Bering Sea and Aleutian Islands Halibut Abundance-Based Prohibited Species Catch Environmental Impact Statement

Scoping Report

Photo credit: Keeley Kent

United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service,
Alaska Region

North Pacific Fishery Management Council

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Introduction

The North Pacific Fishery Management Council (Council) is examining abundance-based approaches for halibut prohibited species catch (PSC) limits in the Bering Sea and Aleutian Islands (BSAI) groundfish fisheries. Currently, halibut PSC limits are a fixed amount of halibut mortality in metric tons. When halibut abundance declines, halibut PSC becomes a larger proportion of total halibut removals and can result in lower catch limits for directed halibut fisheries. Both the Council and the International Pacific Halibut Commission (IPHC) have expressed concern about the impacts of lower catch limits on directed halibut fisheries at low levels of halibut abundance under the status quo. The Council identified abundance-based halibut PSC limits as a potential management approach to address this concern by linking halibut PSC limits to halibut abundance and potentially providing additional opportunity for the directed halibut fisheries compared to the status quo at low levels of halibut abundance.

NMFS and the Council have determined the preparation of an Environmental Impact Statement (EIS) may be required for this action because abundance-based halibut PSC limits may have effects on target and bycatch species and their users that are uncertain or unknown and may result in significant impacts on the human environment not previously analyzed. Thus, NMFS and the Council are initiating scoping for an EIS in the event an EIS is needed.

NMFS published a notice of intent to publish an EIS on December 12, 2017. NMFS invited the public to comment on the range of issues and alternative management measures that the Council and NMFS should consider in developing abundance-based approaches for halibut PSC limits in the BSAI groundfish fisheries. This report summarizes the comments received during the December 12, 2017, to February 16, 2018, scoping period for the BSAI Halibut Abundance-Based PSC EIS.

If the Council's action proceeds, an EIS must be prepared in accordance with the National Environmental Policy Act (NEPA). An EIS will serve as the central decision-making document for management measures being developed by the Council to create an abundance-based approach for halibut PSC limits in the BSAI groundfish fisheries. The EIS will provide decision-makers and the public with an evaluation of the environmental, social, and economic effects of alternatives for an abundance-based approach for halibut PSC limits in the BSAI groundfish fisheries.

This report summarizes the issues the public raised with the proposed action as it has been developed by the Council thus far. This report also describes alternative management measures raised in public comments during the scoping process. The purpose of this report is to inform the Council and the public of the results of scoping and to assist in the development of the range of alternatives for analysis in the draft EIS.

The NMFS Alaska Region web site contains additional information on this EIS at http://www.alaskafisheries.noaa.gov/. Once published, the draft EIS will be available for download at this site. This site also contains the notice of intent, this scoping report, and related information.

What is this Action?

The proposed action to be analyzed in the EIS is the creation of a new method of managing halibut bycatch that links halibut prohibited species catch (PSC) limits for the groundfish fisheries to data on halibut abundance. The proposed action is intended to provide a responsive approach for managing halibut bycatch at varying levels of halibut abundance. The new program would minimize halibut bycatch to the extent practicable while achieving, on a continuing basis, optimum yield from the groundfish fisheries. The new management program also could provide additional opportunity for the directed halibut fishery at low levels of halibut abundance compared to the status quo and promote conservation of the halibut spawning stock biomass, particularly at low levels of abundance.

Draft Purpose and Need for this Action

The Magnuson-Stevens Act authorizes the Council and NMFS to manage groundfish fisheries in the Alaska EEZ that take halibut as bycatch. The groundfish fisheries cannot be prosecuted without some level of halibut bycatch because groundfish and halibut occur in the same areas at the same times, and no fishing gear or technique has been developed that can avoid all halibut bycatch. However, the Council and NMFS have taken a number of management actions over the past several decades to minimize halibut bycatch in the BSAI groundfish fisheries. Most importantly, the Council has designated Pacific halibut and several other species (herring, salmon and steelhead, king crab, and Tanner crab) as “prohibited species” (Section 3.6.1 of the FMP). By regulation, the operator of any vessel fishing for groundfish in the BSAI must minimize the catch of prohibited species (§ 679.21(b)(2)(i)).

Although halibut is taken as bycatch by vessels using all types of gear (trawl, hook-and-line, pot, and jig gear), halibut bycatch primarily occurs in the trawl and hook-and-line groundfish fisheries. NMFS manages halibut bycatch in the BSAI by 1) establishing halibut PSC limits for trawl and non-trawl fisheries; 2) apportioning those halibut PSC limits to groundfish sectors, fishery categories, and seasons; and 3) managing groundfish fisheries to prevent PSC from exceeding the established limits.

Consistent with National Standard 1 and National Standard 9 of the Magnuson-Stevens Act, the Council and NMFS use halibut PSC limits in the BSAI groundfish fisheries to minimize bycatch to the extent practicable while achieving, on a continuing basis, optimum yield from the groundfish fisheries. Halibut PSC limits in the groundfish fisheries provide an additional constraint on halibut PSC mortality and promote conservation of the halibut resource. With one limited exception for the Bering Sea midwater pollock fishery described in § 679.21(e)(3)(ii)(C), groundfish fishing is prohibited once a halibut PSC limit has been reached for a particular sector or season. Therefore, halibut PSC limits must be set to balance the needs of fishermen, fishing communities, and U.S. consumers that depend on both halibut and groundfish resources. In 2015, the Council revised halibut PSC management in the BSAI groundfish fisheries by recommending Amendment 111 to the FMP. Amendment 111 reduced halibut PSC limits for the BSAI groundfish fisheries by 21 percent. NMFS implemented Amendment 111 on May 27, 2016 (81 FR 24714). In February 2015, in conjunction with review of the analysis prepared for Amendment 111, the Council also requested an initial evaluation of possible approaches to link BSAI halibut PSC limits to data or model-based abundance estimates of halibut. The Council

reviewed this initial evaluation at its December 2015 meeting and requested additional information on appropriate indices for use in indexing halibut abundance to PSC limits in the BSAI.

In April 2016, the Council reviewed additional information on abundance-based approaches for halibut PSC limits and unanimously adopted a purpose and need statement to establish abundance-based halibut PSC limits for the BSAI groundfish fisheries. The Council refined the purpose and need statement at subsequent meetings in 2016 and 2017:

> *The current fixed yield based halibut PSC caps are inconsistent with management of the directed halibut fisheries and Council management of groundfish fisheries, which are managed based on abundance. When halibut abundance declines, PSC becomes a larger proportion of total halibut removals and thereby further reduces the proportion and amount of halibut available for harvest in directed halibut fisheries. Conversely, if halibut abundance increases, halibut PSC limits could be unnecessarily constraining. The Council is considering linking PSC limits to halibut abundance to provide a responsive management approach at varying levels of halibut abundance. The Council is considering abundance-based PSC limits to control total halibut mortality, provide an opportunity for the directed halibut fishery, and protect the halibut spawning stock biomass, particularly at low levels of abundance. The Council recognizes that abundance-based halibut PSC limits may increase and decrease with changes in halibut abundance.*

In October 2016, the Council identified the following objectives for establishing abundance-based halibut PSC limits to guide the development of appropriate management measures and the tradeoffs among them.

Goals and Objectives:

1. *Halibut PSC limits should be indexed to halibut abundance.*
2. *Halibut spawning stock biomass should be protected especially at lower levels of abundance.*
3. *There should be flexibility provided to avoid unnecessarily constraining the groundfish fishery particularly when halibut abundance is high.*
4. *Provide for directed halibut fishing operations in the Bering Sea.*
5. *Provide for some stability in PSC limits on an inter-annual basis.*

Preliminary Alternatives

NMFS, in coordination with the Council, will evaluate a range of alternative methods for establishing abundance-based halibut annual PSC limits for the groundfish fisheries in the BSAI. NMFS and the Council recognize that implementation of abundance-based halibut PSC limits could result in substantial changes to many of the current management measures for halibut PSC in the groundfish fisheries. The EIS will analyze these changes and the likely impacts of those changes on groundfish stocks and participants in the groundfish fisheries. The EIS also will analyze the likely impacts of an abundance-based halibut PSC limits on the halibut stock and on

participants in directed halibut fisheries. Alternatives may be formulated based on two elements critical to establishing abundance-based halibut PSC limits: 1) a halibut abundance index, and 2) a control rule informed by abundance index data that results in a halibut PSC limit for the trawl and fixed gear groundfish fisheries in the BSAI. The Council has identified the following index and control rule options for preliminary analysis.

The Council could construct possible alternatives for the abundance-based halibut PSC management program from one or more of the following options, in addition to those developed through the public scoping and Council processes. In addition to the status quo (no action alternative), the Council may examine a range of alternatives that consider the broad categories of issues described below:

Abundance index and application: Establish halibut abundance indices using the annual NMFS eastern Bering Sea trawl survey and the annual IPHC setline survey. Data from these indices may be applied separately or in combination to establish trawl and fixed gear halibut PSC limits. The Council could craft a range of alternatives that apply different indices to trawl and fixed gear vessels.

Control rule: Under the alternative abundance indices, establish a control rule that results in annual halibut PSC limits for the trawl and fixed gear groundfish fisheries in the BSAI. The control rule to establish halibut PSC limits may have one or more of the following features:

- *Control rule application*: The control rule could be applied through a mathematical formula to specify halibut PSC limits based on the abundance index data. The control rule also could be applied through a decision framework that identifies specific ranges of halibut abundance levels and the resulting halibut PSC limits. For example, the control rule could associate low, intermediate and high levels of the spawning biomass with low, intermediate and high PSC limits.

- *Responsiveness of control rule to abundance changes*: The control rule could result in halibut PSC limits that change proportionally with changes in the abundance index or PSC limits that change in different proportions relative to the abundance index to meet specific objectives. For example, a control rule could limit annual variability in halibut PSC limits, as determined by halibut abundance, to achieve the objective of stability in PSC limits on an inter-annual basis or to provide flexibility to avoid unnecessarily constraining the groundfish fishery, particularly when halibut abundance is high.

- *Starting point for PSC limit*: The control rule will have a PSC limit starting point to which the abundance index will be applied to determine halibut PSC limits for the groundfish fisheries in any given year. The starting point could be based on the current PSC limit or halibut PSC use.

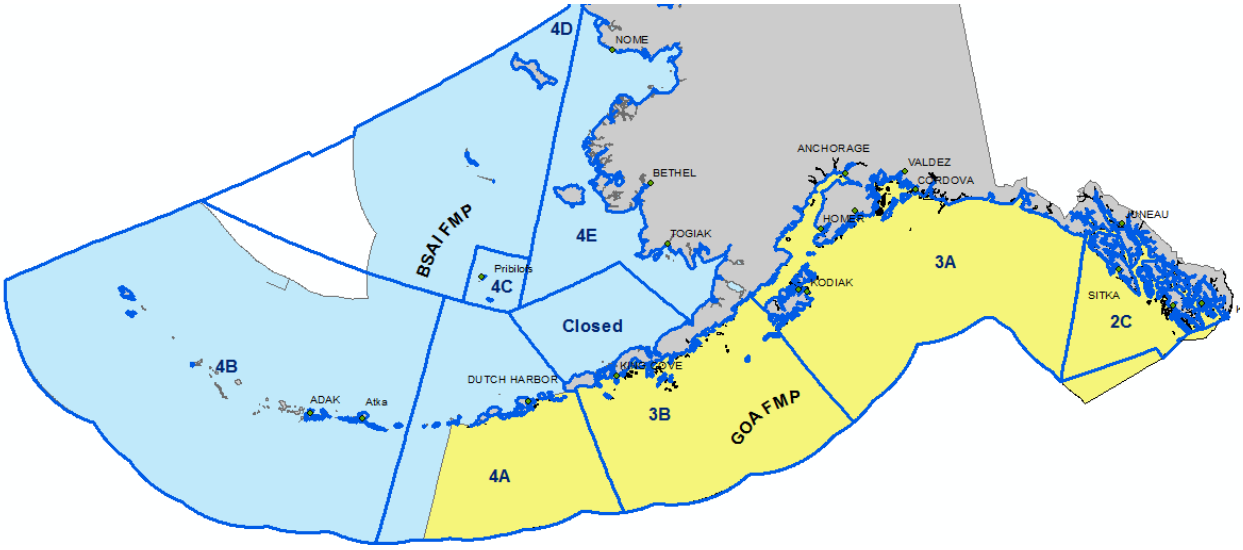
- *Maximum and/or minimum PSC limits*: The control rule could establish a maximum and/or minimum value for the halibut PSC limit for groundfish fisheries. Maximum and/or minimum PSC limits would limit the total amount of halibut PSC that can be taken at varying levels of halibut abundance and could promote the objectives to protect the halibut

spawning stock biomass and provide for directed halibut fishing operations in the Bering Sea.

The Action Area

The proposed action would apply to participants in Federal groundfish fisheries prosecuted in the BSAI using trawl and non-trawl (fixed) gear. This area is defined at § 679.2 and shown in Figure 1 to 50 CFR part 679. See Figure 1 for a map of the action area.

Figure 1. Overlay of Federal groundfish Fishery Management Plan (FMP) areas (BSAI (blue) and GOA (yellow)) with IPHC regulatory areas.



Statutory Authority for this Action

Under the Magnuson-Stevens Act (16 USC 1801, et seq.), the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone, which extends between 3 and 200 nautical miles from the baseline used to measure the territorial sea.

The management of these marine resources is vested in the Secretary and in the Regional Councils. In the Alaska Region, the Council has the responsibility for preparing Fishery Management Plans (FMP) and FMP amendments for the marine fisheries that require conservation and management, and for submitting their recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish.

Management of the Federal groundfish fisheries in the BSAI is carried out under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The FMP, its amendments, and implementing regulations (found at 50 CFR part 679) are developed in accordance with the requirements of the Magnuson-Stevens Act and other applicable Federal laws and executive orders, notably the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA).

The Pacific halibut (*Hippoglossus stenolepis*) resource is fully utilized in Alaska and is a target species in subsistence, personal use, recreational (sport), and commercial fisheries. Halibut have significant social, cultural, and economic importance to fishery participants and fishing communities throughout the geographical range of the resource. Halibut are also incidentally taken as bycatch in groundfish fisheries. The Magnuson-Stevens Act defines bycatch as fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. The term does not include fish released alive under a recreational catch and release fishery management program. 16 U.S.C 1802 3(2).

The IPHC and NMFS manage Pacific halibut fisheries through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act) (16 U.S.C. 773-773k). The IPHC adopts regulations governing the target fishery for Pacific halibut under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). For the United States, regulations governing the fishery for Pacific halibut developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. After acceptance by the Secretary of State and the Secretary of Commerce, NMFS publishes the IPHC regulations in the *Federal Register* as annual management measures pursuant to 50 CFR 300.62. The final rule implementing IPHC regulations for 2017 published on March 7, 2017 (82 FR 12730).

Section 773c(c) of the Halibut Act also provides the Council with authority to develop regulations that are in addition to, and not in conflict with, approved IPHC regulations. The Council has exercised this authority in the development of Federal regulations for the halibut fishery such as 1) subsistence halibut fishery management measures, codified at § 300.65; 2) the limited access program for charter vessels in the guided sport fishery, codified at § 300.67; and 3) the Individual Fishing Quota (IFQ) Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act and section 303(b) of the Magnuson-Stevens Act.

Public Participation – Scoping

The development of the BSAI abundance-based approach for halibut PSC limits EIS provides the opportunity for public participation. Scoping is the term used for involving the public in the NEPA process at its initial stages. Scoping is designed to provide an opportunity for the public, agencies, and other interest groups to provide input on potential issues associated with the proposed action. Scoping is used to identify the environmental issues related to the proposed action and identify alternatives to be considered in the EIS. Scoping is accomplished through written communications and consultations with agency officials, interested members of the public and organizations, Alaska Native representatives, and State and local governments.

The formal scoping period began with the publication of a Notice of Intent in the *Federal Register* on December 12, 2017, (82 FR 58375). Public comments were due to NMFS by February 16, 2018. In the Notice of Intent, NMFS requested written comments from the public on the range of alternatives to be analyzed and on the environmental, social, and economic issues to be considered.

Additionally, members of the public have the opportunity to comment during the Council process. In its most recent effort, the Council started considering abundance-based approach for halibut PSC limits in the BSAI groundfish fisheries in 2015. Since then, the Council has noticed the public when it is scheduled to discuss this issue. The Council process, which involves regularly scheduled and noticed public Council meetings, ad-hoc industry meetings, and Council committee meetings, started before this formal scoping process and will continue after this formal scoping process is completed. This scoping report summarizes issues and alternatives from the formal scoping process. The EIS will address the relevant issues identified during the scoping and the Council processes.

Summary of Alternatives and Issues Identified During Scoping

NMFS received 10 written comments from the public and interested parties. These documents are appended to this scoping report. The letters are also available for review by going to www.regulations.gov and entering NOAA-NMFS-2017-0144 in the search screen. The comments identified the following alternatives and issues for analysis in the EIS.

Alternatives and Options Recommended in Public Comments

The public comments have been organized under the element to which they apply. Some the elements were not addressed by public comments and are indicated as such. Any comments that propose management measures not already included under the elements are discussed under the New Management Measures section.

Issues Identified During Scoping

Generally, the comments supported proceeding with the examination of alternatives that would link halibut PSC to abundance of halibut. Given the relatively limited number of public comments, we refer the reader to the appendix for specific issues raised in comment. Commenters noted a range of issues that analysists should consider, including:

- The importance and value of the directed commercial halibut fishery, particularly to communities located in Areas 4CDE.
- The importance and value of the groundfish fisheries in the BSAI
- The specific regulatory authority and scope of the Magnuson-Stevens Act used to manage the groundfish fisheries, and the regulatory authority and scope of the Halibut Act for the management of Pacific halibut and the need to consider these statutes in crafting alternatives.
- The consideration of alternatives that use indices that are able to track the abundance of halibut encountered as bycatch.
- The use control rules in the alternatives that would limit PSC when the coastwide stock of halibut.
- The geographic scope of the proposed action, and whether the EIS should limit its assessment to the BSAI (Area 4), or include a consideration of impacts on a coastwide basis (include areas outside Area 4).

- Use the appropriate "starting point" for determining initial PSC limits, with commenter differing as to whether to use the status quo PSC limit as the appropriate initial benchmark.
- Establish maximum and minimum PSC limits that are responsive to Council objectives.
- Provide for directed halibut fishing in the Bering Sea (Area 4CDE).
- That the EIS document potential limitations in the data used to determine halibut abundance, and the effects of bycatch and incidental discards (wastage) on the abundance of halibut.
- The impacts of the specific time series of data used to assess the status of the halibut resource and the impact of the proposed action on groundfish and directed halibut users.
- The impact of management decisions, and negotiating dynamics by the IPHC and how that would affect the assessment of the proposed action.
- The importance of comprehensively evaluating the impact of the proposed action consistent with the requirements of the Regulatory Flexibility Act.

List of Preparers and Persons Consulted

Preparers:
Glenn Merrill, Sustainable Fisheries, NMFS Alaska Region
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Persons consulted:
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Appendix – Public Comment

Groundfish Forum

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February 16, 2018

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Attn: Glenn Merrill, Assistant Regional Administrator

Subj: Notice of Intent to Prepare an Environmental Impact Statement (EIS) for North Pacific Fishery Management Council Action on Abundance Based Management (NOAA–NMFS–2017–0144)

Mr. Merrill,

On behalf of Groundfish Forum, thank you for the opportunity to comment on (NOAA–NMFS–2017–0144). Groundfish Forum is a Seattle-based trade association representing five member companies that operate 19 trawl catcher processor vessels in the federally managed fisheries of the Bering Sea / Aleutian Islands (BSAI) and Gulf of Alaska (GOA). Our fisheries, known as Amendment 80 (A80), consists of various species of flatfish (yellowfin sole, rock sole, flathead sole, arrowtooth flounder), Atka mackerel, Pacific Ocean perch, and Pacific cod. Our intent in submitting comments is to assist NOAA Fisheries in better understanding the scope of this proposed action's socio-economic, human, and biological impacts.

Fleet Economics and Operations

To understand the socio-economic and human impacts of the proposed Abundance Based Management (ABM) regulation on our sector, it is necessary to have a general understanding of A80 operations. While the A80 fleet is based in the Puget Sound region of Washington State, it spends approximately 10 months of the calendar year fishing in the federal waters off Alaska. Between the Puget Sound and Alaska regions, our fleet spends nearly $260,000,000 annually, generating significant economic activity while harvesting on average approximately 325,000 metric tons (715,000,000 lbs) of fish. Our companies provide direct, year-round family wage employment to over 2,100 fishermen. We also support fishing families, shipyards / maintenance facilities, and numerous maritime support businesses in both regions.

Alaska Operations: Our fleet harvests, processes and freezes our catch at sea, and then delivers the frozen product to Alaskan ports from which it is shipped to foreign and domestic markets. Our fleet makes approximately 500 port calls a year in Western Alaska - primarily in Unalaska/Dutch Harbor, Kodiak, Togiak and Adak. While in port, our vessels offload product to numerous receivers (trampers, cold storage facilities, containers), purchase fuel

and other provisions, conduct repairs and maintenance, and switch out crewmembers. These activities indirectly support 2,900 year-round jobs in Alaska. Furthermore, the A80 sector annually spends $60 million in Alaskan communities according to the Five Year Review of Amendment 80 (June 2014). Lastly, we pay fishery resource landing taxes and fuel taxes to the State of Alaska, a portion of which is then directed back to the communities where the offloads occurred. In 2016, the A80 sector paid $3.7 million in fishery resource landing taxes and over $600,000 in fuel taxes.

Washington Operations: A80 member companies are all based in the Puget Sound region, with key operations centered in Seattle, Anacortes, and Kirkland. Vessels annually return to Puget Sound for an intensive period of maintenance and repair, generally from mid - November to early January. A80 companies spend approximately $200,000,000 annually within Puget Sound's extensive regional network of shipyards, maritime support business, and other fisheries infrastructure. Labor wages are included in this estimate. This activity supports approximately 1,900 jobs in the Puget Sound region. In addition, approximately 85% of the A80 sector's 2,100 direct employees live in the Puget Sound region. Many of those A80 crew members are minorities originally from the Pacific Islands, Central America, and Southeast Asia. In developing the EIS, the status of these workers may trigger additional requirements under Executive Order (EO) 12898.

Discussion of the Affected Environment

Geographic Scope: The National Environmental Policy Act (NEPA) and guidance from National Oceanic and Atmospheric Administration (NOAA) Fisheries requires that the proposed action clearly describe the affected environment. For the purposes of this action, the geographic scope of ABM (to include its management decisions and expected outcomes) should be limited to International Pacific Halibut Commission (IPHC) Region 4 (4A, 4B, and 4CDE and the Closed Area) and not include Area 2 or Area 3. It has been argued that the potential impacts of reducing Area 4 halibut bycatch may include potential increases to downstream yield in the directed halibut fisheries of Area 2 and Area 3. This assumption has been based on the presumed one-to-one relationship between bycatch and Fishery Constant Exploitable Yield (FCEY) as well as IPHC tagging studies that were conducted decades ago. In 2014 IPHC itself stepped away from the often touted conclusions of this tagging study, stating that:

> *"We conclude that a combination of low recovery rates from the most representative releases, unrepresentativeness of releases with higher recovery rates, and the lack of consistent simultaneous tagging programs in the Gulf likely preclude the estimations of reliable, unbiased migration rates from the Bering Sea into the Gulf of Alaska."*

It is our view that the predicted downstream benefits to the halibut fishery lack the necessary scientific rigor for use in the important discussion of ABM. Because the migration

relationship is not well understood, or at best requires strong caveats, it is necessary to limit all aspects of ABM to Area 4 (BSAI).

Determining Abundance: Groundfish Forum supports the North Pacific Fishery Management Council's (the Council) selection of the annual Bering Sea shelf bottom trawl survey (trawl survey) and the annual IPHC Area 4 Setline Survey as the two most appropriate indexes for determining abundance. The annual trawl survey has been consistently conducted for decades and thus establishes a sound baseline for this action. However, it is important to note that there are well-documented information gaps associated with the trawl survey that should be discussed. Specifically, it is known that tow duration, tow speed and time of year that the survey is conducted likely minimize the capture of mid-size to larger halibut. This likely underestimates halibut abundance / biomass and as such the results from these surveys may not directly reflect what is encountered in the commercial groundfish trawl fisheries. We would recommend that the EIS highlight this short-coming / data gap and would also recommend that NOAA Fisheries consider, as part of this proposed action, allowing experimentation to develop stock assessment and survey practices that better replicate what is encountered in the commercial bottom trawl fisheries.

Determining the Effects of Bycatch and Wastage Removals: The proposed management provisions of ABM are focused upon halibut bycatch within the federal groundfish fisheries – with the proposed action specifically looking to protect halibut spawning biomass at "low levels of abundance." While the Council has not yet defined this phrase, it does beg the question: "What are the impacts of bycatch on halibut stocks?" In preparation for an EIS, it is critical for NOAA Fisheries to broaden the scope of information used to include quantifying all halibut removals (including directed fishery removals and wastage) and estimate the impacts of those removals on halibut stocks. Decision makers, stakeholders and the public should be able to understand the volume of removals of bycatch from each fleet (including groundfish fisheries, directed catches and wastage of the halibut fleet) and compare those removals to halibut biomass estimates. With this information, it may be possible to answer the important question "what are the biological impacts of bycatch and wastage removals on the halibut stock?"

A simple way to consider the potential of bycatch in the groundfish fishery to affect halibut stocks is look at how bycatch mortality compares to the total halibut biomass. Conceptually, if bycatch is a small proportion of halibut biomass, then it seems that bycatch is unlikely to have a noticeable effect on the overall biomass. Alternatively, if a fleet's bycatch removals affects distinct segments of the halibut population the overall biomass may have a very limited impact on overall biomass.

The trawl survey is the underpinning of all flatfish stock assessments and estimates of abundance of halibut seem as valid as those for arrowtooth flounder and similar flatfish species. It should be noted again that larger halibut may be able to out-swim the survey trawl, and as such is it reasonable to assume that total biomass (especially of larger halibut) is likely underestimated. According to the IPHC, the estimated total biomass for halibut in

the BSAI was 342,000,000 lbs in 2017. In 2017, bycatch mortality from all groundfish fisheries for the BSAI was approximately 1,958 MT or 4,300,000 lbs. This bycatch level equates to approximately *1.26 %* of the BSAI halibut biomass. Although this level may seem significant, today's levels are substantially lower than levels observed in the early 2000s when halibut bycatch mortality was nearly double 2017 levels. Paradoxically, halibut stocks were on the increase during that time period, suggesting that the comparatively larger amounts of bycatch were not having a negative impact on the biomass. These relationships should be fully explored as a part of any analysis of an action premised on reducing impacts of bycatch on the halibut biomass.

Halibut bycatch is accurately accounted for in the BSAI groundfish fisheries. Bycatch impacts are spread across time and area throughout the BSAI and each bycatch and wastage user group impacts different parts of the halibut population. We are hopeful that the ABM EIS will determine whether the bycatch removal of less than 2% of the overall halibut biomass can affect biological health of the halibut resource and whether these removals are an overall threat to halibut stocks, particularly the spawning biomass?

Discussion of Impacts on the Human Environment

In comparing alternatives and options, it is important that appropriate and practicable baselines and reference points be established. It is particularly important to properly and fully scope socio-economic impacts, especially given that a major goal of the ABM proposed action is to "provide for directed halibut fishing operations in the Bering Sea." Recognizing that the Bering Sea groundfish fleets continue to operate under a major bycatch reduction implemented in 2016 is also critical to determining appropriate baselines and the assessment of impacts.

Area 4CDE Halibut Fishery: To properly consider the objective of providing for a directed halibut fishery, the scoping EIS should consider several aspects of modern history of halibut fishing (1987 – 2017) in the Bering Sea (Area 4CDE). Participation levels, volumes and values in the fishery are clearly relevant; however, that information must be viewed in the context of both the biological conditions in and management of the halibut fishery during that period. Three key events are noteworthy:

- 1987: The EIS should consider the extraordinary recruiting event in 1987 that ultimately elevated exploitable biomass to levels previously unseen in the fishery. As a result, in those years managers allowed for (and created a long term expectation for) harvests that far exceeded what the fishery could reasonably sustain long term.

- 2002 – 2010: The EIS should recognize that for a number of years (2002 – 2010) IPHC modeling consistently predicted a higher exploitable and spawning biomass than actually existed. It would be extremely valuable if the EIS could determine what harvest levels should have been, and compare them to what harvest levels

actually were. The EIS scoping should further consider whether catch limits at levels from 2002 to 2010 are likely to occur again or whether they are unlikely to occur until we have similar recruitment and growth rates.

- 2011 – 2012: In reaction to the discovery of its modelling error, beginning in 2011 the IPHC revised its model to correct for a retrospective bias. This change alone dropped the 4CDE harvest limit by 30% between 2011 and 2012. A combination of stocks falling from historical highs and the IPHC revision of the assessment model to correct for retrospective bias resulted in a much more pronounced decline in the estimated stock trend in recent years than what had been anticipated.

These factors and historical circumstances should all be thoroughly considered and analyzed for assessing their overall long term impacts on the directed fishery in Area 4CDE, especially during a time when low recruitment persists and "size at age" continues to limit the exploitable biomass in this region.

A80 Groundfish Fisheries: A criticism leveled during the 2015 Council action on halibut prohibited species catch (PSC) reduction was that the economic and social analysis provided in the 2015 Regulatory Impact Review was deficient in that it did little to explain the economic impacts on the A80 Sector. Since the implementation of the 25% PSC reduction, our fleet's flatfish catch has dropped by approximately 20%. This contraction in economic activity and subsequent fishery resource landing taxes paid to the State of Alaska also comes at a time when the State of Alaska has been in a multi-year economic recession. In developing the scoping EIS, the socio-economic impacts of future PSC reductions on bycatch users should be more deeply explored. More engagement with the groundfish sectors will facilitate a better understanding of the impacts to those sectors as well as to the communities in which our fleets operate (i.e., Western Alaska and the Puget Sound regions).

Jurisdictional Issues

Management Limitations of the Magnuson – Stevens Act (MSA): Consistent with National Standard 1 and National Standard 9 of the MSA, the Council and NMFS use halibut PSC limits in the BSAI groundfish fisheries to minimize bycatch to the extent practicable as required by National Standard 9, while achieving, on a continuing basis, optimum yield from the groundfish fisheries as required by National Standard 1. Halibut is not managed pursuant to the MSA. Halibut is managed under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (the Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC on March 29, 1979). The Convention is implemented in the U.S. by the Northern Pacific Halibut Act of 1982 (Halibut Act).

Given this unique construct, the Council does not have authority to set catch limits for the commercial halibut fisheries. The Council does set halibut PSC limits in the groundfish

fisheries. Those bycatch limits are just one of many factors that affects harvest limits for the commercial halibut fisheries. While opportunities for directed halibut fishing in the Bering Sea may be indirectly affected by any action taken to establish abundance-based limits for halibut in the BSAI, no direct action can be taken by the Council. The EIS should fully explain these relationships and appropriately couch any conclusions based on both historical trends and the likely future of management of the directed halibut fisheries.

In drafting an appropriate range of alternatives to meet the purpose and need for this action as listed above, the Council must consider the relative authorities of the Council and the IPHC. The Council revised its purpose and need statement to be consistent with its authority and clarified that its proposed action **could** provide an opportunity for the directed halibut fishery, and **could** protect the halibut spawning stock biomass. The range of alternatives for analysis should be consistent with the purpose and need for this action.

Impacts of ABM from IPHC Management Decisions: The impacts of the proposed ABM action is also vulnerable to management decisions of the IPHC. The analysis must consider the possibility that any ABM action taken to protect halibut spawning biomass may have little impact on spawning biomass, if IPHC management decisions simply result in the harvest of any bycatch savings.

- Recent Negotiation Failure: A recent failure of the IPHC to agree on harvest limits for U.S. and Canadian fisheries illustrates the potential risks of the Council's action being undermined by IPHC action or inaction. Under the IPHC's current construct, if the two parties fail to come to an agreement on catch limits, they default to the previous year's catch limits, unless domestic management of halibut sets a new catch limit. Following such a protocol could result in substantial overharvest, particularly in years of declining stocks or in circumstances where both parties set catch limits higher than scientific recommendations in response to the other party's position.

- *Negotiating Dynamics and Influences on IPHC Harvest Strategy*: The potential for overharvest is heightened by the absence of IPHC's adoption of a clear harvest strategy. Such a management structure provides policy makers with less guidance and thereby greater latitude to posture in negotiations and exceed prudent harvest levels. The EIS should comprehensively analyze the IPHC process for setting catch limits (including the impacts of negotiating dynamics) and its potential impacts on the spawning biomass. The analysis should include thorough analysis of the ability of parties to hold out and the impact of the default rule in both times of rising and falling stocks. Further, the analysis should examine the impacts of the area management on these negotiations. Specifically, the analysis must examine the impact of using coastwide management with division of the harvest limit across several areas (including those with little relationship to the Bering Sea biomass). The dynamics of these harvest negotiations could have dramatic effects on stock management in the Bering Sea, where an ABM action applies, particularly where one party represents only one management area. Understanding the impacts of these

bargaining dynamics are critical to understanding the potential to achieve management objectives with a bycatch action.

- *Size Limits*: Other management measures adopted by the IPHC that may also limit the effectiveness of any Council bycatch measure are size limits. Size limits may have the effect of reducing size-at-age, if those limits result in disproportionate catch of either the fastest growing fish in the halibut population or leave a substantial portion of the population that are unlikely to ever mature into the directed fishery. The effects of measures such as these must be fully explored to understand the effects (or lack thereof) of any abundance based bycatch measure adopted by the council.

As this process moves forward, alternatives take shape, and additional information is learned on how the parties to the halibut treaty respond to the current catch limit setting crisis, the significant complexities and controversies associated with management of directed halibut and halibut bycatch suggest that NOAA fisheries should provide for public hearings and additional scoping opportunities in accordance with NOAA NEPA guidelines.

Thank you for this opportunity to comment.

C. I. Woodley

Chris Woodley
Executive Director

W170°

N57°

Central Bering Sea Fishermen's Association

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February 15, 2018

Attn: Docket No. NOAA-NMFS-2017-0144

Mr. Glenn Merrill
Assistant Regional Administrator
Sustainable Fisheries Division, Alaska Region
National Marine Fisheries Service

Filed online via Regulations.gov

Dear Mr. Merrill:

The Central Bering Sea Fishermen's Association (CBSFA) appreciates the opportunity to provide the National Marine Fisheries Service (NMFS) with comments on its intent to prepare an Environmental Impact Statement (EIS) on the new halibut bycatch management program for groundfish fisheries in the Bering Sea and Aleutian Islands (BSAI).

I. Background:

CBSFA is the management organization for St. Paul Island under the Western Alaska Community Development Quota Program (CDQ). Since the program was created in 1992, the federal government has been awarding various species of fish (CDQ allocations) from the Bering Sea and Aleutian Islands commercial fisheries to CBSFA. In turn, CBSFA manages these allocations to promote social and economic development on St. Paul Island. Through the CDQ program, CBSFA has been awarded allocations in a number of groundfish fisheries, including 5% of the total pollock allocation set aside for the CDQ program. CBSFA has also purchased quota in a number of commercial fisheries, most notably crab, and has made important investments in harvesting capacity for pollock, cod, and other fisheries.

Revenues generated from royalties and investments in the groundfish fisheries are critical to CBSFA's operations and to its ability to meet the requirements of the CDQ program concerning economic and social development on St. Paul Island. CBSFA provided $6 million to help build a small boat harbor in 2010 and more recently, in conjunction with the Aleut Community of St. Paul Tribal Government, financed construction of a Vessel Repair Shop. CBSFA also funds a number of social and educational programs that are key to St. Paul Island.

At a community level, CBSFA members are actively engaged in the Pacific halibut fishery in IPHC Area 4CDE. The CDQ/IFQ halibut fishery is of particular importance to St. Paul, employing about 16 vessel owners, which together with their crews amount to about 80 persons altogether, or about a fifth of the island's population. This segment of the population is the most active economically and holds key governance positions in various community organizations. The halibut fishery is their primary source of income, and an important source of subsistence for the elderly. This fishery also helps sustain much of St. Paul Island's public and private fisheries-related infrastructure during the summer season.

Given these considerations, CBSFA is well-positioned to understand the economic importance of both the groundfish and directed halibut fisheries to Bering Sea fishermen and fisheries-dependent communities. In addition to the importance the halibut resource has on St. Paul, we would like to acknowledge the overall extent that halibut bycatch in the BSAI may have on all coastwide users given the observed migration[1] of BSAI halibut. Participation in the United States (Alaska/Pacific Northwest) commercial halibut fishery included over 2,700 IFQ Holders[2], harvesting halibut on over 1,150 fishing vessels[3], and delivering into 32 different ports[4], selling to over 75 distinct registered buyers[5]. The subsistence halibut fishery[6] provides sustenance for thousands of Alaskans, specifically residents of 118 rural communities and members of 123 tribes, comprising over 4,700 individual subsistence users. It is for this reason that CBSFA has been one of the strongest advocates at the NPFMC for ensuring that halibut stocks are equitably utilized among user groups, and that they are managed to ensure viable and sustainable commercial and subsistence fisheries in the Bering Sea and beyond.

II. CBSFA Support for EIS

CBSFA strongly supported Council action to reduce halibut bycatch at the June 2015 North Pacific Fishery Management Council (NPFMC) meeting. We and many other directed halibut users supported a 50% reduction in the halibut PSC caps across all bycatch fisheries; the eventual Council action was to reduce the caps by only 23%. This action was implemented into regulations by NMFS through Amendment 111 to the Fishery Management Plan (FMP). CBSFA and others believed that the bycatch cap reduction should have been much greater to satisfy Magnuson-Stevens Fishery Conservation and Management Act (MSA) national standards. The directed halibut users, however, were reassured by the NPFMC's collective commitment to take additional actions to achieve further bycatch reductions.

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[1] Webster, R.A. 2015. Trawl tag releases of small halibut in the Bering Sea. Int. Pac. Halibut Comm. Report of Assessment and Research Activities 2014: 475-480.

[2] NOAA Fisheries. 2015. IFQ Halibut/Sablefish Reports and CDQ Halibut Program Reports, Licenses Issued.

[3] Alaska Fisheries Information Network. 2012. Fishing Fleet Profiles, 2012 Addendum.

[4] NOAA Fisheries. 2015. IFQ Halibut/Sablefish Reports and CDQ Halibut Program Reports. Harvest and Landing Reports, IFQ Harvest by Port of Landing.

[5] NMFS. 2014. Pacific Halibut-Sablefish IFQ Report, Fishing Year 2012: 16

[6] Fall, J.A., and Koster, D.S. 2013. Technical Paper No. 378: Subsistence Harvests of Pacific Halibut in Alaska, 2011. Alaska Department of Fish and Game, Division of Subsistence: vii-viii.

The proposed halibut abundance-based management (ABM) program that is the subject of this EIS is perhaps the most important action the NPFMC can take to meet the MSA national standards as expressed in the NPFMC's Purpose and Needs Statement and Council Objectives for this proposed action. Since this action may "significantly [affect] the quality of the human environment" as defined under the National Environmental Policy Act (NEPA), namely the sustainability of the halibut resource and its equitable use among user groups, CBSFA supports the development of an EIS. Furthermore, an EIS will help guide stakeholder involvement and NPFMC decision-making. It will also provide opportunities for mitigating the impacts on the human and natural environment resulting from this action with regards to halibut dependent communities -- specifically, the use of certain indices, and the establishment of control rules, starting points, floors, and ceilings.

III. Range of Alternatives to be Considered in EIS:

1. Abundance Index and Application:

CBSFA believes that the Eastern Bering Sea (EBS) bottom trawl survey and the IPHC setline survey are the proper indices for abundance-based management of halibut PSC and should be analyzed in the EIS. Each index tracks a different size component of the halibut stock, and reflects the "abundance" components encountered, respectively, by the groundfish fisheries and the directed halibut fishery. The combination of the two indices responds to the range of halibut sizes, with the trawl survey encountering the under 26 inch (U26) component and setline survey encountering the over 26 inch (O26) component. The NPFMC should consider options for the inclusion of these indices separately and/or in combination with control rules.

2. Control Rule and Application:

To achieve the NPFMC identified objective of providing for a directed halibut fishery in the Bering Sea, NMFS and the NPFMC should analyze additional rules that specifically control O26 mortality: 1) an O26 cap in addition to the overall cap, and 2) an O26/U26 ratio. These options would use the Area 4A, 4B, and 4CDE setline survey to set O26 PSC mortality limits. Performance relative to the O26 control rule would trigger a response in a subsequent year.

The directed fishery depends on O26 abundance and availability. To provide for a directed fishery, there is a trade off between how well the component of O26 bycatch is controlled and how constraining the overall cap needs to be. Due to this trade off, options for further controlling O26 bycatch as part of an overall cap need to be an integral part of control rule development.

Another control rule should be developed for use to reduce PSC caps when the coastwide halibut stock is below the B30 threshold (when stocks are above B30, ABM could focus on

Bering sea spawning stock indexes). This control rule would be consistent with the NPFMC objective of preserving spawning stock biomass especially at low levels of abundance and takes into account that the Bering Sea is a known halibut nursery area from which halibut migrate to other IPHC regulatory areas, contributing to spawning stock biomass across the entire range of the halibut population. This proposed control rule would also take into account that trawl bycatch in the Bering Sea causes mortality on U26 immature fish before they have migrated to their adult spawning areas. Since halibut, unlike other species under Council jurisdiction, does not have an overfishing level (OFL), the B30 control rule would establish measures to protect halibut stocks at times of extreme low abundance.

3. Starting Points:

The range for starting points should be at the current PSC limit of 3515 MT and below current PSC use, which stands at 2354 MT. At current levels, the groundfish fisheries are able to target their fisheries using PSC at close to 35% below the actual PSC limit. A starting point at the current PSC limit of 3515 MT provides the groundfish fisheries with flexibility in years of greater halibut abundance. A starting point below the current PSC use would provide incentives for further bycatch and mortality reduction efforts, and would benefit the halibut resource and directed fishermen in years of low halibut abundance.

Different control rule and index combinations should be considered for the BSAI longline and trawl PSC caps, as bycatch usage varies significantly between each gear type and each gear type affects a different component of the halibut stock.

4. Maximum and/or Minimum PSC Limits (Floors and Ceilings):

Maximum and minimum PSC limits (ceilings and floors) should be established that are responsive to NPFMC objectives. This necessarily involves a minimum PSC limit or floor that protects the spawning stock biomass. In addition, absent a conservation issue, the floor should provide for directed halibut fishing operations in the Bering Sea based on historical levels of participation, and for continued groundfish harvests. Similarly, when the abundance is high, the maximum PSC limit or ceiling should be flexible enough that it does not constrain the groundfish fisheries.

IV. <u>Providing for Directed Halibut Fishing Operations in the Bering Sea</u>:

A primary concern for St. Paul and other Bering Sea communities with this proposed action is protecting the access of halibut-dependent fishermen and communities in the Bering Sea to an equitable share of the halibut stock. This concern is reflected in the NPFMC's October 2016 motion identifying objectives for ABM and is further enshrined in National Standards 3, 4,

6, 8 and 9 of the MSA. At current levels of low abundance and without further NPFMC action, the sustained participation of St. Paul and other Bering Sea communities in the halibut fishery is in jeopardy. National Standard 8 in particular requires that conservation and management measures take into account the importance of fishery resources to fishing communities (to the extent they do not compromise the achievement of conservation requirements) in order to provide for the sustained participation of such communities; and to the extent practicable, minimize adverse economic impacts on such communities.

Until the NPFMC took action in June of 2015 to reduce PSC limits, the brunt of the conservation requirements were borne by directed halibut fishermen. Year after year, as halibut stocks declined, directed halibut fishermen suffered cuts to their share of the halibut share, while percentage-wise the share used as bycatch by the groundfish fisheries grew. In addition, to restoring the halibut stock, St. Paul and other Bering Sea communities seek a system that is "fair and equitable to … all fishermen" as per the requirements of National Standard 4. CBSFA believes its recommendations will help achieve the NPFMC's objectives, and looks forward to working with the NPFMC and the groundfish fisheries to develop and implement halibut ABM.

Sincerely,

Phillip Lestenkof, President

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Comment from c f

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

For related information, **Open Docket Folder**

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Comment

Section 101 of NEPA neither authorizes nor requires action. The nature of Federal agency obligations under NEPA has been subject of a number of Supreme Court decisions. In a nutshell, these opinions say that Section 102 (42 U.S.C. 4332) contains the procedural requirements of NEPA, the so-called "action forcing" provisions, which are the only requirements of NEPA. NEPA contains no substantive law and invoking NEPA does not interfere with the ultimate agency decision if NEPA processes have been correctly conducted. Beginning at least with Kleppe v. Sierra Club, 427 U.S. 390 (1976), the Supreme Court identified the NEPA "program" as its action-forcing procedural duties under Section 102. Id., 427 U.S. at 409, n.18. Section 101 has been consistently described as a set of national goals. "NEPA does set forth significant substantive goals for the Nation, but its mandate to the agencies is essentially procedural." Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 558 (1978); accord, Stryker's Bay Neighborhood Council v. Karlan, 444 U.S. 223, 227 (1980). As recently as 1989, the Court has distinguished between Section 101's declaration of "a broad national commitment" and Section 102's "action-forcing procedures." Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989).This being the case, no programmatic authorization can be tortured into NEPA goals. Any such new program must come from Congress. NEPA does not have decision-making authority; rather its function is to provide a framework for disclosure and sound planning. NEPA requires that Federal agencies provide the public with full and adequate disclosure of impacts to local community economy.
We have so many competing interests involved in a Federal agency actionsome with much at stake, others with nothing at stakethat various Environmental Activists groups often tend to impose their will upon an agency to make a particular decision, regardless of what the true scientific facts are. Decisions are routinely made without the State's consent or comments or worse still, State's comments and concerns are ignored. This style of management is simply unacceptable and merely leads to friction in what could and should be a more collaborative process.
Development of oil and gas, mining, farming, ranching on Federal lands, agency should look at ways in which to streamline leasing process , resolve resource conflicts. Demonstrate that consensus can be reached when varying interests are included from the outset in a particular issue.
NEPA was a well-intentioned law aimed at providing Federal agencies

with the necessary tools to make decisions about how resource development projects might affect our environment and examine ways in which to mitigate those impacts. But also think of it as a law of unintended consequences. Numerous complaints of the unnecessary delays associated with Environmental Assessments and EIS's, not to mention the costs incurred with the work product.
With a little help and consistency from both State and Federal agencies across the country, we can not only improve contents of NEPA documentation, but we can reduce time frame allotted to them
Application and implementation of NEPA by past Administrations has not been based on science, as Act requires, but on pure politics. Take, for instance, a blow-down in Sabine National Forest in eastern Texas. Roughly 102,000 acres of trees were blown down, broken and lying on the forest floor. This is indeed a catastrophic event and the waivers provided by CEQ were correct and needed. These waivers allow logging companies to go in and harvest the dead trees, clean the forest floor, protect the area from wildfire, and, thus, save the Sabine National Forest's health. moving quickly in Texas by waiving NEPA to achieve forest health objectives. Contrast this with what is happening in northern Idaho, the Idaho Panhandle National Forest, suffered ice storm damages on thousands of acres, why the past administration can do one way in Texas, but fails to do so in Idaho, Washington, Montana, California, Wyoming, Utah, New Mexico and Colorado. Unfortunately, this appears to be a pattern. More than half of the budgets of both the National Marine Fisheries Service and the Fish and Wildlife Service go to the west and, in the case of National Marine Fisheries Service, more than 70 percent of its enforcement budget goes to the northwest. Why? NEPA requires the Federal Government to consider environmental impacts of its actions including small business and people working the land, and, even more importantly, NEPA often provides the only opportunity for public comment on these Federal proposals.
Council of Environmental Quality, which formed under NEPA statute. A discretionary ability for Council on Environmental Quality to pick certain areas to do things and certain areas not to do things for political purposes. If that is the case, then the Act itself is failing.

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Comment from Thomas Greer

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

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Comment

As the abundance of cod in Alaska waters has diminished, and the catchable quota also, you need to lower the halibut bycatch and enforce it.
With lower quota the fishing is going to be harder to the bottom and less abundant areas are going to be fished resulting in higher bycatch. Over the years I have seen catchable quota lowered and the reason stated that there is less recruitment of smaller fish.
Do you think that a seven million pound bycatch quota for draggers in areas that mostly produce small halibut probably has something to do with those numbers ??
I have not seen the drager bycatch quota lowered as drastically as the halibut catchable quota has been. I would hope that we are all in this together to help maintain "sustainable yields " in both fisheries but so far the burden seems to be lopsided.
Please consider this when you set "bycatch " quotas.
Thank you.

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Comment from JEAN PUBLIEEE

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

For related information, **Open Docket Folder**

Comment

I DISAGREE. THE GROUNDFISH PROFITEERS CAN BE CONSTRAINED ANY TIME WE WANT THEM TO BE BECAUSE ALL OF THOSE FISH BELOGN TO ALL 325 MILLION AMERICANS. THOSE FISH DO NOT BELONG TO ONLY THEM
YOUR THINKING THEY CANT BE CONSTRAINED IS INACCURAE TO THE MAX.

SINCE MOST OF THESE FISH PROFITEERS LIE ABOUIT THEIR CATCH ALL OF THE TIME, IT IS CLEAR THAT MUCH MORE IS BEING FISHED THAN IS ACCOUNTED FOR AND ADMITTED TO. COMMERCIAL FISHERMEN LIE ABOUT 99% OF THE TIME.

WE NEED TO STOP THIS WHOLESALE EXTINCTION OF THIS SPECIES. NOAA NEEDS TO STOP BEING A PANSY AND PUSHOVER FOR THE COMMERCIAL FISH PROFITEERS ON AN EXTINCTION QUEST.

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JEAN PUBLIEEE

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Comment from John Public

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

For related information, **Open Docket Folder**

Comment

Good luck. You'll need it. Thank you.

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Submitter Information

Submitter Name:
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Comment from r t

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

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Comment

In 1980, Congress enacted the RFA after finding that Federal regulations imposed disproportionate economic hardship on small entities. The RFA required agencies to consider ways to reduce regulatory burdens on small entities. This laudable goal was accomplished by requiring Federal agencies to consider the potential economic impact of federal regulations on small entities and to examine regulatory alternatives that achieve the agencies' public policy goals while minimizing small entity impacts. avoiding its purposes by improperly certifying rules as not requiring a regulatory flexibility analysis, claiming the rules did not have a significant economic impact on a substantial number of small entities.
In 1996, Congress amended the RFA with the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Importantly, SBREFA established the right of small businesses to seek judicial review for Federal agencies' failure to comply with the RFA. Federal government to compliance with the RFA with E.O. 13272 signed on August 13, 2002.
E.O. 13272 requires agencies to implement policies protecting small entities when writing new rules and regulations. In addition, E.O. 13272 instructs agencies and Advocacy to work closely together as early as possible in the regulation writing process to address disproportionate impacts on small entities and reduce their regulatory burden. E.O. 13272 directs agencies to consider the Office of Advocacy's written comments on rules and compelling them to publish a response in the Federal Register.
Executive Order 13272 also requires the Office of Advocacy to provide training to agencies on compliance with the RFA. RFA requires regulatory agencies to estimate the impacts of proposed rules on small entities
the RFA asks agencies to be aware of the economic structure of the entities they regulate and the effect their regulations may have on small entities. To this end, the RFA requires agencies to analyze the economic impact of proposed regulations when there is likely to be a significant economic impact on a substantial number of small entities, and to consider regulatory alternatives that will achieve the agency's goal while minimizing the burden on small entities. The concept underlying this analytical requirement is that agencies will revise their decision- making processes to take account of small entity concerns in the same manner that agency decision-making processes were modified subsequent to the enactment of the National Environmental

Policy Act (NEPA). The RFA then acts as a statutorily mandated analytical tool to further assist agencies in meeting the rational rulemaking standard set forth in the APA through a regulatory flexibility analyses, just as NEPA was intended to rationalize decisions concerning major federal actions that would affect the environment through the required environmental impact statement.
It was the designed purpose of the RFA over twenty years Ago to help government base decisions on a full and open understanding of how regulations will affect small business. The Office of Advocacy stands ready to assist the Subcommittee and Assistant Secretary Manson to achieve these goals.
Shortcomings in the Service's past RFA agencies compliance, namely, (1) the Agency failure to conduct meaningful outreach to potentially affected small farmers and ranchers and incorporating this outreach into its actions prior to proposing rules, and (2) the Service's recent imposition of critical habitat requirements on small farmers and ranchers without affording them the right to participate in the rulemaking process as provided by law. The certify under the RFA's Section 605(b) needs to be updated. So the agencies publish an IRFA or FRFA even if the rule would not have "a significant economic impact on a substantial number of small entities,. And explain the findings. President Bush delivered on his commitment to small business when he signed his Executive Order requiring agencies to incorporate small business concerns into rules. Unfortunately, small businesses have expressed the concern that the extensive amount of litigation over critical habitat designations has discouraged the Service from conducting small business outreach, therefore, the litigation regulation needs to be changed so that it does not benefit the environmental activists. the agency should seek input from the small business community during initial policy discussions, just as other Federal agencies do. Most importantly, this input must be taken into account when the Agency develops rules that impact small businesses.
Development of public resources, selling timber, mining, farming, fishing, oil and gas, is a win for all Americans.

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Comment from Carson Riley

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

For related information, **Open Docket Folder**

Comment

Environmental impact statements (EIS) are extremely important to understanding the items being regulated, and I voice strong support for the continued study of our natural environment, particularly as it pertains to U.S. fisheries stock. Inefficiencies can only be dealt with once they have been identified and quantified, so regardless of the EIS findings, it is a smart move to determine exactly how much a bycatch rate can change while still having sustainable fisheries.

Removing prohibited species of halibut threatens the proportion and amount of halibut available for harvest in directed halibut fisheries. However, when halibut abundance increases, static quotas limiting prohibited species is definitionally inefficient. Like management of most scarce resources, a dynamic and responsive management approach will be the most effective in balancing sustainability with consumption.

Section 773c(c) of the Halibut Act authorizes this agency to regulate these fisheries. Using that power to conduct an EIS will benefit commercial and subsistence farmers alike because the data will allow this agency to draw well-informed bright-line rules. Although Section 101 of NEPA neither expressly authorizes action, it is this agencies duty pursuant to the Halibut Act to regulate halibut fishing off the coast of Alaska. I believe this action is well-founded in the agency's mission and purpose as a provider of environmental information that facilitates safe commercial operations. An EIS is not only a smart way to find facts and determine the scope of what regulations must take place, it also provides greater transparency to all stakeholders involved by more clearly defining the problem. Regulating fisheries represents a classic collective action problem that agencies like this one were designed to solve. Bright-line rules that form a balance between sustainability and commercialism cannot be informed without detailed study of what's being regulated. EIS requirements are not just U.S. law, they also represent an international environmental due diligence obligation (See Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, I.C.J. Reports 2010, p. 14). I fully support this rule because it uses measurements and science to support decisions that balance efficiency and sustainability.

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Carson Riley

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Comment from s s

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

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Comment

A new study in 2017 suggests temperatures across Antarctica have been falling for the last 1,600 years. Antarctica cooling since Roman Times, climate models wrong (again). Our new reconstructions confirm a significant cooling trend from 0 to 1900CE across all Antarctic regions where records extend back into the 1st millennium, with the exception of the Wilkes Land coast and Weddell Sea coast regions. Within this long-term cooling trend from 0 to 1900CE, we find that the warmest period occurs between 300 and 1000CE, and the coldest interval occurs from 1200 to 1900CE. Environmentalism is a politics of fear. It is not a progressive politics. Environmentalism is not just some politics. It's a POLITICAL PROJECT, a full-bodied ideology.
Studies and Scientists, finds global warming over last century linked to NATURAL CAUSES: Study in Physical Geography found "Long-term climate change is driven by solar insolation changes." Harvard-Smithsonian Center Astrophysicist Dr. Soon; NO quantitative evidence that varying levels of minor greenhouse gases like CO2 and CH4 have accounted for even as much as half of the reconstructed glacial-interglacial temperature changes or, more importantly, for large variations in global ice volume on both land and sea over the past 650 thousand years. Gerd Burger of Berlin's Institute of Meteorology Osborn and Briffa DID NOT properly quantify the statistical uncertainties in their analyses. Burger repeated all analyses with appropriate adjustments and concluded "As a result, 'highly significant' occurrences of positive anomalies during the 20th century disappear." finding that spatial extent of 20th-century warming is exceptional IGNORES the effect of proxy screening on corresponding significance levels. After appropriate correction, significance of the 20th-century warming anomaly DISAPPEARS." study by a team of scientists found that "warming is NATURAL CAUSED and shows NO HUMAN influence." Climate scientist Dr. David Douglass of the University of Rochester, published in the International Journal of Climatology of the Royal Meteorological Society which found evidence for human influence for warming temperatures LACKING in atmosphere. "The observed pattern of warming, comparing surface and atmospheric temperature trends does NOT show the characteristic fingerprint associated with greenhouse warming. The inescapable conclusion is ; human contribution is not significant and that observed increases in carbon dioxide and other greenhouse gases make only a negligible contribution to climate warming," authored by Climatologist Dr. Patrick Michaels and Dr. Ross McKitrick, study concluded that the temperature manipulations for the

steep post-1980 period are INADEQUATE, and UN IPCC graph is an EXAGGERATION. McKitrick believes that the United Nations agency promoting global temperature graph has made "FALSE CLAIMS about the quality of its data." McKitrick reports in peer-reviewed study, data contamination problems "account for about half the surface warming measured over land since 1980." report from international group Institute of Physics' found NO "consensus" on global warming. Excerpt: "As world leaders gathered in New York for a high-level UN meeting on climate change, a new report by some of the world's most renowned scientists urges policymakers to keep their eyes on the 'science grapevine', arguing that their understanding of global warming is still FAR FROM COMPLETE. Greif argued that "the POLITICS of global warming produces the possibility of left-wing FANTASIES of a state of emergency in which we wouldn't have to go through normal politics in order to get things done. You might compare the environmental movements promotion of global warming and other eco-concerns to the same "POLITICES OF FEAR" . climate researcher Erich Roeckner of the Max Planck Institute for Meteorology laments the lack of climate computer model reliability. No model will ever be as complex as nature.'" According to our computer model, NEITHER the number NOR intensity of storms is increasing,' says Jochem Marotzke, director of the Hamburg-based Max Planck Institute for Meteorology, one of the world's leading climate research centers. 'some of the computer "scenarios" used by the UN IPCC to predict the future impacts of global warming. "Some emissions scenarios are perhaps already demonstrably WRONG," It is possible that all of them are wrong. Environmentalists have attacked adaptation and preparedness in the belief that taking steps to prepare for global warming - for instance, by building higher seawalls and levees or identifying new water supplies for regions likely to be affected by drought - would undermine their arguments for carbon reductions."

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Comment from v v

The is a Comment on the **National Oceanic and Atmospheric Administration** (NOAA) Proposed Rule: **Fisheries of the Exclusive Economic Zone off Alaska: Halibut Bycatch Management in Groundfish Fisheries of Bering Sea and Aleutian Islands**

For related information, **Open Docket Folder**

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Comment

The need for transparency in federal regulations, a principal frequently espoused by the Obama Administration, extends to the Endangered Species Act (ESA). Build consensus to address existing failures and pursue targeted, common sense reforms." In recent years, the federal agencies responsible for implementing the ESA, the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS), have been processing an increasing number of listing petitions and making an increasing number of federal listing determinations. For example, as a result of the Department of the Interior's 2011 multi-district litigation settlements, the federal government agreed to make over 750 species listing determinations and critical habitat designations under specific timetables. Since these settlements, already close to 160 new ESA listings have been proposed or finalized, for a total of 1,528 domestic listed species as of the date of this report. The ESA requires that decisions to list species as threatened or endangered be made "solely on the basis of the best available scientific and commercial data" (See 16 U.S.C. 1533(b)(1)(A)). However, the data and scientific information cited as support for federal ESA listing decisions, which often include unpublished studies or professional opinions rather than actual data, are frequently not made available or accessible to the public. A substantial amount of the research cited in ESA-related decisions is paid directly or indirectly by the American taxpayers.
April 30, 2014 comments supported the position that ESA science paid for by the taxpayers should be subject to public review. Need to correct this problem by requiring the public disclosure of the data used to justify proposed and final regulations to list or delist species as threatened or endangered. Making ESA-related data available and accessible to everyone on the Internet will instill accountability, allow transparent review of data and science to justify important policy considerations, and help ensure that the ESA reflects technology and scientific advances for species recovery not available when the ESA was signed into law or when many of the species were originally listed by the federal government. Over the past three years, the Committee on Natural Resources held several hearings and has received testimony from multiple witnesses highlighting examples of the lack of transparency of ESA listing decisions and their impacts on species conservation and on affected states, local entities, tribal governments, and private landowners.
On August 1, 2013, the Natural Resources Committee held a hearing

entitled, "Transparency and Sound Science Gone Extinct: The Impacts of the Obama Administration's Closed-Door Settlements on Endangered Species and People." During the hearing, an expert biologist, Dr. Rob Roy Ramey II, testified presented a compelling case for transparency: what are the effects of this lack of transparency on the public? When the data are not publicly accessible, legitimate scientific inquiry and debate is effectively eliminated, and no independent third party can reproduce the results. This action puts the basis of some ESA decisions outside the realm of science. Furthermore, it has the effect of concentrating power, money and regulatory authority in the hands of those who control access to the data. Information is power. American people have paid for data collection and research on threatened endangered species through grants, contracts and agreements and permits. They pay the salaries of agency staff who collect, data, publish and produce work based on that data. And they are, for the most part, regulated on the basis of that data. It is essential that the American people have rights to access that data in a timely manner.
These agencies too often overlook local conservation plans that are developed to ensure the protection of native species and habitat. These local efforts should not be disregarded, By providing states, tribes, and localities the data used to promulgate these proposed listings, an opportunity arises for local stakeholders to get involved and have their voices heard. Greater federal and state cooperation and data transparency in species designations. Ensures on-the-ground data is factored into listing decisions. consideration of economic factors in listing decisions for threatened species and also provides more agency flexibility in the petition process to discourage excessive ESA litigation. We need to do listings in a smart way. ESA is a powerful law that can be inflexible and costly, with far-reaching effects on local economies. Arbitrary deadlines do not help. Neither do sweeping listings that threaten the communities and landowners who have been on that land since before the time states like mine were created. We can update the law without endangering our legacy for the next generation.