSC Limits apply to salmon.

Data based on observer reports, extrapolated to total groundfish harvest. Estimates for all weeks may change due to incorporation of late or corrected data.

NMFS/AKR
04/05/01
14:16:55

2001 BERING SEA/ALEUTIAN ISLANDS FISHERIES
PROHIBITED SPECIES BYCATCH
Week Ending: 03/31/01

TRAWL HERRING, BSAI

Fishery group	Herring (mt)	Cap (mt)	%
Midwater pollock	8	1,184	1%
Pacific cod	0	20	1%
Yellowfin sole	1	139	1%
Rockfish	0	7	0%
Other	0	146	0%
Rock sole/Other flatfish	1	20	7%
GTRB/ARTH/SABL	0	9	0%
Total:	11	1,525	1%

TRAWL SALMON, BSAI

Fishery group	Chinook (#'s)	Other (#'s)	Total (#'s)
Midwater pollock	15,109	2,600	17,709
Bottom pollock	0	0	0
Pacific cod	2,165	244	2,408
Yellowfin sole	183	0	183
Rock sole/Other flatfish	1,073	0	1,073
Rockfish	0	0	0
Other	622	139	761
Seasonal Total:	19,152	2,983	22,134

TRAWL BAIRDI TANNER CRAB

Fishery group	ZONE 1			ZONE 2		
	Crabs (#'s)	Cap (#'s)	%	Crabs (#'s)	Cap (#'s)	%
Rock sole/Other flatfish	110,704	272,126	41%	161,963	415,501	39%
Pacific cod	37,065	136,400	27%	42,709	225,941	19%
Yellowfin sole	22,607	253,894	9%	15,365	1,246,502	1%
Pollock/AMCK/Other species	4,821	12,830	38%	89	19,148	0%
Rockfish	0	0	0%	0	7,658	0%
GTRB/ARTH/SABL	0	0	0%	2,509	0	0%
Total:	175,197	675,250	26%	222,636	1,914,750	12%

TRAWL C. OPILIO TANNER CRAB in the COBLZ AREA

Fishery group	Crabs (#'s)	Cap (#'s)	%
Rock sole/Other flatfish	7,945	469,130	2%
Pacific cod	1,129	524,736	0%
Yellowfin sole	45,254	2,876,981	2%
Pollock/AMCK/Other species	561	72,428	1%
Rockfish	0	40,237	0%
GTRB/ARTH/SABL	0	40,238	0%
Total:	54,888	4,023,750	1%

TRAWL RED KING CRAB

Fishery group	ZONE 1		
	Crabs (#'s)	Cap (#'s)	%
Rock sole/Other flatfish	21,552	64,782	33%
Pacific cod	1,571	11,664	13%
Yellowfin sole	3,528	11,664	30%
Pollock/AMCK/Other species	550	1,615	34%
Total:	27,201	89,725	30%

NMFS/AKR
 04/05/01
 14:16:58

2001 BERING SEA / ALEUTIAN ISLANDS FISHERIES
 TRAWL HALIBUT BYCATCH MORTALITY (METRIC TONS)

WED	PACIFIC COD	YELLOWFIN SOLE	ROCK SOLE/ FLATHEAD SOLE/ OTHER FLATFISH		PLCK/AMCK/ OTHER	ARROWTOOTH/ SABLEFISH/ TURBOT	
			ROCKFISH	TURBOT			
01/20/01	3	0	3	1	0	0	0
01/27/01	32	0	54	26	0	0	0
02/03/01	17	0	24	5	0	0	0
02/10/01	74	0	1	6	0	0	0
02/17/01	189	0	25	14	0	0	0
02/24/01	17	0	52	5	0	0	0
03/03/01	46	0	37	7	0	0	3
03/10/01	18	0	127	5	0	0	8
03/17/01	18	0	188	5	0	0	13
03/24/01	14	89	60	5	0	0	6
03/31/01	13	80	0	4	0	0	1
04/07/01	0	0	0	0	0	0	0
	441	169	572	84	0	0	31
SEASONAL							
CAP:	1,334	482	677	232	0	0	0
% OF CAP:	33%	35%	84%	36%	0%	0%	0%
REMAINING:	893	313	105	148	0	0	-31
ANNUAL CAP: 1,334							
% OF CAP:	33%	18%	67%	36%	0%	0%	0%

TOTAL HALIBUT MORTALITY : 1,296
 TOTAL FINAL HALIBUT CAP : 3,400

1FS/AKR
1/05/01

2001 BERING SEA / ALEUTIAN ISLANDS FISHERIES
FIXED GEAR HALIBUT BYCATCH MORTALITY (METRIC TONS)

WED	PACIFIC COD HOOK & LINE		OTHER SPECIES HOOK & LINE, JIG		ALL GROUND FISH POT GEAR	
	WEEKLY	TOTAL	WEEKLY	TOTAL	WEEKLY	TOTAL
1/06/01	25	25	0	0	0	0
1/13/01	20	45	0	0	0	0
1/20/01	28	73	0	0	0	0
1/27/01	16	89	0	0	0	0
2/03/01	15	104	0	0	0	0
2/10/01	11	115	0	0	0	0
2/17/01	14	130	0	0	0	0
2/24/01	14	144	0	0	0	0
3/03/01	18	162	0	0	0	0
3/10/01	22	184	0	0	0	1
3/17/01	19	203	0	0	0	1
3/24/01	20	223	0	0	0	1
3/31/01	2	224	0	0	0	1

COD SEASONAL CAP: 300 OTHER SEASONAL CAP: 78 Pot gear is exempt
 OF SEASONAL CAP: 75% % OF SEASONAL CAP: 0% from bycatch allowances

REMAINING PCOD: 76 REMAINING OTHER: 78

2001 BSAI NON-TRAWL PACIFIC COD FISHERY HALIBUT BYCATCH ALLOWANCES

(Jan 01 - Jun 10)	300 MT
(Jun 11 - Jul 31)	0 MT
(Aug 01 - Dec 31)	455 MT
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Annual Total	755 MT



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

AGENDA B-3
APRIL 2001
Supplemental

March 27, 2001

RECEIVED

APR - 2 2001

N.P.F.M.C

Mr. David Benton
Chairman, North Pacific Fishery
Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Benton:

Bycatch rate standards for trawl fisheries under the Pacific halibut and red king crab vessel incentive program during the second half of 2001 are scheduled to be published in the Federal Register by July 1, 2001. A summary of 1997 - 2001 observer data on fishery bycatch rates is listed in the attached table for review by the Council. The halibut bycatch rates for the four quarters of 2000 have been updated and the first quarter of 2001 added.

Unless the Council recommends a change in these standards, we will use the halibut and red king crab bycatch rate standards listed in the attached table for the third and fourth calendar quarters of the year.

Sincerely,

James W. Balsiger
Administrator, Alaska Region

Attachment



1997 - 2001 (through March 17, 2001) observed bycatch rates, by quarter, of halibut and red king crab in the fishery categories included in the vessel incentive program. Also listed are the bycatch rate standards established since 1995.

Halibut Bycatch (Kilograms Halibut/metric ton Allocated Groundfish Catch)

<u>Fishery and quarter</u>	<u>Bycatch Rate Standards</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
BSAI Midwater Pollock						
QT 1	1	0.1	0.02	0.15	0.05	0.13
QT 2	1	0.4	0.00	-	0.15	
QT 3	1	0.1	0.33	0.06	0.11	
QT 4	1	0.1	0.25	0.04	0.13	
BSAI Bottom Pollock						
QT 1	7.5	1.4	9.09	1.29	0.16	1.13
QT 2	5	0.0	0.01	-	4.50	
QT 3	5	1.4	6.70	3.87	0.68	
QT 4	5	0.4	1.47	0.13	1.95	
BSAI Yellowfin sole						
QT 1	5	6.5	9.65	4.21	6.21	-
QT 2	5	5.1	6.48	7.30	3.96	
QT 3	5	2.6	7.30	18.59	12.80	
QT 4	5	4.1	13.71	24.26	11.41	
BSAI Other Trawl Fisheries						
QT 1	30	8.9	12.05	14.54	8.19	10.90
QT 2	30	10.3	13.98	24.83	21.08	
QT 3	30	21.2	11.60	6.12	9.79	
QT 4	30	3.1	11.54	8.71	4.57	
GOA Midwater Pollock						
QT 1	1	0.0	0.18	0.31	0.04	0.36
QT 2	1	0.1	0.14	0.23	0.04	
QT 3	1	0.1	0.04	0.12	1.91	
QT 4	1		0.03	0.03	0.56	
GOA Other Trawl Fisheries						
QT 1	40	0.18	26.23	32.48	18.43	14.06
QT 2	40	62.4	58.88	58.87	54.44	
QT 3	40	26.0	37.98	18.14	23.07	
QT 4	40	47.9	58.20	69.04	45.87	
Zone I Red King Crab Bycatch Rates						
BSAI Yellowfin sole						
QT 1	2.5	0.1	0.01	0.09	0.23	-
QT 2	2.5	0.1	0.03	0.01	0.45	
QT 3	2.5		0.43	1.08	0.21	
QT 4	2.5		0.15	0.25	0.24	
BSAI Other Trawl Fisheries						
QT 1	2.5	0.1	0.04	1.38	0.22	0.09
QT 2	2.5	0.0	0.06	0.20	0.32	
QT 3	2.5	0.0	0.25	0.00	0.00	
QT 4	2.5	0.0	0.02	0.00	0.00	



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668

Juneau, Alaska 99802-1668

March 26, 2001

Mr. Chris Oliver
Acting Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Oliver:

We recently received notice from Mr. Ed Melvin, Washington Sea Grant Program (WSGP), that it will be necessary to postpone his presentation to the North Pacific Fishery Management Council (Council) at its April 2001 meeting. Mr. Melvin was intending to present final research results from his two-year study evaluating the effectiveness of seabird avoidance measures and to recommend changes to the current seabird regulations based on this work. But, additional time is required to complete the data analysis and formulate recommendations for regulatory changes.

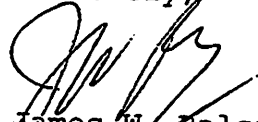
The Council took final action on recommended changes to the existing seabird measures in April 1999 (see attachment). NMFS postponed the rulemaking to await the WSGP final research results. Mr. Melvin will provide the WSGP research results to the public in August 2001 and to the Council at its October meeting. Prior to the October meeting, NMFS intends to provide to the Council (and the public) a revised analysis of proposed changes to the seabird avoidance measures that incorporates the WSGP recommendations as an additional alternative. If this analysis is satisfactory to the Council, we request that the Council consider taking final action on the proposed changes at the October meeting. If based upon the Council's review and public comment the Council desires additional analyses, then final action could occur in December. Note however, the current Biological Opinion issued by USFWS (March 19, 1999) does specify that if modifications to the existing seabird avoidance regulations are warranted, the modifications shall be proposed by December 31, 2001.

We have discussed this schedule with representatives of the U.S. Fish and Wildlife Service (USFWS) as it pertains to their completion of a Biological Opinion on the effects of the Alaska groundfish fisheries on ESA-listed species under their



jurisdiction (see attached NMFS Information Bulletin). They have indicated their interest in Council and public input on the feasibility of WSGP recommendations for regulatory changes as this input will be considered in their development of the Biological Opinion.

Sincerely,



James W. Balsiger
Administrator, Alaska Region

Attachment

- cc: Ed Melvin, WSGP
- Tony DeGange, USFWS
- Greg Balogh, USFWS

Attachment

At its April 1999 meeting, the North Pacific Fishery Management Council (Council) considered the alternatives within the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for A Regulatory Amendment to Revise Regulations for Seabird Avoidance Measures in the Hook-and-line Fisheries off Alaska to Reduce Bycatch of the Short-tailed Albatross and Other Seabird Species and recommended the adoption of Alternative 2, Option 1. This option proposed the following changes to the current regulations for seabird avoidance measures at § 679.24(e):

MANAGEMENT REQUIREMENT	CURRENT REGULATIONS	COUNCIL'S RECOMMENDATION
Vessel Size Applicability	≥ 26 ft LOA	> 35 ft LOA
Sinking Groundline	Baited hooks sink as soon as they enter water.*	Weights must be added to sink the baited hooks as soon as they enter the water
Offal Discharge	If discharged during setting or hauling of gear, do in such a way that it distracts seabirds from baited hooks. Discharge site must be aft of hauling station or on opposite side of vessel from hauling station.*	The same measure as currently required plus an additional requirement to remove hooks in offal that is to be discharged.
Release of Live Birds	Make reasonable effort to release any live birds that are caught.*	No change
Seabird Avoidance Measures		
How many required?	one or more	No change
What qualifies?	Streamer line or lines; buoy, board, stick; lining tube; 'night' setting	Same as current but bird scaring line is a streamer line, 'buoy bag', float device, but not a board or stick.
How is the device deployed?	During gear deployment to prevent birds from taking hooks. No other specific directions provided.	Same, but more specific directions are provided for deployment of a bird scaring line with the intent of making the device more effective.
'Night' setting	Deploy hook-and-line gear during specified hours, using only minimum vessel's lights for safety	No change
Lining tube	May use by itself as a bird 'scaring' device.	Must use a bird scaring line in conjunction with a lining tube.

* currently required of all hook-and-line vessel operators, including those less than 26 ft LOA



National Marine Fisheries Service

Alaska Region

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INFORMATION BULLETIN 01-07
Sustainable Fisheries Division
907-586-7228

January 29, 2001
7:15 a.m.

NMFS ANNOUNCES THE EXTENSION OF THE INCIDENTAL TAKE LIMIT ESTABLISHED FOR THE ENDANGERED SHORT-TAILED ALBATROSS IN THE ALASKA HOOK-AND-LINE GROUND FISH FISHERY

The U.S. Fish and Wildlife Service (USFWS) recently extended the period of coverage of the 1999-2000 Biological Opinion and its accompanying Incidental Take Statement (ITS) on the effects of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) groundfish hook-and-line fisheries on the endangered short-tailed albatross, according to James W. Balsiger, Administrator, Alaska Region, NMFS. This extension was effective as of January 1, 2001 and will be effective until it is superseded by a subsequent Biological Opinion.

The short-tailed albatross is protected by the Endangered Species Act and under the law, an incidental take level of 4 short-tailed albatrosses was established during the 2-year period of 1999 and 2000 for the groundfish hook-and-line fisheries in the BSAI and GOA. The USFWS has extended the 1999-2000 Biological Opinion and the accompanying ITS in anticipation of new information on the effectiveness of seabird avoidance measures. The new information will be based on final research results from a Washington Sea Grant Program (WSGP) 2-year study evaluating the effectiveness of seabird avoidance measures. These results will assist in guiding USFWS as it completes a new Biological Opinion. Ed Melvin, the WSGP researcher conducting the study, is scheduled to present final results at the North Pacific Fishery Management Council's meeting in April 2001. He intends to recommend changes to the existing regulations based on the scientific findings of his research.

No short-tailed albatrosses were reported taken in 1999 and 2000. If the incidental take level of 4 is exceeded prior to the issuance of a subsequent Biological Opinion, NMFS must immediately reinitiate formal consultation with the USFWS and review the need for possible modifications of the reasonable and prudent measures designed to minimize the level of incidental take associated with project activities.

This information bulletin provides information about NMFS's requirements under the Endangered Species Act. Contact Kim Rivera, Protected Resources Division, NMFS, if you have any questions; 907-586-7424, or 907-586-7235.

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Report of the NPFMC Observer Committee

March 22 - 23, 2001 – Seattle, Washington

Committee: Joe Kyle (Chair), Julie Bonney, Kim Dietrich, Susan Robinson, Paul McGregor (for Trevor McCabe), John Gauvin, Bob Mikol, Anne Vanderhoeven (for Kathy Robinson)

Staff: NPFMC - Chris Oliver, Nicole Kimball
NMFS-AFSC - Dan Ito, Martin Loefflad, Shannon Fitzgerald, Joe Terry
NMFS AK Region - Bridget Mansfield
NMFS National Observer Program - Vicki Cornish
NOAA GC AK - Tom Meyer

Other: Gillian Stoker, Dave Edick, Jim Greiner, Jim Benante, Bryan Belay, Duke Bryan, Heather Weikart, Jan Jacobs, Michael Lake, Dave Wagenheim

The Observer Committee met March 22 - 23 to review a discussion paper on the AFA no-cost contract pilot program developed by NMFS. The executive summary of the MRAG report and the Management Control Review (MCR) narrative on the NPGOP's current service delivery model were enclosed with the discussion paper and sent to committee members the previous week. A summary of the Committee's discussions and recommendations follows:

Introductions and Kudos

The Committee was pleased to welcome Vicki Cornish, from the NMFS National Observer Program, to the meeting.

Dan Ito provided a brief presentation on cooperative industry efforts regarding the NPGOP to-date. Dan outlined three ways industry has been assisting the NPGOP in meeting program needs: 1) NMFS worked collectively with industry to store formaldehyde on vessels for observer use in preserving stomach samples; 2) industry advised NMFS on techniques to collect the sexed length frequency data necessary for sablefish and cod research without compromising product quality; and 3) vessel tours were made available to improve the training and preparedness of new observers. NMFS extends its appreciation to industry for making these efforts and notes that it is always looking for new opportunities to collaborate.

Future Agenda Items

The Committee noted that while this meeting was dedicated to reviewing the no-cost contract approach, future meetings need to address industry concerns expressed at the July 2000 OAC meeting. These include a discussion of current sampling protocol and techniques, changes made in the sampling protocol in recent years, coverage levels, and the potential need to update the sampling protocol to reflect the new direction of the vessel-by-vessel accounting system. In addition, the committee would like to review the draft observer program goals and objectives (which will also provide a foundation for developing long-term program models).

Discussion paper on the AFA No-Cost Contract Pilot Program and committee response

Dan Ito provided the committee with an overview of the no-cost contract pilot program envisioned for the AFA offshore fleet, as well as a brief review of the MRAG and MCR reports and their recommendations with respect to the current service delivery model. The service delivery model (SDM) refers to how NMFS procures observer services, and the no-cost contract developed out of the report recommendations and NMFS' desire for a change in the SDM.

NMFS anticipates the following benefits from the proposed SDM: creation of an arms-length relationship between the observer companies and industry; greater management control by the agency; a higher level of data integrity and quality; and an improved working relationship between the agency and the observer companies. NMFS' aim is to eliminate the potential (real or perceived) conflict of interest associated with the direct business relationships between fishing companies and observer companies. The no-cost contract approach would establish a no-cost contract directly between the government and an observer company (or companies) so that the agency is the primary client rather than industry. Industry would continue to pay observer providers directly, but the cost would be fixed in a contract and once awarded, each vessel would work with a single observer provider. NMFS believes that this approach, while not addressing the problem of direct payments made by industry to the observer company or cost equity concerns, would remove its problem with day-to-day competition between observer companies. The approach was developed in the context of the pilot program, in which the AFA offshore fleet would be treated as a distinct module and their observer needs would be put out for bid by all interested observer companies through the NOAA competitive contracting process. A draft Statement of Work (SOW) detailing the expectations of the observer contractor(s) was not available to committee members at this time.

Dan also gave the committee a brief overview of the MCR (an internal agency review) and MRAG (an agency contracted review by an outside consulting firm) reports, whose recommendations helped drive the agency toward the no-cost contract approach. The MCR report identified the direct business relationship between fishing companies and observer companies as, at the very least, providing the perception of a conflict of interest. The report states that the lack of agency management controls, because of the lack of direct contracts with observer companies, means that the agency is not provided assurance that program objectives will be met. Similarly, the MRAG report identified two major weaknesses with the current pay-as-you-go system: 1) the daily competition between observer companies for services on a vessel may compromise data quality; and 2) the lack of a direct contract between the agency and observer companies prevents the agency from having adequate management control. The MRAG report recommends either making the observer program a fully Federally-funded program, or instituting a two phase approach that would 1) establish exclusivity by fishery module via regulations so that a vessel could not choose or change observer providers, and 2) create a direct contract between the agency and the observer provider(s) so that the agency is the primary client.

The committee reiterated the following concerns with the proposed no-cost contract approach:

- Question of whether and how soon NMFS intends, depending on the success of the pilot program, to apply this approach to other fishery modules (not just the AFA offshore fleet). There also remains the question of the feasibility of this approach in other fisheries (GOA, small boat).
- Question of whether we should eliminate a fully Federally-funded program as a viable option. The type of SDM used varies by region, and some regions do have Federally-funded programs. The committee questioned whether we should assume at this time that Congressional funding is not a feasible alternative. In addition, the committee noted that the agency states that the funding of observer programs nation-wide should be

“reasonable and fair”. Consistent with the MCR report recommendations, the committee was very interested in receiving the agency definition of this term and an explanation of how it impacts all affected parties.

- Cost implications to industry continue to be a major concern (related to the Services Contract Act (SCA) and whether additional responsibilities given to the contractor could also increase costs). Industry noted that NMFS has not been able to ensure that additional costs associated with the proposed SDM would be paid for by the agency.

Committee concerns with the status quo SDM

The committee discussed general concerns with the current SDM in order to identify what aspects of the current system most need to be changed and to identify the priorities of the committee. The committee generally agreed that while the proposed no-cost contract SDM may mitigate most of the agency’s concerns, the other representative groups on the committee have different priorities and problems that would not be resolved by the proposed SDM or that may be better addressed by alternative models. The following are the primary concerns of each representative group as discussed at the meeting:

Industry – effective sampling design, quality of observers, observer availability/operational efficiency, the need for an observer program that is more compatible with a vessel-by-vessel accounting system, appropriate coverage levels, and cost containment.

Observers – conditions of employment (vessel safety, adequate work station, etc.), lack of oversight by NMFS spurs the question of who is the actual employer of the observer.

Observer Contractors – observer retainment, ‘vesting/ownership’ in the program, need for improved communication with NMFS, vessel safety, operational advantage (competition among contractors), creating a less adversarial working environment.

NMFS – effecting an arms-length relationship between the contractors and industry (conflict of interest problem), exclusivity, lack of agency management controls, retention of high quality observers, data quality and integrity, creating a less adversarial working environment.

Committee concerns with the no-cost contract approach and alternatives

The committee generally supports modifications to the current system, but there is not consensus among the committee that the proposed no-cost contract approach would work for all sectors of the fishery. In addition, there was concern by the committee that the proposed SDM would create or exacerbate existing problems that the committee believes are a high priority, such as observer availability (for the fisheries not included in the pilot program), operational efficiency, and cost.

The main problem noted by the committee with the no-cost contract pilot program as presented is the additional cost to industry. A direct contract between the government and observer companies would trigger the SCA, resulting in higher rates paid by industry. Assuming this approach would eventually be applied to the rest of the fleet (non-AFA), it is uncertain how much costs would increase. Because certain sectors of the fishery have inherently worse working conditions, shorter seasons, and less than 100% observer coverage (for example, the 30% observer covered vessels out of Gulf of Alaska), it is possible that the proposed bidding approach would generate much greater additional costs for these fisheries. Related concerns were voiced about the feasibility of extending this program to other fisheries, and whether setting up a “premiere” observer module would disadvantage: 1) non-AFA vessels which would have a more difficult time obtaining observer

services, and 2) the observer contractors who did not win the contract to service the AFA fleet in the pilot program.

In light of these problems, the committee brainstormed alternative approaches to the no-cost contract, including:

1. NMFS could more aggressively use current management tools and regulations to exercise its oversight responsibilities toward observer companies.
2. Strengthen regulations that govern the relationship between NMFS and the contractors, so that NMFS would retain more management control. NMFS could include the requirements that would have been included in the SOW in regulation.
2. Use the audit mechanism that is currently available to NMFS to evaluate observer contractors. The Committee noted that audits used to be performed, but have not been for several years.
3. Use the current decertification process to assert agency control over observer contractors.
4. Improve agency communication with observer contractors so that agency needs/requirements are included in the contracts between the fishing companies and the observer contractors.
5. Annually (or quarterly, biannually) re-certify each observer contractor based on evaluation criteria that reflect the needs of the agency.
6. Seek Congressional funding so that the observer program could be fully Federally-funded. This could result in 1) all observers being made government FTEs, which negates the need for observer contractors, or 2) government providing the funds for observer services to the contractors directly.
7. Implement a modified pilot program, whereby the module is based on the contractor. For example, NMFS would enter into an MOA/MOU with one contractor to test the no-cost contract approach, using that contractor's current clientele (encompassing several different fisheries and gear types).
8. Implement a third-party approach, whereby a separate entity acts as a "clearinghouse" or "contract coordinator" between NMFS and the observer contractors.

Due to the problems with the no-cost contract discussed previously, the committee did not fully support moving forward solely with that approach. **The committee agreed that the ideal, long-term approach would be to secure Federal funding for the entire observer program; this would resolve the majority of the problems discussed, as well as the agency's concerns regarding conflict of interest.** However, the committee also discussed implementing a step-wise approach, noting the agency's need, as a result of the recommendations from the MCR and MRAG reports, to change the current SDM in the short-term to better meet program objectives. Thus, while the committee supports the overall goal of a Federally-funded observer program, it may also support the agency phasing in changes to the program through these other mechanisms.

Evaluation of alternative approaches to modifying the current SDM

The committee then evaluated all of the proposed alternatives listed above, based on how well they would resolve the problems identified by all of the representative groups, and whether any new problems could be foreseen resulting from any alternative. **Based on that exercise, the committee narrowed it down to two potential alternatives to recommend for further agency analysis (not including status quo): 1) the no-cost contract approach developed by NMFS, and 2) strengthening the regulations to ensure sufficient management controls.** The committee agreed that modifying the existing regulations governing the relationship between the agency and the observer contractors could encompass several of the ideas mentioned above, such as requiring that the SOW objectives be included in the vessel contracts, improving agency and contractor communications, and conducting an annual contractor certification process. The no-cost contract approach was left on the table so that NMFS may further flesh out the implications of the SCA. The third-party approach and the concept of full Federal funding were not evaluated in this exercise, as the committee's intent was to select a number of achievable short-term approaches to solving the problems with the current SDM. The committee continued to support the idea of full Federal funding for the observer program as a long-term, comprehensive solution.

No-cost contract approach: Further discussion of these two approaches showed that while the no-cost contract would help resolve the agency's primary concerns (conflict of interest, exclusivity, management control, data quality), the other groups' concerns would not necessarily be addressed. The observers in the committee noted that the no-cost contract has the potential to resolve many of their issues, but without the ability to review the details in the statement of work, there is no assurance that their needs would be met. The observers noted that a no-cost contract would tie the observers closer to NMFS; more agency control could increase observer payment and job stability and potentially create a safer working environment. The observer companies stated that while the no-cost contract could enhance observer retainment, data accountability, and improve communication with the agency, their major concern is related to reduced competition. Since the fleet would be tied to the provider that won the contract (under the pilot program), and no longer able to switch contractors, the day-to-day competition for vessels would be reduced. While the sole (or multiple) provider(s) would benefit greatly, the observer companies that did not win the contract would be at an operational disadvantage. Industry was fairly cohesive against the no-cost contract approach. Committee members noted that not only would it not address their major concerns such as sampling design and coverage levels, it may exacerbate the costs to vessels, as well as reduce operational efficiency and observer availability.

Regulatory approach: The second approach considered is to tighten up the regulations to reflect NMFS' need for more management controls and to create the arms-length relationship necessary to eliminate a conflict of interest. NMFS was uncertain, having not yet had time to consider how to craft or modify regulations to meet their needs, of whether this approach would be effective in solving the conflict of interest problem. The observer representatives stated that this approach could potentially solve their problems, depending on the stringency and comprehensiveness of the language adopted in regulations. The contractors noted that data quality, accountability, and observer retention could likely be improved through regulatory change, and competition would remain unaffected. They also did not believe vessel and worker safety could be improved through regulations. Industry noted that while strengthening the regulations governing the relationship between the contractors and the agency would not address their primary concerns, this approach would not necessarily exacerbate existing problems, the most notable of which is cost. The regulatory approach would also not necessarily provide the "exclusivity" NMFS desires, but it could address a lot of the problems identified with little downside.

The committee generally agreed that the no-cost contract would not garner committee support unless: 1) NMFS could figure out a way to avert additional costs to industry triggered by the SCA under the no-cost contract, 2) the program could be applied industry-wide, and 3) observer availability in other (non-AFA) fisheries would not decrease due to the pilot program.

Marching smartly towards a long-term solution: Timeline for analysis

The committee agreed that if the problems with the no-cost contract stated above cannot be mitigated, then the second alternative (strengthening regulations) or some variation of that alternative should be pursued to see whether it could also meet the agency's needs. If this alternative is found not to meet the agency's needs, then the committee would opt to continue the status quo (pay-as-you-go SDM) as opposed to implementing the no-cost contract pilot program as presented.

The committee discussed the timing of preparing an analysis (RIR/IRFA) to support a regulatory amendment to modify the current SDM. NMFS had originally envisioned receiving feedback from the committee on the no-cost contract at this meeting, with the intent to present the analysis (initial and final review combined) to the Council at the June meeting. The question was posed to the agency regarding its obligation under the MCR report, i.e. does the agency need to formally respond with changes to the observer program, or are the recommendations in the report considered guidance? Dan Ito noted that the timeframe for taking action is fairly flexible, and that it is more important to establish that the committee and the agency are moving forward to make a change.

To summarize, having fleshed out problems with the no-cost contract approach, which did not address the majority of issues important to all of the representative groups, the committee identified another alternative (strengthening the regulations and implementing an annual certification process) for consideration. Ideally, however, the committee would like a fully Federally-funded observer program, which would resolve the suite of issues raised by all groups. Based on these discussions, the committee agreed with the agency's plan to further evaluate the SCA issue with regard to the no-cost contract, to see if there is a way to avoid additional costs to industry. If the cost and other issues identified (module problems, inequities across fisheries) cannot be resolved, it is very unlikely that the no-cost contract approach would be included as an alternative for analysis. The agency would then focus on evaluating whether regulatory changes and an annual certification process could meet agency needs. Finally, the committee emphasized that the regulatory amendment proposed would be intended as the first phase of a more comprehensive solution.

The agency explained that a draft analysis would need to be completed by mid-May for the June Council meeting. The committee noted that observer de-briefing is scheduled to start March 28 at the AFSC, and that some of the agency staff tasked to work on the analysis would also be involved in the de-briefing process. The committee agreed that the focus should be on de-briefing in the near-term, even if that meant delaying action on the analysis until after the June Council meeting. The agency agreed to develop the analyses (EA/RIR/IRFA) for review at the October Council meeting. The next OAC meeting will be scheduled this summer, after NMFS has further fleshed out the alternatives to be considered in the analysis. During that meeting, the committee will be tasked with: 1) providing feedback to NMFS on whether the no-cost contract is a viable option and should be included in the analysis, depending on new information regarding the SCA and other issues raised by the committee; 2) provide feedback on the alternatives to be included in the regulatory package to be presented to the Council in October, and 3) discuss and define the draft goals and objectives for the observer program.

Finally, the committee continues to believe strongly that successful development of any observer program will depend directly on determination of appropriate coverage levels for each fishery (given the direction of the vessel-by-vessel accounting system), sampling protocols, and clear program goals and objectives, and that parallel efforts to determine such should be ongoing.

land catch in another area, may be required to accommodate NMFS certified observers on board to collect scientific data. An observer program will be considered only for circumstances where other data collection methods are deemed insufficient for management of the fishery. Any observer program will be implemented in accordance with § 660.517.

[FR Doc. 01-7940 Filed 3-29-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010228052-1052-01; I.D. 010301D]

RIN 0648-AL95

Fisheries of the Exclusive Economic Zone Off Alaska; Amendments to Alaska Groundfish and Crab Fishery Management Plans to Revise the License Limitation Program

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

ACTION: Proposed rule.

SUMMARY: NMFS issues a proposed rule to implement Amendment 60 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Amendment 58 to the FMP for Groundfish of the Gulf of Alaska, and Amendment 10 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and the Aleutian Islands. This proposed rule would implement changes to the License Limitation Program (LLP) that would be made by these Amendments and is intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the affected FMPs.

DATES: Comments must be received by April 30, 2001.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Comments submitted via e-mail or the Internet will not be accepted.

Copies of the draft environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) are available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The North Pacific Fishery Management Council (Council) recommended, and NMFS approved, the LLP to address concerns of excess capital and capacity in the groundfish and crab fisheries off Alaska. The LLP is one stage of a multi-staged process to reduce capacity and capital in the affected fisheries. The LLP replaced the Vessel Moratorium Program (VMP), a program implemented by NMFS to impose a temporary moratorium on the entry of new capacity in the groundfish and crab fisheries off Alaska and to help define the class of entities that would be eligible for licenses under the LLP. The VMP expired on December 31, 1999, and fishing under the LLP began on January 1, 2000 (63 FR 52642, October 1, 1998). The final rule establishing the application and transfer processes for the LLP was published August 6, 1999 (64 FR 42826). In October 1998, the Council recommended several changes to the LLP. These changes, which are embodied in Amendment 60 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (Amendment 60), Amendment 58 to the FMP for Groundfish of the Gulf of Alaska (Amendment 58), and Amendment 10 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands (Amendment 10), are outlined below.

Proposed Changes to the LLP Qualifying Criteria

A. Amendment 10 would add a recent participation requirement to the eligibility requirements for a crab species license.

The Council recommended that a recent participation requirement be added to the eligibility requirements for a crab species license. Under the current LLP, a person applying for a crab species license must demonstrate that documented harvests were made from a qualifying vessel during two periods, the general qualification period (GQP) and the endorsement qualification period (EQP). The current documented harvest requirements for the two periods are as follows.

GQP: One documented harvest of any amount of crab species during the period beginning January 1, 1988, through June 27, 1992, or, if a legal landing of moratorium groundfish species was made from a vessel during the period beginning January 1, 1988, through February 9, 1992, and a legal landing of moratorium crab species was made from that vessel during the period beginning February 10, 1992, through December 11, 1994, one documented harvest of any amount of crab species during the period beginning January 1, 1988, through December 31, 1994.

EQP: Documented harvests during the EQP must be of the same crab species and in the same area as the endorsement.

1. Bering Sea and Aleutian Islands Area *C. opilio* and *C. bairdi* (Tanner crab): Three documented harvests of any amount during the period beginning January 1, 1992, through December 31, 1994.

2. Aleutian Islands brown king crab: Three documented harvests of any amount during the period beginning January 1, 1992, through December 31, 1994.

3. Aleutian Islands red king crab: One documented harvest of any amount during the period beginning January 1, 1992, through December 31, 1994.

4. Bristol Bay red king crab: One documented harvest of any amount during the period beginning January 1, 1991, through December 31, 1994.

5. Pribilof red king crab and Pribilof blue king crab: One documented harvest of any amount during the period beginning January 1, 1993, through December 31, 1994.

6. St. Matthew blue king crab: One documented harvest of any amount during the period beginning January 1, 1992, through December 31, 1994.

7. Norton Sound red king crab and Norton Sound blue king crab: One documented harvest of any amount during the period beginning January 1, 1993, through December 31, 1994.

In accordance with Amendment 10, this proposed rule would add a third period, the recent participation period (RPP), to the documented harvest requirements for crab. Under the RPP, a person applying for a crab species license would have to demonstrate that one documented harvest of any amount of crab species was made from a qualifying vessel during the period extending from January 1, 1996, through February 7, 1998. The additional eligibility requirements of the RPP are proposed as a means of reducing the number of crab species licenses that might otherwise be issued to persons who have been inactive in the crab

fishery since 1995. Licenses given to such inactive fishermen could be transferred to persons who would become active in the fishery. This result would be contrary to the purpose of the LLP because it would likely increase fishing effort above the current levels in the crab fisheries.

The Council recommended that exemptions from the requirements of the RPP be provided based on public testimony and in consideration of the impacts the RPP would have on small fishing operations. The following exemptions are proposed:

Exemption 1: A person who only qualifies for a Norton Sound red king crab and Norton Sound blue king crab endorsement would not have to meet the documented harvest requirements of the RPP.

Exemption 2: A person whose qualifying vessel is less than 60 ft (18.3 m) LOA would not have to meet the documented harvest requirements of the RPP.

Exemption 3: A person whose qualifying vessel was unable to meet the documented harvest requirements of the RPP because it was lost or destroyed during the RPP period, but which made a documented harvest of crab species during the period beginning after the vessel was lost or destroyed through January 1, 2000, would not have to meet the documented harvest requirements of the RPP.

Exemption 4: A person who can demonstrate that his or her vessel made a documented harvest of crab species during the period beginning January 1, 1998, through February 7, 1998, and who obtains the fishing history of a vessel that meets the GQP and the EQP, or enters into a contract to obtain the fishing history of a vessel that meets the GQP and the EQP, by 8:36 am PST on October 10, 1998, would not have to meet the requirement of having a complete fishing history for qualification.

B. Amendments 60 and 58 would impose a transfer restriction on a groundfish LLP license earned from a vessel that did not have a Federal Fisheries Permit (FFP).

This proposed rule would implement Amendments 60 and 58 by imposing a transfer restriction on a groundfish LLP license that was earned from a vessel that did not have an FFP prior to October 9, 1998. Under this transfer restriction, the groundfish LLP license and the vessel from which the license was earned would have to be transferred together. In other words, this type of groundfish LLP license could not be transferred separately from the vessel, but could only be used by, and would

have to be onboard, the original qualifying vessel.

Two exceptions to this transfer restriction are proposed. First, if the transfer of the fishing history of a vessel that did not have an FFP occurred before February 7, 1998, transfer of the qualifying vessel would not have to accompany transfer of the license; the license could be transferred separately from the vessel, but future transfers of the license would have to be accompanied by transfer of the "new" vessel. Second, a vessel that is subject to this provision but that is lost or destroyed could be replaced under the general vessel replacement provisions of the LLP.

Concerns of excess capacity in the affected fisheries again influenced the Council to make these recommendations. In considering the impacts these recommendations would have on license recipients, the Council justified the recommendations based on the fact that an FFP was required for any vessel that participated in a Federal groundfish fishery off Alaska. A vessel that participated in a Federal groundfish fishery off Alaska without an FFP did so illegally. If a vessel did not participate in a Federal groundfish fishery off Alaska, its qualifying documented harvests must have occurred in waters of the State of Alaska or other waters shoreward of the exclusive economic zone (EEZ) off Alaska. Groundfish fisheries in State waters or other waters shoreward of the EEZ off Alaska will not be managed under the LLP; therefore, the fishing operations of these vessels would not be affected. Hence, the Council did not consider it a hardship to the license recipient to directly link the transfer of a license to the vessel.

C. Amendments 60 and 58 would add gear designations to the groundfish license.

The Council recommended that a gear designation be added to a groundfish license. The gear designation is intended to prevent movement between the trawl sector and the non-trawl sector, and thus more effectively limit participation within a gear sector's fishery to those more historically dependent on the fishery. Under this provision, a license would be issued a "trawl," "non-trawl," or "trawl/non-trawl" gear designation based on gear participation before June 17, 1995. If, for example, a person used trawl gear and longline gear before June 17, 1995, the license issued to that person would have a trawl/non-trawl gear designation. This designation would mean that the license holder could use trawl and non-trawl gear. However, if a person only used trawl gear prior to June 17, 1995,

the license issued to that person would have a trawl gear designation. This designation would mean that the license holder could only use trawl gear.

Two exceptions to the general rule on gear designations are proposed to account for recent activity. Under the first exception, a person could exercise a one-time option to switch gear designations if that person used a different gear type between June 18, 1995, and February 7, 1998. For example, a person used only trawl gear before June 17, 1995, but in 1997 used pot gear to catch Pacific cod. The use of this non-trawl gear type in 1997 would allow the person to exercise a one-time option to change the gear designation from trawl gear to non-trawl gear. A person could not qualify for a trawl/non-trawl gear designation by use of this exception.

Under the second exception, a person could request a gear designation change based on a significant financial investment. To qualify under the second exception a person would have to (1) demonstrate that a significant financial investment was made in converting a vessel and/or purchasing fishing gear on or before February 7, 1998, and (2) demonstrate that a documented harvest was made from the qualifying vessel with the new gear type on or before December 31, 1998. A significant financial investment is defined on the basis of industry testimony before the Council as having spent at least \$100,000 toward vessel conversion and/or gear to change from a non-trawl to a trawl gear designation, or having acquired groundline, hooks or pots, and hauling equipment for prosecuting a fixed gear fishery to change from a trawl to a non-trawl gear designation.

D. Amendments 60 and 58 would limit the Community Development Quota (CDQ) vessel exemption.

An exemption to LLP licensing requirements for specific CDQ vessels is included in the LLP regulations at 50 CFR 679.4(k)(2)(iv). This exemption, similar to the one provided in the VMP, was intended to facilitate the ability of CDQ organizations to enter and prosecute groundfish fisheries with newly constructed vessels that did not qualify under the LLP. However, concerns over excess capacity in the groundfish fisheries, and acknowledgment that CDQ organizations are integrating into the existing fishing industry at a reasonable pace, induced the Council to recommend limiting the exemption. Further support for limiting this provision came from public testimony that CDQ organizations did not use this exemption under the VMP. The Council

recommended that the exemption be limited to vessels that met the CDQ vessel exemption criteria between November 18, 1992, and October 9, 1998, the date the Council recommended the limitation. Allowing CDQ vessels to qualify for this exemption through October 9, 1998, would ensure that the investment-backed expectations of any CDQ organization, which may have decided to use this exemption prior to the Council's decision to limit the provision, are protected.

E. Amendments 60 and 58 would allow limited processing by a person who holds a license with a catcher vessel designation.

The LLP currently separates licenses into two distinct processing designations: a catcher vessel designation, under which no fish can be processed, and a catcher/processor designation, under which fish can be processed. The Council, through public testimony, was presented with two reasons why some relief should be granted under these strict category distinctions.

First, public testimony indicated that an opportunity should be provided for entry into processing. Second, public testimony indicated that if limited processing opportunities were allowed, some catcher vessels would be able to exploit "niche markets," which are small, specialized markets, such as a local grocery store or a restaurant to whom a fisherman sells frozen products directly. For these reasons, the Council recommended a limited processing exception. For the purpose of this exception, this proposed rule would define limited processing as 1 metric ton (mt) of round fish per day harvested on a vessel that is less than 60 ft (18.3 m) LOA under a groundfish license with a catcher vessel designation.

F. Amendments 60, 58, and 10 would add the vessel name to groundfish and crab species licenses.

This proposed rule would require that the name of the vessel be specified on an LLP license for groundfish and crab. This change was recommended as a regulatory amendment by the Council to address concerns about the movement of license holders among vessels contributing to excess capacity in the fisheries. Under current LLP regulations, a license issued under the LLP is not directly linked to a particular vessel. A license holder is able to use any vessel to fish for license limitation groundfish or crab species if that vessel complies with length restrictions. This ability may contribute to excess capacity by allowing a license holder to use a second vessel to fish while the first

vessel was in port, or by allowing a license holder to alternate between vessels in different fisheries in different geographical locations. In both cases, a license holder could engage in uninterrupted fishing because breaks in fishing activity for unloading, vessel repairs, or running time could be eliminated through the use of another vessel.

To further refine the goal of the LLP to reduce excess capacity, the Council recommended that a specific vessel be designated on a groundfish or crab species license. A license holder would be authorized to use only the vessel designated on the license. A change to the vessel designated on the license would require agency action and would be counted toward the limit of one license transfer per calendar year.

Clarification of a Complete Fishing History for License Eligibility

The LLP is designed to place an upper limit on the amount of capitalization that can occur in the groundfish and crab fisheries. In doing so, the LLP also identifies the field of participants and provides stability during the development of a more comprehensive solution for conservation and management of the affected fisheries. One of the design features that assists in providing stability is the provision that allows the fishing history of a vessel to be transferred prior to license issuance. This provision protects the investment-backed expectations of a person who purchased a fishing history to meet the eligibility requirements for a license under the LLP. Although the LLP provides for these transfers, eligibility for a license under the LLP cannot currently occur by "piecing together" the fishing histories from two or more vessels, except under a specific provision of the LLP explained here.

The following explains what is meant by a complete fishing history for license eligibility and how NMFS intends to implement the Council's intent. The fishing history of a vessel that can be used as the basis for eligibility for a license under the LLP remains with the vessel until either (1) June 17, 1995, when it vests with the vessel owner, or (2) it is separated by the express terms of a written contract that clearly and unambiguously indicates that the fishing history is transferred or retained. The Council chose June 17, 1995, as the determining date because it coincides with the date the Council recommended the LLP.

Until June 17, 1995, the fishing history remains with the vessel unless separated by a contract. This contract could transfer the fishing history to a

person other than the vessel owner. However, the fishing history would not qualify the receiver of it for a license unless that fishing history meets all the requirements for eligibility.

Alternatively, this contract could retain the fishing history in the person who is selling his or her vessel before June 17, 1995. Again, this fishing history would not qualify the retainer of it for a license unless the fishing history meets all the requirements for eligibility. In either case, the contract has separated the fishing history from the vessel.

On June 17, 1995, the fishing history of the vessel, unless already separated by contract, vests in the vessel owner. After June 17, 1995, the vessel owner can transfer that fishing history by contract. A vessel sold after June 17, 1995, does not have a fishing history to use as the basis for license eligibility because its fishing history has vested in the owner and would have to be obtained through the express terms of a written contract.

A partial fishing history (i.e., a fishing history that does not meet all of the eligibility criteria) generally cannot be joined with another partial fishing history to form a complete one. However, there is one exception, which applies to eligibility for a crab license. The Council provided that a person who can demonstrate that a documented harvest of crab species was made from his or her vessel during the period beginning January 1, 1998, through February 7, 1998, can join that fishing history with another fishing history from a vessel that meets the GQP and the EQP, as long as the fishing history that meets the GQP and the EQP was acquired, or a contract to acquire that fishing history was entered into, by 8:36 am PST on October 10, 1998. Other than this specific exception, the fishing history of one vessel cannot be joined with the fishing history of another vessel to achieve eligibility.

In addition, a person cannot retain the partial fishing history of one vessel, move to another vessel, and continue the fishing history. The Council specifically provided for vessels that were lost or destroyed before a fishing history was completed. One provision was described above as Exception 3. The other provision, called the "unavoidable circumstances provision," also provides a means for achieving eligibility although the fishing history of a vessel is not complete. The details of the unavoidable circumstances provision were published in the LLP final rule (63 FR 52642, October 1, 1998).

In summary, a person must have a complete fishing history, which must

have been created on a single vessel, with two exceptions. The first exception is for crab licenses. A person can combine a documented harvest of crab species that occurred during the period beginning January 1, 1998, through February 7, 1998, with the fishing history of another vessel that meets the requirements of the GQP and the EQP (see Exception 4 above). The second exception applies to lost or destroyed vessels. Two different provisions implement this exception, the unavoidable circumstances provision for missing documented harvests during the EQP, and Exception 3 for missing documented harvests of crab species during the RPP.

Application Process

Should the Secretary of Commerce approve Amendments 60, 58, and 10, once a final rule has been published NMFS' Restricted Access Management Program (RAM) would implement the application process as follows. Each LLP license holder would be notified of the status of his or her license. License holders for whom RAM has no evidence of qualifications under the crab recent participation qualifications would be informed that they have 60 days to establish such qualifications or lose their license. RAM would request those license holders who qualify to designate the vessel upon which the license is to be used. License holders whose qualifying harvests were made outside of the EEZ (e.g., in Alaska State fisheries) would have their licenses re-endorsed with the name of a qualifying vessel inseparable from the license. As necessary, RAM would add gear designations to the licenses.

License holders would have 60 days to respond to RAM's determinations and would have the right to appeal a determination to the NMFS/Alaska Region Office of Administrative Appeals.

Other Changes Included in This Proposed Rule

The definition of "Person" would be changed so that it applies generally to all fishery management programs, including the LLP. This change does not affect the meaning of the definition.

Several paragraphs of the LLP regulations would be revised to eliminate the word "State" when referring to waters shoreward of the EEZ off Alaska. The word "State" was eliminated because including that word excluded from the LLP several areas shoreward of the EEZ off Alaska that are not State waters. These areas include the waters adjacent to the Metlakatla Indian Reservation and Federal areas

reserved off Kodiak Island and Nunivak Island.

A new prohibition would be added specifying that a person cannot use a vessel, or allow a vessel to be used, to fish for license limitation groundfish or crab species, other than the vessel named on the license. This prohibition gives effect to the Council's recommendation to require that a specific vessel must be named on the license.

The eligibility requirements for a Western Gulf area endorsement for vessel length category "A" in § 679.4(k)(4)(ii)(C)(1) would be corrected to require one documented harvest in each of any 2 calendar years during the period beginning January 1, 1992, through June 17, 1995. This correction makes the requirement for a Western Gulf area endorsement for vessel length category "A" consistent with the Council motion passed in June 1995.

Comments Requested

The Council has submitted Amendments 60, 58, and 10 for Secretarial review, and a notice of availability of the amendments was published January 17, 2001 (66 FR 3976), with comments on the amendments invited through March 19, 2001. Comments received before the end of the comment period for this proposed rule, will not be considered in the approval/disapproval decision of the amendments, but will be considered in context of this proposed rule. The preamble of the final rule will contain a summary of the comments received both on the amendments and on the proposed rule. Copies of Amendments 60, 58, and 10 are available upon request (see ADDRESSES).

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

At this time, NMFS has not determined that Amendments 60, 58, and 10 that this proposed rule would implement are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an EA for Amendments 60, 58, and 10 that discusses the impact on the environment as a result of this rule. The analysis indicates that the individual impacts of the proposed changes, and the cumulative impacts of the all the changes, would have a negligible affect on the quality of the human

environment. Most proposed changes in this proposed rule either limit participants, or their participation, as compared to the status quo. Allowing limited processing by catcher vessels is not expected to impact the fisheries stock, the physical environment, or non-target species. A copy of the EA is available from NMFS (see ADDRESSES).

An IRFA was prepared that describes the impact this proposed rule, if adopted, would have on small entities. The analysis concludes that most persons affected by the proposed actions are small entities given their expected annual gross revenues are less than \$3 million or are assumed to be small entities because of insufficient annual receipts data. However, the ownership characteristics of vessels operating in the fishery have not been analyzed to determine if they are independently owned and operated or affiliated with a larger parent company due to insufficient data.

The proposed limitation on the transfer of licenses earned on an estimated 447 vessels that never held a Federal Fisheries Permit is intended to limit the potential for increasing fishing effort in the EEZ off Alaska, while allowing small vessels to continue to operate in both State and Federal waters. A person who did not obtain a Federal Fisheries Permit must have fished in the EEZ only incidentally and this action would not affect the ability of such a person to fish in State waters.

The proposed requirement to add gear endorsements to Alaska groundfish licenses is intended to restrict movement between trawl and non-trawl sectors. Council is concerned about excess capital and capacity in the fisheries. The estimated 2,435 affected license recipients are assumed to be small entities. A person's gear endorsement would be based on a history of past participation. A provision is proposed to allow a person to designate a gear type different from the one for which that person qualified, if certain criteria are met.

The exception for CDQ vessels was provided originally to assist the six CDQ organizations to enter the groundfish fisheries. This exception is not being used and is unnecessary because of business partnerships and specific allocations. A provision is proposed that would exempt any vessel from the license requirements of the LLP if a vessel took advantage of the exception prior to October 9, 1998.

The proposed addition of a recent participation requirement for eligibility for an estimated 93 crab license recipients, who are assumed to be small entities, addresses the Council's

concerns that reactivation of latent or unused capacity through transfers would further contribute to excess capacity in the crab fishery. This proposed action is consistent with the intent of the AFA to remove latent capacity in this fishery.

The proposal to allow an estimated 1,902 catcher vessels under 60 ft (18.3 m) LOA to process fish on a limited basis (i.e., 1 mt of round fish per day) would provide increased flexibility for small entities to take advantage of specialized markets and to use certain species of fish that spoil more rapidly than others.

The Council considered and adopted several measures to reduce the impacts on small entities. Rather than disqualifying license recipients who did not have a Federal Fisheries Permit, licenses with limited transferability would be issued to such recipients. A provision would be added to allow a recipient to designate a gear type different from the one for which that license recipient qualified, if meeting certain criteria. Rescinding the CDQ vessel exemption would have no impact on CDQ groups that have not used the CDQ exemption and a provision was added to protect any existing CDQ group from being disadvantaged. In considering the impact on small entities of a recent participation requirement, the Council recommended a period (January 1, 1996-February 7, 1998) that reduced the estimated number of affected small entities from 365 to 272.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 26, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definition for "Person" is revised to read as follows:

§ 679.2 Definitions.

* * * * *

Person means any individual who is a citizen of the United States, or any corporation, partnership, association, or other entity (or its successor-in-interest),

regardless of whether organized or existing under the laws of any state, who is a U.S. citizen, except for purposes of High Seas Salmon Fishery permits issued under § 679.4(h), in which case the term "person" excludes any nonhuman entity.

3. In § 679.4, paragraphs (k)(2)(iv), (k)(3)(i), (k)(4)(i)(A), (k)(4)(i)(B), (k)(4)(ii), (k)(4)(iv)(A) introductory text, (k)(4)(iv)(B), (k)(4)(v)(A), (k)(4)(v)(B), and (k)(5)(ii) introductory text are revised and paragraphs (k)(3)(ii)(D), (k)(3)(iv), (k)(5)(iii), and (k)(5)(iv) are added to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(2) * * *

(iv) A catcher vessel or catcher/processor vessel that does not exceed 125 ft (38.1 m) LOA, and during the period after November 18, 1992, through October 9, 1998, was specifically constructed for and used exclusively in accordance with a CDP approved by NMFS, and is designed and equipped to meet specific needs that are described in the CDP may conduct directed fishing for license limitation groundfish in the GOA and in the BSAI area without a groundfish license and for crab species in the Bering Sea and Aleutian Islands Area without a crab species license.

(3) *Vessel and gear designations and vessel length categories*—(i) *General*. A license can be used only on a vessel that complies with the vessel designation and gear designation specified on the license and that has an LOA less than or equal to the MLOA specified on the license.

(ii) * * *

(D) *Limited processing by catcher vessels*. Up to 1 mt of round fish per day may be processed on a vessel less than or equal to 60 ft (18.3 m) LOA that is authorized to be used to fish for license limitation groundfish or crab species with a license with a catcher vessel designation.

(iii) * * *

(iv) *Gear designations for groundfish licenses*—(A) *General*. A vessel may only use gear consistent with the gear designation on the license authorizing the use of that vessel to fish for license limitation groundfish or crab species.

(B) *Trawl/non-trawl*. A license will be assigned a trawl/non-trawl gear designation if trawl and non-trawl gear were used on the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(C) *Trawl*. A license will be assigned a trawl gear designation if only trawl gear was used on the qualifying vessel

during the period beginning January 1, 1988, through June 17, 1995.

(D) *Non-trawl*. A license will be assigned a non-trawl gear designation if only non-trawl gear was used on the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(E) *Changing a gear designation*.

(1) An applicant may request a change of gear designation based on gear used from the vessel during the period beginning June 18, 1995, through February 7, 1998. This requested change can be made in the application for an LLP license. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(2) An applicant may request a change of gear designation based on a significant financial investment in converting a vessel or purchasing fishing gear on or before February 7, 1998, and making a documented harvest with that gear on or before December 31, 1998. This requested change can be made in the application for an LLP license. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(F) *Definitions of non-trawl gear and significant financial investment*.

(1) For purposes of paragraph (k)(3)(iv) of this section, non-trawl gear means any legal gear, other than trawl, used to harvest groundfish.

(2) For purposes of paragraph (k)(3)(iv)(E)(2) of this section, "significant financial investment" means having spent at least \$100,000 toward vessel conversion and/or gear to change to trawl gear from non-trawl gear, or having acquired groundline, hooks, pots, jig machines, or hauling equipment to change to non-trawl gear from trawl gear.

(4) * * *

(i) * * *

(A) At least one documented harvest of any amount of license limitation groundfish must have been made from a vessel to qualify for one or more of the area endorsements in paragraphs (k)(4)(ii)(A) and (k)(4)(ii)(B) of this section. This documented harvest must have been of license limitation groundfish caught and retained in the BSAI or in waters shoreward of the BSAI and must have occurred during the following periods:

* * * * *

(B) At least one documented harvest of any amount of license limitation groundfish must have been made from a vessel to qualify for one or more of the area endorsements in paragraphs

(k)(4)(ii)(C) through (k)(4)(ii)(E) of this section. This documented harvest must have been of license limitation groundfish caught and retained in the GOA or in waters shoreward of the GOA and must have occurred during the following periods:

* * * * *

(ii) Endorsement qualification periods (EQP). A groundfish license will be assigned one or more area endorsements based on criteria in paragraphs (k)(4)(ii)(A) through (k)(4)(ii)(E) of this section.

(A) Aleutian Islands area endorsement. For a license to be assigned an Aleutian Islands area endorsement, at least one documented harvest of any amount of license limitation groundfish must have been made from a vessel in any vessel length category (vessel length categories "A" through "C") during the period beginning January 1, 1992, through June 17, 1995, in the Aleutian Islands Subarea or in waters shoreward of that subarea.

(B) Bering Sea area endorsement. For a license to be assigned a Bering Sea area endorsement, at least one documented harvest of any amount of license limitation groundfish must have been made from a vessel in any vessel length category (vessel length categories "A" through "C") during the period beginning January 1, 1992, through June 17, 1995, in the Bering Sea Subarea or in waters shoreward of that subarea.

(C) Western Gulf area endorsement--(1) *Vessel length category "A"*. For a license to be assigned a Western Gulf area endorsement based on participation from a vessel in vessel length category "A", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any two calendar years during the period beginning January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in waters shoreward of that area.

(2) *Vessel length category "B" and catcher vessel designation*. For a license to be assigned a Western Gulf area endorsement based on participation from a vessel in vessel length "B" and that would qualify for a catcher vessel designation under this section, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel during the period beginning January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in waters shoreward of that area.

(3) *Vessel length category "B" and catcher/processor vessel designation*.

For a license to be assigned a Western Gulf area endorsement based on participation from a vessel in vessel length category "B" and that would qualify for a catcher/processor vessel designation under this section, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any two calendar years during the period beginning January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in waters shoreward of that area, or at least four documented harvests of any amount of license limitation groundfish during the period beginning January 1, 1995, through June 17, 1995, in the Western Area of the Gulf of Alaska or in waters shoreward of that area.

(4) *Vessel length category "C"*. For a license to be assigned a Western Gulf area endorsement based on participation from a vessel in vessel length category "C", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel during the period beginning January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in waters shoreward of that area.

(D) *Central Gulf area endorsement--(1) Vessel length category "A"*. For a license to be assigned a Central Gulf area endorsement based on the participation from a vessel in vessel length category "A", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any two calendar years during the period beginning January 1, 1992, through June 17, 1995, in the Central Area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.

(2) *Vessel length category "B"*. For a license to be assigned a Central Gulf area endorsement based on the participation from a vessel in vessel length category "B", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any two calendar years during the period beginning January 1, 1992, through June 17, 1995, or at least four documented harvests of any amount of license limitation groundfish during the period beginning January 1, 1995, through June 17, 1995. These documented harvests must have occurred in the Central Area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.

(3) *Vessel length category "C"*. For a license to be assigned a Central Gulf area endorsement based on the participation from a vessel in vessel length category "C", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel during the period beginning January 1, 1992, through June 17, 1995, in the Central Area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.

(E) *Southeast Outside area endorsement--(1) Vessel length category "A"*. For a license to be assigned a Southeast Outside area endorsement based on the participation from a vessel in vessel length category "A", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any two calendar years during the period beginning January 1, 1992, through June 17, 1995, in the Southeast Outside District of the Gulf of Alaska or in waters shoreward of that district.

(2) *Vessel length category "B"*. For a license to be assigned a Southeast Outside area endorsement based on participation from a vessel in vessel length category "B", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any two calendar years during the period beginning January 1, 1992, through June 17, 1995, or at least four documented harvests of any amount of license limitation groundfish during the period beginning January 1, 1995, through June 17, 1995, in the Southeast Outside District of the Gulf of Alaska or in waters shoreward of that district.

(3) *Vessel length category "C"*. For a license to be assigned a Southeast Outside area endorsement based on the participation from a vessel in vessel length category "C", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel during the period beginning January 1, 1992, through June 17, 1995, in the Southeast Outside District of the Gulf of Alaska or in waters shoreward of that district.

* * * * *

(iv) * * *

(A) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1992, through June 17, 1995.

(v) * * *

(A) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1992, through June 17, 1995.

* * * * *

(5) * * *

(ii) *Area/species endorsements.* A crab species license will be assigned one or more area/species endorsements specified at § 679.2 based on criteria in paragraphs (k)(5)(ii)(A) through (G) and paragraph (k)(5)(iii) of this section.

* * * * *

(iii) *Recent participation period (RPP).* (A) To qualify for one or more of the area/species endorsements specified at § 679.2, at least one documented harvest of any amount of crab species must have been made from a vessel during the period from January 1, 1996, through February 7, 1998.

(B) *Exceptions to the RPP.* (1) A person who only qualifies for an area/species endorsement specified at paragraph (k)(5)(ii)(G) of this section does not need to meet the documented

harvest requirements of paragraph (k)(5)(iii) of this section.

(2) A person whose qualification for area/species endorsements specified at § 679.2 is based on documented harvests from a vessel length category "C" vessel does not need to meet the documented harvest requirements of paragraph (k)(5)(iii) of this section.

(3) A person whose vessel meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section, whose vessel was lost or destroyed during the period from January 1, 1996, through February 7, 1998, and whose replacement vessel made a documented harvest during the period after the vessel was lost or destroyed but before January 1, 2000, does not need to meet the documented harvest requirements of paragraph (k)(5)(iii) of this section.

(iv) *Exception to the complete fishing history earned on one vessel.* A person who can demonstrate that his or her vessel made a documented harvest of crab species during the period from January 1, 1998, through February 7, 1998, and who obtains the fishing history of a vessel that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section, or who entered into a contract to obtain the fishing history of a vessel

that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section by 8:36 am PST on October 10, 1998, is exempted from the requirement of having a complete fishing history earned on one vessel.

* * * * *

4. In § 679.7, paragraph (i)(6) is revised and paragraph (i)(9) is added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(i) * * *

(6) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, that has an LOA that exceeds the MLOA specified on the license that authorizes fishing for LLP groundfish or crab species.

* * * * *

(9) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, other than the vessel named on the license that authorizes fishing for LLP groundfish or crab species.

* * * * *