

## **APPENDIX C**

### **FMP Amendment Summaries for BSAI**

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**Amendments to the  
Fishery Management Plan for Groundfish  
in the Bering Sea and Aleutian Islands**



**Prepared by the staff of the North Pacific Fishery Management Council**

## Amendments to the Fishery Management Plan for Groundfish in the Bering Sea / Aleutian Island Area

This document contains 1-page descriptions of the amendments to the Fishery Management Plan for Groundfish in the Bering Sea / Aleutian Island Area (BSAI FMP), through 2003. The BSAI FMP was implemented effective 1981. The Final EIS and RIR were published in August 1981.

Amendment Number	Amendment Title	Date of Final Rule	Supporting Analysis
1	Optimum Yield and TAC Framework, Modify Domestic Area Restrictions	1984	FMP EIS, RIR, FRFA
1a	Foreign Fleet Prohibited Species Catch Limits for Chinook Salmon	1982	FMP EIS
2	Increase Allocation to Domestic Fleet	1982	FMP EIS, EA
3	Specification of Halibut, Crab, and Salmon Prohibited Species Catch Limits for Foreign Fleet	1983	FMP EIS, RIR, IRFA
4	Increase Domestic Allocation II, Increase Pacific Cod Acceptable Biological Catch and Optimum Yield, Relax Foreign Area Restrictions in the Aleutian Islands	1983	EA, FRFA
5	Reduce Chinook Salmon Prohibited Species Catch Limit (withdrawn)	—	—
6	Domestic Fishery Development Zone (disapproved)	—	—
7	Relax Foreign Longline Restrictions in Winter Halibut Savings Area	1983	EA, RIR
8	1984 and 1985 Salmon Prohibited Species Catch Limits for Foreign Trawl	1983	—
9	Reporting Requirements, Habitat Protection Policy	1985	EA, RIR, IRFA
10	Bristol Bay Trawl Closure, Crab and Halibut Prohibited Species Catch Limits, Catcher/Processor Reporting Requirements, Domestic Observer Requirements	1987	EA, RIR, IRFA
11	Apportionment of Pollock for Joint Venture Vessels	1987	EA, RIR, IRFA, supplement
11a	Catcher Processor Reporting Requirements	1988	EA, RIR, FRFA
12	Permit Requirements, Prohibited Species Catch Limit Framework, Establish Rock Sole as Separate Target Species	1989	EA, RIR, FRFA
12a	Revise Crab and Halibut Prohibited Species Catch Limits, Modify Bristol Bay Crab and Halibut Protection Zone	1989	EA, RIR, FRFA
13	Observer Program, Sablefish Gear Allocations, Walrus Island Closure, Reporting Requirements	1989, 1990	EA, RIR, FRFA, addendum
14	Regulate Pollock Roe Stripping, Seasonal Allowance Schedule for Pollock	1991	EA, RIR, FRFA
15	Establish Sablefish Individual Fishing Quotas, Establish Western Alaska Community Development Quota Program	1993	EIS, SEIS (incl RIR & FRFA)

<b>Amendment Number</b>	<b>Amendment Title</b>	<b>Date of Final Rule</b>	<b>Supporting Analysis</b>
16	Interim Harvest Levels, Revise Prohibited Species Catch Limits for Crab and Halibut and Apportion by Fishery and Season, Fishing Gear Restrictions, Define Overfishing, Implement Vessel Incentive Program	1991	EA, RIR, IRFA
16a	Establish Herring Prohibited Species Catch Limits and Herring Savings Areas, Specify Allocation of Pollock Total Allowable Catch to Bottom Trawl	1991	EA, RIR, FRFA
17	Renew Walrus Islands Closures, Experimental Permits, Establish Bogoslof District	1992	EA, RIR, IRFA
18	Inshore/Offshore Allocations for Pollock, Establish Catcher Vessel Operational Area, Designate Western Alaska Community Development Quota for Pollock	1992	SEIS, RIR, FRFA, supplement
19	Establish Prohibited Species Catch Limits for Non-trawl Fisheries, Revise Trawl Fishery Categories for Prohibited Species Catch Accounting, Delay Fisheries Start Date, Expand Vessel Incentive Program	1992	EA, RIR, FRFA
20	Steller Sea Lion Buffer Zones	1992	EA, RIR, FRFA
21	Framework Halibut Prohibited Species Catch Limits Including Authority to Specify by Fishery Category or Season	1993	EA, RIR, FRFA
21a	Pribilof Islands Habitat Conservation Area	1995	EA, RIR
21b	Chinook Salmon Savings Area	1995	EA, RIR, FRFA
22	Establish Trawl Gear Test Zones	1993	EA, RIR, IRFA
23	Moratorium	1995	EA, RIR, FRFA, supplement
24	Pacific Cod Allocation by Gear Type and Season	1994	EA, RIR, FRFA
25	Adjust Trawl Prohibited Species Catch Limits for Halibut	1994	EA, RIR
26	Salmon Retention for Food Banks	1996	EA, RIR
27	Research Plan/Observer Program (not implemented)	1994	EA, RIR
28	Divide Aleutian Islands into Regulatory Areas	1993	EA, RIR
29	Salmon Bycatch Accounting (withdrawn)	—	—
30	Increase Community Development Quota Allocation for Sablefish	1994	RIR
31	Sablefish Individual Fishing Quota Share Blocks	1994	EA, RIR, FRFA
32	Transfer of Sablefish Community Development Quota Compensation Quota Shares	1996	RIR
33	Limited Processing of Non-Individual Fishing Quota species	1996	EA, RIR
34	Atka Mackerel Jig Allocation	1997	EA, RIR, FRFA
35	Chum Salmon Savings Area	1995	EA, RIR, FRFA
36	Establish Forage Fish Category	1998	EA, RIR

<b>Amendment Number</b>	<b>Amendment Title</b>	<b>Date of Final Rule</b>	<b>Supporting Analysis</b>
37	Modify Red King Crab Prohibited Species Catch Limits, Establish Bristol Bay Red King Crab Savings Area and Nearshore Bristol Bay Trawl Closure Area, Increase Observer Coverage	1996	EA, RIR, FRFA
38	Extend Inshore/Offshore Pollock Allocations, Reauthorize Pollock Community Development Quota Program, Modify the Catcher Vessel Operational Area	1995	EA, RIR, IRFA
39	Establish a License Limitation Program, Multi-species Community Development Quota Program	1998	EA, supplement
40	Establish Opilio Prohibited Species Catch Limits and Bycatch Limitation Zones	1997	EA, RIR, FRFA
41	Reduce Bairdi Prohibited Species Catch Limits	1997	EA, RIR, FRFA
42	Individual Fishing Quota Vessel Buy Down	1996	EA, RIR, FRFA
43	Increase Individual Fishing Quota Sweep Up Levels	1996	EA, RIR
44	Overfishing Definitions	1997	EA
45	Permanently Extend Community Development Quota Allocation	1999	EA, RIR, FRFA
46	Pacific Cod Allocation II	1996	EA, RIR
47	Third Party Observer Program (withdrawn)	—	—
48	Total Allowable Catch Streamlining (tabled)	—	—
49	Improved Retention / Improved Utilization Program	1997	EA, RIR, FRFA
50	Halibut Donation Program	1998	EA, RIR
51	Extend the Catcher Vessel Operational Area	1999	EA, RIR, IRFA
52	Vessel Registration Program (tabled)	—	—
53	Shortraker/Rougheye Rockfish Allocation in Aleutian Islands by Gear	1998	EA, RIR
54	Individual Fishing Quota Indirect Ownership and Use Caps	2002	RIR, IRFA, FRFA
55	Define Essential Fish Habitat	1999	EA
56	Revised Overfishing Definitions	1999	EA
57	Pollock Bottom Trawl Gear Prohibition, Reduce Crab and Halibut Prohibited Species Catch Limits	1999	EA, RIR, FRFA
58	Reduce Chinook Salmon Prohibited Species Catch Limits, Modify Chinook Salmon Savings Area	2000	EA, RIR, FRFA
59	Moratorium Extensions	1999	RIR
60	Adjustments to License Limitation Program	2001	EA, RIR, IRFA, FRFA
61	American Fisheries Act Implementation	2002	EIS, incl RIR & FRFA
62	Single Geographic Location and Inshore/Offshore Language Changes (proposed, approved by Council October 2002)	—	—

<b>Amendment Number</b>	<b>Amendment Title</b>	<b>Date of Final Rule</b>	<b>Supporting Analysis</b>
63	Sharks/Skates (pending)	–	–
64	Pacific Cod Fixed Gear Allocations	2000	EA, RIR, IRFA, FRFA
65	Habitat Areas of Particular Concern: Harvest Control Measures (postponed)	–	–
66	Remove Squid from Community Development Quota Program, Define Directed Fishing for Pollock	2001	EAs, RIRs, IRFAs, FRFA
67	Pacific Cod Species and Gear Endorsements to License Limitation Program License	2002	EA, RIR, IRFA, FRFA
68	Pacific Cod Pot Gear Allocation (withdrawn)	–	–
69	American Fisheries Act Inshore Co-operative Contracts with Catcher Vessels Outside Co-operative	2003	RIR, FRFA
70	Steller Sea Lion Protection Measures (withdrawn)	–	–
71	Community Development Quota Policy and Administrative Changes (proposed, approved by Council June 2002)	–	–
72	Individual Fishing Quota Vessel Clearance and Recordkeeping and Reporting Changes (approved by Secretary of Commerce January 2003)	–	RIR, IRFA
73	Sideboard Measures for Winter Pacific Cod (postponed indefinitely)	–	–
74	(unassigned)	–	–
75	Repeal of Increased Retention / Increased Utilization Program Flatfish Requirement (proposed, approved by Secretary of Commerce May 2003)	–	–
76	(unassigned)	–	–
77	Pacific Cod Fixed Gear Allocations (proposed)	–	–

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## **BSAI Amendment 1      Optimum Yield and TAC Framework, Modify Domestic Area Restrictions**

**Dates:** BSAI Amendment 1 was adopted by the Council in May 1982. NMFS published final rule on January 4, 1984 (49 FR 397). Effective date of implementation was January 1, 1984.

**Purpose and Need:** The single species OY levels that were established in the original FMP draft did not provide the flexibility needed to respond to biological changes and the rapidly developing domestic fishery. Plan amendments were required for each adjustment to the OY and the amount allocated to domestic and foreign fisheries. This was a very cumbersome, costly, and slow process that impeded the development of a domestic fishery. Additionally, trawl and longline closure areas implemented with the original FMP inhibited the developing domestic fisheries, so some of these restrictions were removed.

**Regulation Summary:** The amendment included the following measures:

1. Established a multi-year, multi-species optimum yield for BSAI groundfish complex (1.4 million to 2.0 million mt);
2. Established a framework procedure for the determination and apportionment of amounts of groundfish specified for total allowable catch (TAC), domestic annual harvest (DAH), reserves, and total allowable level of foreign fishing (TALFF);
3. Allowed year-round domestic trawling and longlining in the Winter Halibut Savings Area and Bristol Bay Pot Sanctuary;
4. Modified seasonal foreign trawl restrictions in the Petrel Bank area to be based on crab opening dates;
5. Updated appendices and annexes to the FMP; added Annex I (description of SAFE document); and
6. Eliminated “Misty Moon” grounds south of the Pribilofs from the winter halibut savings area.

**Analysis:** A 32-page RIR/IRFA (final draft dated August, 1982) was prepared for this amendment. Three primary alternatives including the status quo were considered. The other alternative that was not chosen would have adopted a multi-species OY of 1.6 million mt (which equaled 80% of the midpoint range of the MSY estimate). The alternative adopted for OY was conservative (set equal to 85% of the MSY range, estimated to be 1.7 to 2.4 million mt), and based on a range (1.4 to 2.0 million mt) to allow for flexibility with changes in the ecosystem. The original FMP OY specifications for individual groundfish species were replaced by the OY range for the complex, with total allowable catch (TAC) specified annually for each target species and for the “other species” category. Fifteen percent of each TAC for target and “other species” was set aside for reserves, which could be used for unexpected expansion of the domestic fleet or unexpected conditions of a stock during a fishing year, and for in-season allocations. The TAC could then be apportioned between the domestic annual harvest (DAH) and the total allowable level for foreign fisheries (TALFF).

**Results:** Since the 2 million mt OY cap was implemented in 1984, six proposals from fishing associations and foreign interests were submitted to increase the cap. The Council initiated formal analysis three times (1988, 89, and 90), but rejected any increase for the following reasons: its aim to eliminate foreign and joint venture fishing, concerns about the adequacy of biological information, economic, and ecological factors. In 1991, the U.S. General Accounting Office (GAO) investigated this rejection of an OY increase, and concluded that the Council’s decision was appropriate (GAO/RCED-91-96). Total annual catch of groundfish has remained at or below 2 million mt. Recent catches have been 1.3 to 1.8 million mt.

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## BSAI Amendment 1a Foreign Fleet PSC Limits for Chinook Salmon

**Dates:** Amendment 1a was adopted by the Council in March, 1981. A proposed rule was published on October 29, 1981 (46 FR 53475) and a final rule published on January 12, 1982 (47 FR 1295). Effective date of implementation was January 12, 1982.

**Purpose and Need:** Western Alaska Native groups expressed concern over the apparent increase in the incidental catch of western Alaska chinook salmon in the foreign trawl fisheries. Western Alaska Native groups had negotiated with the Japanese trawling interests to limit the number of chinook salmon caught incidentally in foreign trawl operations to 55,250 in 1982. Amendment 1a made this agreement formal by establishing a prohibited species catch (PSC) limit of 55,250 fish in the eastern Bering Sea foreign trawl fishery. This amount was a 15 percent reduction from the 1981 chinook salmon PSC of 65,000 fish implemented under the preliminary management plan. Additionally, Amendment 1a established a formula used to distribute the salmon PSC so that if there were changes in TALFF during the year with releases of reserves, the salmon PSC for a country would be adjusted also.

**Regulation Summary:** Amendment 1a established foreign chinook salmon PSC limits as follows: During any fishing year, that portion of fishing Area 1 lying between 55° N and 57°N latitude and 165° W and 170° W longitude and all of fishing Area 2 may be closed for the remainder of the periods January 1 through March 31, and October 1 through December 31 to trawl vessels of any nation. This closure will occur when vessels of a nation have intercepted that nation's portion of the PSC of chinook salmon. A nation's initial portion of the chinook salmon PSC for a fishing year was determined by multiplying 55,250 (the total PSC for chinook salmon) by the ratio of that nation's initial groundfish allocation to the total initial TALFF plus reserves for groundfish.

**Analysis:** No formal analysis of this amendment was located in the files. Note that the final rule states "*The Administrator of NOAA has determined that this proposed rulemaking is not a 'major rule' requiring a regulatory impact analysis under Executive Order 1291, and that the sector of the U.S. fishing industry dealing in groundfish from the Bering sea and Aleutian Islands is too small for the proposed action to have a significant effect on the economy..The Administrator also certifies that approval and implementation of Amendments 1a and 2 will not have a significant economic impact on a substantial number of small entities, and thus do not require the preparation of a regulatory flexibility analysis.*"

**Results:** Bycatch of chinook salmon was greatly reduced in the early 1980's, from a high of about 115,000 fish in 1980 to only 10,000 fish by 1983. An estimated 15,644 chinook salmon were taken as bycatch in foreign trawl fisheries in 1982.

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## **BSAI Amendment 2      Increase Allocation to Domestic Fleet**

**Dates:** Amendment 2 was adopted by the Council in September, 1980. A proposed rule was published on October 29, 1981 (46 FR 53475) and a final rule published on January 12, 1982 (47 FR 1295). Effective date of implementation was January 12, 1982.

**Purpose and Need:** The domestic fleet was beginning to grow, and U.S fishermen, particularly those delivering fish to foreign vessels under joint venture arrangements, judged that they would be able to catch more flatfish than in the past. Additionally, NMFS resource assessment data indicated a short-term increase in Pacific cod due to a strong year class entering the fishery, along with a rapid expansion of the domestic fishery for this species.

The purpose of the amendment was to increase the domestic annual harvesting (DAH) amount and the joint venture processing (JVP) amount of yellowfin sole and other flatfish, and consequently decrease the amount available to foreign fishing (TALFF). The Pacific cod catch specifications were increased, particularly for domestic fisheries, to reflect best available scientific information.

**Regulation Summary:** The amendment changed the specifications for yellowfin sole, other flatfish, and Pacific cod as follows:

Yellowfin sole:      DAH increased from 2,050 mt to 26,200 mt.  
                              JVP increased from 850 mt to 25,000 mt.  
                              TALFF decreased by 24,150 mt.

Other flatfish:        DAH increased from 1,300 mt to 4,200 mt.  
                              JVP increased from 100 mt to 3,000 mt.  
                              TALFF decreased by 2,900 mt.

Pacific cod:            MSY decreased from 58,700 mt to 55,000 mt.  
                              EY increased from 58,700 to 160,000 mt.  
                              ABC increased from 58,700 mt to 160,000 mt.  
                              OY increased from 58,700 mt to 78,700 mt.  
                              Reserve increased from 2,935 mt to 3,935 mt.  
                              DAP increased from 7,000 mt to 26,000 mt.  
                              DAH increased from 24,265 mt to 43,265 mt.

**Analysis:** A 5-page EA analysis and a 4- page RIR analysis was prepared for this amendment. Only one alternative to the status quo was considered.

**Results:** The domestic and joint venture fisheries continued to grow. Additional increases in domestic allocations were made in 1983 under Amendment 4. Allocations of catch were frameworked under Amendment 1 in 1984.

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## BSAI Amendment 3      Specification of Halibut, Crab, and Salmon Prohibited Species Catch Limits for Foreign Fleet

**Dates:** Amendment 3 was adopted by the Council in September 1981. NMFS published a proposed rule on March 11, 1983 (48 FR 10383) and a final rule on July 2, 1983 (48 FR 24719). The effective date of implementation was July 4, 1983.

**Purpose and Need:** The purpose of this amendment was to reduce incidental bycatch of salmon, halibut, king and Tanner crab in the foreign trawl fisheries, and thereby reduce the economic costs to U.S. fishers that participate in these fisheries. The Council felt the existing requirement that these species be returned to the sea as soon as possible was not reducing the incidental bycatch and associated mortality of these species. The intent of this amendment was to set low allowable bycatch rates to reduce bycatch. By providing incentives (more groundfish TALFF allocation to that country), it was felt that foreign vessels could reduce their bycatch of prohibited species and still catch the groundfish TALFF.

**Regulation Summary:** Amendment 3 reduced bycatch of prohibited species in foreign groundfish fisheries. Essentially, total PSC allocations for foreign nations were based on bycatch rates multiplied by the nations TALFF allocation. Bycatch rate reductions to be met by 1986 from status quo base years (1977-80) were as follows: halibut, 50%; king and Tanner crab 25%; salmon 75%. The target level of salmon bycatch was 17,473 fish. If bycatch apportionments for any PSC species were met or exceeded, that nation's fleet was prohibited from fishing in the entire BSAI area, unless exempted by the NMFS Regional Director.

**Analysis:** A 39-page RIR/IRFA (final draft dated November, 1981) was prepared for this amendment. There were three alternatives, including the status quo that were considered. The other non-status quo alternatives not chosen would have closed INPFC Areas I and II during the period October 1 through March 31, when prohibited species were believed to be highly concentrated.

**Results:** The foreign fleet successfully reduced bycatch in their fisheries (of course, part of this reduction is attributable to reduced TALFF). However, bycatch savings were offset by the growing joint venture (JV) fisheries. The adjacent table illustrates these results.

<b>Bycatch in foreign and JV groundfish fisheries in the BSAI 1983-1986.</b>						
Source: Guttormsen et al. 1990.						
Year	Halibut (mt)		Salmon (#)		King crab (#)	
	Foreign	JV	Foreign	JV	Foreign	JV
1983	1,872	438	18,173	24,493	404,013	630,144
1984	2,128	617	16,516	67,622	292,223	398,865
1985	1,789	1,026	10,003	10,420	219,783	1,005,290
1986	1,192	1,711	1,643	19,340	14,631	260,435

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## **BSAI Amendment 4      Increase Domestic Allocation II, Increase Pacific Cod Acceptable Biological Catch and Optimum Yield, Relax Foreign Area Restrictions in the Aleutian Islands**

**Dates:** Amendment 4 was adopted by the Council in 1981. NMFS published a proposed rule/notice of partial approval on December 6, 1982 (47 FR 54841) and a final rule on May 12, 1983 (48 FR 21336). Effective date of implementation was May 9, 1983.

**Purpose and Need:** The primary purpose was to provide additional opportunities for growth in domestic fisheries. U.S. fishermen who delivered fish to foreign processing vessels indicated that the existing domestic annual harvests (DAHs) would not allow joint venture (JV, a component of DAH) operations to continue, because the amounts of certain species (pollock, yellowfin sole, other flatfish, Atka mackerel, and other species) allocated to DAH were insufficient. Additionally, the abundance of Pacific cod had increased due to a strong 1977 year-class entering the fishery, so Amendment 4 also increased the ABC and OY for Pacific cod. Amendment 4 was also implemented to allow foreign fishing between 3 to 12 miles in the Aleutian Islands, so that they could catch their groundfish allocations. Previously, foreign fisheries were only allowed to operate outside of 12 miles, but the continental shelf is very narrow in this area, making fishing impracticable and thus the catch could not be taken. In its original draft, Amendment 4 would have provided more flexibility and timeliness of conservation measures by giving the Secretary authority to issue field orders for adjusting time/area closures. This part was disapproved because “the amendment failed to specify adequately the procedures, limits, and types of responses that could be made in issuing such orders.”

**Regulation Summary:** Amendment 4 allowed foreign trawling outside 3 miles north of the Aleutians between 170°30 W and 170°W and south of the Aleutians between 170°W and 172°W, and allowed foreign longlining outside 3 miles west of 170°W longitude. Amendment 4 also changed the specifications for yellowfin sole, other flatfish, and Pacific cod as follows:

Pollock:	DAH increased from 19,550 mt to 74,500 mt, JVP increased from 9,050 mt to 64,000 mt. TALFF decreased from 930,450 mt to 875,500 mt.
Yellowfin sole:	DAH increased from 26,200 mt to 31,200 mt, JVP increased from 25,000 mt to 30,000 mt. TALFF decreased from 84,950 mt to 79,950 mt.
Other flatfish:	DAH increased from 4,200 mt to 11,200 mt, JVP increased from 3,000 mt to 10,000 mt. TALFF decreased from 53,750 mt to 46,750 mt.
Atka mackerel:	DAH increased from 100 mt to 14,500 mt, JVP increased from 100 mt to 14,500 mt TALFF decreased from 23,460 mt to 9,060 mt.
Other species:	DAH increased from 2,000 mt to 7,800 mt, JVP increased from 200 mt to 6,000 mt. TALFF decreased from 68,537 mt to 65,648 mt. ABC corrected to be 79,714 mt, OY to 77,314 mt, and reserves to 3,566 mt.
Other rockfish:	DAP set at 1,100 mt for BSAI area combined.
POP:	DAP set at 550 mt for Bering Sea and 550 mt for Aleutians. JVP set at 830 mt for Bering Sea and 830 mt for Aleutians.
Sablefish:	JVP set at 200 mt for Bering Sea and 200 mt for Aleutians. MSY set at 11,600 mt for Bering Sea and 1,900 mt for Aleutians.
Pacific cod:	EY and ABC increased from 160,000 mt to 168,000 mt, OY increased from 78,700 mt to 120,000 mt. Reserve increased from 3,935 mt to 6,000 mt, TALFF increased from 31,500 mt to 70,735 mt.

**Analysis:** A 16 page Environmental Assessment was prepared for this amendment. Eight alternatives including the status quo were considered. Essentially, the alternatives considered were different combinations of the management actions contained in this amendment.

**Results:** Allocations of catch were frameworked under Amendment 1 in 1984.

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## **BSAI Amendment 5     Reduce Chinook Salmon Prohibited Species Catch Limit (withdrawn)**

**Dates:** Amendment 5 was adopted by the Council in September 1981 in conjunction with Amendment 3. A proposed rule was drafted but withdrawn because it was redundant to Amendment 3, which finally was implemented on July 2, 1983 (48 FR 24719) after a long delay.

**Purpose and Need:** The purpose of Amendment 5 was to limit the prohibited species catch (PSC) of chinook salmon in the eastern Bering Sea foreign trawl fisheries to 45,500 fish. This was the amount approved by the Council as part of Amendment 3, and was a reduction from the existing limit of 55,250 fish established by Amendment 1a. These values for the proposed chinook salmon PSC were based upon the Council approval of the PSC reduction schedule for salmon that was negotiated between principal domestic and foreign user groups (western Alaska residents and Japanese trawl industry representatives). Because there was a long implementation delay for Amendment 3, Amendment 5 was proposed to reduce the salmon PSC sooner.

**Regulation Summary:** The amendment was withdrawn when it was superceded by implementation of Amendment 3.

**Analysis:** There is no record of an analysis in the files.

**Results:** Salmon PSC limits for foreign trawl fisheries were reduced in accordance with Amendment 3.

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## BSAI Amendment 6 Domestic Fishery Development Zone (disapproved)

**Dates:** Amendment 6 was adopted by the Council in September, 1982. NMFS published a proposed rule on October 7, 1983, (48 FR 45806) and a notice of withdrawal on February 9, 1984 (49 FR 4956).

**Purpose and Need:** The purpose of the amendment was to provide a sanctuary for U.S. fishing vessels in a productive fishing area of the Bering Sea and to encourage the expansion of the U.S. groundfish fishery. It was felt that by setting aside a very productive area in relatively close proximity to the only three developed harbors in the Bering Sea (Unalaska, Akutan, and Sand Point), the domestic fisheries would gain a competitive advantage. Creation of the FDZ would have had the effect of eliminating a 6 month foreign fishery from areas near the three harbors, because the nearby Winter Halibut Savings Area is closed to foreign trawling from December 1 through May 31.

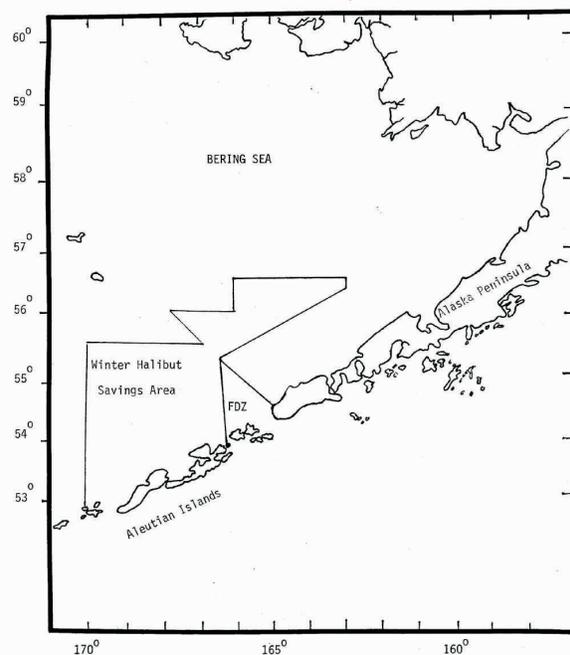
**Regulation Summary:** Amendment 6 would have established a fishery development zone (FDZ). The proposed FDZ was located north and west of Unimak Pass and was bounded by the following coordinates:

55°16' N Latitude, 166°10' W Longitude;  
54°00' N Latitude, 166°10' W Longitude;  
54°35' N Latitude, 164°55'42" W Longitude;

The FDZ would have been reserved for use by domestic fishing vessels – including those delivering to shore-based processors, U.S. catcher/processors, and foreign processing vessels involved in U.S. joint venture operations. All foreign harvest operations would have been excluded year-round from the FDZ.

**Analysis:** A 79 page RIR/IRFA (final draft dated November 1983) was prepared for this amendment. Two alternatives to the status quo were examined. The other alternative would have defined a larger area as the FDZ.

**Results:** The amendment was disapproved by the Secretary of Commerce under Section 304(b)(2) of the Magnuson Fishery Conservation and Management Act on December 8, 1983. Instead of resubmitting the proposed amendment, the Council agreed to a voluntary foreign industry abstention from fishing in the local areas of importance to U.S. fishermen and processors.



Location of the Fishery Development Zone (FDZ), northeast of Unalaska.

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## BSAI Amendment 7      Relax Foreign Longline Restrictions in Winter Halibut Savings Area

**Dates:** Amendment 7 was adopted by the Council in September 1982. NMFS published the proposed rule on May 16, 1983 (48 FR 21978), and the final rule on August 2, 1983 (48 FR 34962). Effective date of implementation was August 31, 1983.

**Purpose and Need:** The purpose of the amendment was to modify the regulations designed to control halibut bycatch in the foreign longline fisheries. Under the original FMP, foreign longline vessels were prohibited from fishing landward of the 500 meter depth contour in the Winter Halibut Savings Area (WWSA) from December 1 through May 31. The provision was intended to protect juvenile Pacific halibut when they concentrate in the WWSA. An amendment was proposed by the Japanese longline industry to eliminate the 500 meter depth restriction, because they felt it would prevent the harvest of their Pacific cod allocations.

**Regulation Summary:** Amendment 7 allowed the foreign longline fleet to fish in the shallow waters of the WWSA so as to allow them to catch their allocation of Pacific cod. However, the depth restriction would be reimposed if the foreign longline fleet in the entire BSAI caught 105 metric tons of halibut as bycatch during the 12 month period of June 1 through May 31. Thus, if the incidental catch of Pacific halibut by foreign longline vessels in the BSAI reached 105 mt between June 1 and November 30, the WWSA would be closed to foreign longlining landward of the 500 meter depth contour for the 6-month period December 1 through May 31. If the incidental catch limit of 105 mt was reached from December 1 through May 31, the restriction would be reimposed for whatever remained of that 6-month period.

**Analysis:** An 18 page EA was prepared for this amendment. Three alternatives including the status quo were considered. The other alternative not chosen would have eliminated all area restrictions on foreign longliners and thus allowed them to fish year-round in the WWSA regardless of depth. Problems identified with this alternative included gear conflicts and an increase in bycatch of halibut.

The alternative chosen would allow foreign longline vessels to pursue Pacific cod in shallow waters, while at the same time provide incentives to reduce halibut bycatch. The 500 meter depth restriction was maintained because bycatch rates for halibut in the Pacific cod fishery are higher in shallower waters. The 105 mt bycatch limit was a 25 percent reduction from the average 1978-81 incidental take of halibut in the BSAI foreign longline fishery.

**Results:** Foreign longline vessels were able to catch their allocation of Pacific cod, until phased out by domestic fisheries. The adjacent table shows the catch of Pacific cod in foreign and domestic longline fisheries. No information could be found on the bycatch of halibut associated with this fishery.

**Catch of BSAI Pacific cod in foreign longline fisheries and domestic longline fisheries, 1981-1992.**

<u>Year</u>	<u>Foreign</u>	<u>Domestic</u>
1981	6,086	27
1982	3,618	5
1983	6,847	4
1984	27,446	8
1985	37,571	50
1986	26,563	49
1987	47,028	1,417
1988	0	2,611
1989	0	14,219
1990	0	47,716
1991	0	79,696
1992	0	101,249

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## BSAI Amendment 8      1984 and 1985 Salmon Prohibited Species Catch Limits for Foreign Trawl

**Dates:** Amendment 8 was adopted by the Council in March 1983. Effective date of implementation was July 4, 1983. No final rule is on file.

**Purpose and Need:** The purpose of Amendment 8 was to extend reductions of incidental bycatch of salmon in the foreign trawl fisheries implemented under Amendment 3. Its intent was to continue the Council's salmon bycatch reduction efforts begun under Amendment 3, which controlled salmon PSC through 1983 only.

**Regulation Summary:** Amendments 3 and 8 reduced bycatch of prohibited species in foreign groundfish fisheries. Amendment 3 set a goal of total salmon bycatch of 17,473 fish by 1986, which was a 75% reduction from the 1981 salmon PSC of 69,893 and a 78% reduction from the average salmon bycatch of 80,000 fish for the years 1977-80. Amendment 8 implemented a salmon PSC limit of 38,441 fish for 1984 and 27,957 fish for 1985. The 1986 limit remained at the 17,473 fish PSC envisioned in Amendment 3.

**Analysis:** The Council reviewed the status of the salmon resource and the economic and technological reasonableness of further PSC reductions in context with the 75% reduction goal by 1986. The 1984-86 salmon PSC levels reflect limits negotiated between representatives for those Western Alaska residents who depend on the salmon resource and the Japanese trawl industry. A 39-page analysis of salmon, halibut, and crab bycatch reductions was prepared for Amendment 3 in 1981.

**Target reduction schedule of salmon prohibited species catches based on the average 1977-80 foreign trawl salmon incidental catch.**

<u>Year</u>	<u>Chinook Salmon (#)</u>	<u>Total Salmon (#)</u>
1981	65,000	69,893
1982	55,250	59,409
1983	45,500	48,925
1984	35,700	38,441
1985	26,000	27,957
1986	16,250	17,473
Average incidental catch		
1977-80	74,400	80,000

**Results:** The foreign fleet successfully reduced bycatch in their fisheries. However, bycatch savings were offset by the growing JV fisheries.

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## BSAI Amendment 9 Reporting Requirements, Habitat Protection Policy

**Dates:** Amendment 9 was adopted by the Council in May 1985. It was partially disapproved on October 17, 1985. The proposed rule (50 FR 33080) was published on August 16, 1985. The final rule (50 FR 46072) was published on November 6, 1985; a correction to the final rule (50 FR 48601) was published on November 26, 1985. Effective date of approved measures was January 1, 1986.

**Purpose and Need:** Rapid growth of the domestic groundfish fleet led to the development of reporting requirements of catch information by vessels that process their catch at sea. While fish tickets collected catch data from vessels landing at shore-based processing facilities, the action was aimed at collecting necessary and timely catch information from at-sea processors on extended trips.

While not required by law at the time, incorporation of habitat concerns into the FMP was approved in response to the NMFS Habitat Conservation Policy which advocated such consideration in development of FMPs and amendments. The policy further aimed to strengthen the federal/state partnership to act as stewards of marine habitat.

**Regulation Summary:** Three parts of Amendment 9 were approved:

- 1) incorporate catcher/processor and mothership vessel reporting requirements to provide NMFS with more timely catch information necessary for adequate in-season management (weekly processor report with check-in/check-out reporting). A reporting system for catch held aboard for 14 days or more by the expanding domestic fleet was established. Permit holders must identify vessels as: (a) harvesting/processing, (b) mothership processing; (c) harvesting only; or (d) support only.
- 2) incorporate the NMFS habitat protection policy into the FMP in response to NMFS' Habitat Conservation Policy which advocates consideration of habitat concerns in developing or amending FMPs; and
- 3) incorporate a definition of directed fishing.

One action associated with habitat consideration in the FMP, to prohibit the discard of fishing gear and marine debris, was reserved until the required analysis was prepared. A measure to reduce bycatch of fully utilized species by closing an area within 20 miles of the Aleutian Islands to foreign trawling was disapproved.

**Analysis:** A 40-page RIR/IRFA (dated May 28, 1985) reviewed two actions which arose from the Council's first call for proposals:

- (1) Reporting requirements:
  - (a) operators of catcher/processor and mothership vessels must indicate on federal fishing permits their capability and intent to preserve catch at sea;
  - (b) same operators must check-in/out of a regulatory area;
  - (c) same operators that retain fish at sea for 14 days or more to provide a weekly report of the amounts of groundfish caught or received by species by fishing area.

Four rejected alternatives included the status quo, weekly processor reports with no check-in/check-out reporting, placing observers aboard a portion of the catcher/processor and mothership fleet, and placing observers aboard the entire processing fleet. Approximately 25 vessels harvesting \$114 million of groundfish were affected by the decision in 1985.

- (2) Habitat. The Council identified habitat as the source of productivity of the groundfish resource. Two rejected alternatives included status quo and a general habitat conservation objective that would include habitat information in a separate, referenced document rather than in the FMP; .

**Results:** Under Amendment 9, NMFS implemented weekly processor reporting which has provided necessary data for inseason management and numerous subsequent groundfish analyses.

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## BSAI Amendment 10 Bristol Bay Trawl Closure, Crab and Halibut Prohibited Species Catch Limits, Catcher/Processor Reporting Requirements, Domestic Observer Requirements

**Dates:** Amendment 10 was adopted by the Council in September 1986. The proposed rule for Amendment 10 was published on December 18, 1986 (51 FR 45349) and NMFS published a final rule on March 19, 1987 (52 FR 8592), with a corrected version published on April 22, 1987 (52 FR 13375). Effective date of implementation was March 9, 1987.

**Purpose and Need:** Amendment 10 was proposed primarily in response to concerns that commercial trawl fishing was contributing to the mortality of crabs through their incidental capture and mutilation from trawl gear. At its January 1986 meeting, the Council determined that stocks of Bering Sea Tanner and king crab were low in abundance, and that trawling for groundfish, especially yellowfin sole and other flounders, was threatening both the crab and halibut stocks. Although regulations governing foreign trawl fishing (Amendment 9 banned foreign trawling in the Aleutian Islands) provided certain closed areas and prohibited species catch (PSC) limits for Pacific halibut, Tanner crab, and king crab, domestic trawl fishing vessels and joint ventures (domestic catchers delivering to foreign catcher/processors) had not been similarly restricted.



In response, the Council approved an emergency rule to close an area north of the Alaska Peninsula to all trawling, with the exception of trawling for Pacific cod (with a PSC limit of 12,000 red king crab). The closed area was expected to protect about 70% of the mature female red king crab spawning stock. The emergency rule also established PSC limits for *C. bairdi*, red and blue king crab, and halibut that, when reached, would close a directed fishery. The rule also required that domestic vessels carry NMFS observers in certain areas and comply with a data gathering program. The Secretary implemented the emergency rule, with the deletion of blue king crab and halibut, on June 3, 1986, and it was extended until December 2, 1986.

**Regulation Summary:** The final regulations contained the following four parts:

- 1) Closed the area north of the Alaska Peninsula, south of 58° N. latitude, west of 160° W longitude, and east of 162° W longitude to all trawling year-round and established the following PSC limits and bycatch limitation zones:  
Applicable to all domestic vessels in directed fisheries for yellowfin sole and other flatfish in the specified zone:
  - a) 80,000 *C. bairdi* in bycatch limitation Zone 1
  - b) 135,000 red king crab in Zone 1
  - c) 326,000 *C. bairdi* in Zone 2;Applicable to foreign directed fishing for yellowfin sole and other flatfish: 64,000 *C. bairdi* in Zones 1 and 2 combined;  
Applicable to domestic vessels in directed fisheries for yellowfin sole and other flatfish and delivering to foreign processing vessels (i.e. joint ventures): 828,000 halibut in the entire BSAI.
- 2) Required written weekly catch reports from all catcher/processors and motherships regardless of when the catch is landed (BSAI Amendment 9 implemented the same requirement for catcher/processors holding their catch for more than 2 weeks);
- 3) Provided authority to the Secretary to make inseason changes to gear regulations, season, and harvest quotas; and
- 4) Provided the Secretary with inseason authority to reapportion surplus groundfish within the domestic allowable harvest.

**Analysis:** A 79-page RIR/IRFA (final draft dated November 1986) was prepared for Amendment 10. Six alternatives were considered for the proposed area closing, including no action. The alternatives included variations on the closed area, PSC limits, and bycatch limitation zones. The other actions were evaluated on the basis of the preferred alternative and the no action alternative.

**Results:** This action caused a substantial change in the distribution of groundfish fishing effort, especially the joint venture yellowfin sole and other flatfish fisheries. The benefits, in the form of bycatch savings that occurred during the 1986 fishery under the emergency rule compared to the 1985 fishery, were significant. The bycatch rates for red king crab, *C. bairdi*, and halibut declined by 90%, 44%, and 17%, respectively. The *C. opilio* bycatch rate, however, increased by a factor of 10 when the fleet moved out of Zone 1. Imposition of the emergency rule saved an estimated 1,162,000 red king crab, 221,000 *C. bairdi*, and 64,000 halibut, and a loss of juvenile 4,492,000 *C. opilio*, providing an estimated net benefit of \$6.7 - \$14.6 million in ex-vessel revenue.

Since 1986, crab stocks have continued to fluctuate. For example, the *opilio* stock peaked in 1991 and again in 1998, then declined. A rebuilding plan is being developed for both the *C. opilio* and Tanner (*Bairdi*) crab stocks. The red king crab fishery was closed in 1994 and 1995, but has since provided a small fishery. Crab and halibut PSC limits were further revised under BSAI Amendments 12a, 16, 19, 21, 25, and 37.

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## **BSAI Amendment 11 Apportionment of Pollock for Joint Venture Vessels**

**Dates:** Amendment 11 was adopted by the Council in May 1987. The proposed rule for the Amendment was published on September 1, 1987 (52 FR 32942) and NMFS published a final rule on December 3, 1987 (52 FR 45966). Effective date was December 30, 1987.

**Purpose and Need:** Amendment 11 was proposed in response to concerns that the domestic annual harvest was being dominated by the joint venture processing fishery (domestic catcher vessels delivering to foreign processing vessels). Since 1977, the pollock fishery in the BSAI evolved from an entirely foreign-harvested fishery to a predominantly domestic-harvested fishery. Yet the volume of fish delivered to foreign processors continued to largely exceed the amount delivered to domestic shore-based processors. In 1986, nearly 95% of the total 886,000 mt domestic annual harvest was harvested in joint venture operations.

The transition to domestic-dominated fisheries was also accompanied by a trend toward harvesting more pollock early in the season, from January-April. Prior to 1980 and the advent of the joint venture fisheries, less than 25% of the pollock harvest was taken before April. By 1987, 73% of the pollock harvest had been harvested by May in the joint venture fisheries. There are two economic advantages to harvesting early in the year: 1) spawning pollock populations are highly aggregated, improving catch per unit effort, and 2) the open access nature of the fishery provides incentive to fish as soon as possible. Higher catch rates posed a significant biological risk; at times, catch rates were so high that it became economically feasible to retain only the valuable pollock roe and discard whole male and female carcasses (a practice called roe-stripping).

Instead of relegating joint venture operations to specific areas and prohibiting roe-stripping, the Council adopted a split-season proposal to reduce the amount of pollock harvested by the joint venture fisheries during the spawning season. This action would prevent development of an efficient fishery for the highly valued pollock roe, as well as allow for the expansion of the domestic processing fishery.

**Regulation Summary:** The regulations implemented the following three provisions:

- 1) Established an apportionment of the pollock TAC allocated to joint venture operations of 40% in the first season (January 1-April 15) and 60% in the second season (April 16-December 31). The measure was effective only in 1988 and 1989;
- 2) Revised the definition of acceptable biological catch (ABC) to conform with that used by the Pacific Council and includes definitions for "threshold" and "overfishing;"
- 3) Revised the definition of prohibited species to specifically name the species to be prohibited in the catches of foreign and domestic fishermen. Steelhead and Pacific salmon were added to the prohibited species list of halibut, herring, and king and Tanner crab for domestic and foreign fisheries; all salmonids are prohibited for foreign fishermen.

The final rule for Amendment 11 also clarified that the definition of directed fishing (20% or more of the harvest) applied to domestic fisheries as well as foreign fisheries. This was inadvertently omitted from the proposed and final rule for BSAI Amendment 10.

**Analysis:** An RIR/IRFA (final draft dated July 1987) and supplemental document was prepared for Amendment 11. A draft analysis dated April 1987 considered seasonal apportionments of 0/100% and 50/50% for the joint venture pollock fisheries. The Council's preferred alternative (40/60%) was bounded by the range considered, and therefore the available data and likely effects of the preferred action were sufficiently addressed in the draft analysis. The preferred 40/60% split was carried over in the final analysis as the preferred alternative, along with the no action alternative. Continuing to concentrate the pollock harvest in the beginning of the year (no action) was deemed unacceptable due to the possible risk to the reproductive potential of the pollock stocks. The alternatives for revising the definitions of prohibited species catch and ABC included the preferred alternative and no action.

**Results:** By 1991, foreign fishing had been phased out of the EEZ and the entire BSAI groundfish harvest (2,126,000 mt) was taken by 391 U.S. vessels. The Council has also since prohibited the practice of roe-stripping of pollock.

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## BSAI Amendment 11a Catcher Processor Reporting Requirements

**Dates:** The Council adopted BSAI Amendment 11a (GOA Amendment 16 ) in 1987. The proposed rule for Amendment 11a was published on December 21, 1987 (52 FR 48303) and NMFS published a final rule on March 10, 1988 (53 FR 7756). Effective date was April 7, 1988.

**Purpose and Need:** Amendment 11a was proposed in response to a need for better information from catcher/processors and mothership processor vessels in order to sufficiently address fishery management problems, enforce current regulations, and meet the conservation goals identified in the FMPs. The amendment intended to add to the currently required weekly catch reports by catcher/processors and motherships: information on the number of cartons and unit net weight of a carton of processed fish by species; a Product Transfer Report; and a Cargo Transfer/Offloading Log.

The purpose of the amendment also was to redefine the definition of prohibited species and respecify the other three species categories, and to institute some regulatory changes that would affect the public comment period. Several other minor regulatory changes were made specific only to the Gulf of Alaska FMP.

**Regulation Summary:** The regulations implemented the following provisions to the BSAI FMP:

- 1) Augmented the current catcher/processor and mothership reporting requirements with at-sea transfer information, specifically, a Cargo Transfer/Off-Loading Log and Product Transfer Report;
- 2) Revised the definition of prohibited species to include Pacific salmonids, Pacific herring, Pacific halibut, king crab, Tanner crab, and steelhead trout. Respecified the other three categories:
  - a) Target species—pollock, Pacific cod, flounders, rockfish, and sablefish
  - b) Other species—Atka mackerel, squid, sculpins, sharks, skates, eulachon, smelts, capelin, and octopus
  - c) Non-specified species—those species taken incidentally in the groundfish fisheries but are not managed by the FMP. No catch records are required;
- 3) Required the public comment period for proposed annual specifications and prohibited species catch limits to be 30 days following the date of filing of the notice for public inspection with the Office of the Federal Register.

**Analysis:** An EA/RIR/IRFA was prepared for Amendment 11a, which determined that there was no significant environmental impact as a result of this action.

**Results:** Since the amendment was passed, the four species categories have remained intact, and the “optimum yield” concept is applied to all except the prohibited species category. The prohibited species group has maintained the definition listed in the amendment. A single total allowable catch still exists for the other species group which currently includes smelts, octopus, sharks, skates, and sculpins; squid and Atka mackerel were moved to the target species group in 1993. In 1998, a final rule on forage fishes was published which removed smelts from the other species category and placed them in a separate “Forage Fish” category beginning in 1999.

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## **BSAI Amendment 12 Permit Requirements, Prohibited Species Catch Limit Framework, Establish Rock Sole as Separate Target Species**

**Dates:** BSAI Amendment 12 (GOA Amendment 17) was adopted by the Council in June 1988. The proposed rule was published on September 6, 1988 (53 FR 34322) and the final rule was published on May 1, 1989 (54 FR 18519). Effective date of approved measures was May 26, 1989.

**Purpose and Need:** As part of its annual call for proposals, the Council initiated a plan amendment to address six proposals to amend the BSAI FMP. The Council identified the rationale for the preferred actions under the amendment:

- (1) revise the federal permit requirements:
  - (a) the single species rule (whereby the catch of a species approaches its TAC) placed no limit on the amount of a species discarded after its retention is prohibited because its TAC has been fully harvested. The amount of bycatch discard increased during the rapid increase in the domestic fleet; and
  - (b) the single species rule did not apply to foreign fishing. Bycatch would be treated as PSC when a species reached its TAC. Therefore, a foreign fishery could not retain or discard bycatch without accounting for it against each species' allocation which were by then being fully harvested by the joint venture and domestic fisheries;
- (2) an increased interest by the domestic fishery to target roe-bearing rock sole led to competition with the foreign fishery for the "other flatfish" TAC;
- (3) mirror an administrative procedure in the GOA FMP whereby annual specifications of PSC limits in BSAI could be set for BSAI groundfish.

**Regulation Summary:** Amendment 12 required:

- (1) All vessels receiving groundfish harvested in the EEZ to hold a federal permit and comply with federal reporting requirements;
- (2) established PSC limit framework for groundfish species in the joint venture and foreign fisheries;
- (3) established rock sole as a target species separate from the "other flatfish" category;
- (4) removed the July 1 deadline for resource assessment document.

**Analysis:** A 133-page EA/RIR/IRFA (dated May 18, 1988) analyzed four amendment proposals for the BSAI FMP (the four listed above) and:

- (5) remove the 2 million mt upper limit to the optimum yield range. The Council chose the status quo for this proposal, for which it produced a separate SEIS (53 FR 16319) (this was not adopted by the Council).

**Results:** The BSAI rock sole fishery has developed into a nearly 135,000 mt fishery as of 2000, comprising 25% of combined flatfish TACs.

## BSAI Amendment 12a Revised Crab and Halibut Prohibited Species Catch Limits, Modify Bristol Bay Crab and Halibut Protection Zone

**Dates:** Amendment 12a was adopted by the Council in December 1988. The proposed rule (54 FR 19199) was published on May 4, 1989. The final rule was published on August 9, 1989 (54 FR 82642). Effective date of approved measures was September 3, 1989 through December 31, 1990.

**Purpose and Need:** The Council intended that Amendment 10 expire at the end of 1988 due to uncertainty about fluctuations in population levels of prohibited species and development of domestic groundfish fisheries. Concern about continued crab and halibut bycatch prompted the Council to develop more comprehensive controls to replace those that were set to expire. Amendment 12a, separated from Amendment 12, specified PSC limits on Tanner crab, red king crab, and Pacific halibut in the BSAI groundfish fisheries and apportioned these limits among four specified groundfish fisheries. These PSC limits were in effect during 1989 and 1990. The Council aimed to balance the avoidance of bycatch with providing reasonable opportunities for trawl fisheries to harvest their target species. Its bycatch policy was developed because discarding crab and halibut is wasteful, may adversely affect their use as a target species in other commercial fisheries, and potentially could result in their being overfished.

**Regulation Summary:** The PSC limits set in regulation under Amendment 12a are listed at right.

**Analysis:** An 86-page EA/RIR/IRFA (dated March 29, 1989) analyzed the following management alternatives to address crab and halibut PSC limits:

- (a) status quo;
- (b) extending specific bycatch provisions in Amendment 10;
- (c) establishing a framework for management procedure to control bycatch of Tanner crab, red king crab, and Pacific halibut;
- (d) establishing fixed, but increasingly restrictive, numerical limits for particular zones; and
- (e) establishing aggregate PSC limits, apportioned by "target fishery" and area (preferred).

**Results:** Since 1986, crab stocks have continued to fluctuate. For example, the opilio stock peaked in 1991 and again in 1998, then declined. A rebuilding plan is being developed for both the opilio and Tanner crab stocks. The red king crab fishery was closed in 1994 and 1995, but has since provided a small fishery.

This amendment was an extension of Amendment 10. Amendment 12a reexamined available data for crab and halibut bycatch and revised the PSC limits through 1990. Crab and halibut PSC limits were further revised under Amendments 16, 19, 21, 25, and 37.

Crab and halibut PSC limits				
Species and fishery	Zone 1	Zone 2	Zone 1&2H (1°)	BSAI (2°)
red king crab (animals)				
domestic flatfish	50,579			
domestic other	20,879			
JV flatfish	111,858			
JV other	<u>16,684</u>			
	200,000			
Tanner crab (animals)				
domestic flatfish	68,790	260,910		
domestic other	609,519	1,828,558		
JV flatfish	93,359	280,077		
JV other	<u>210,152</u>	<u>630,455</u>		
	1,000,000	3,000,000		
Pacific halibut (mt)				
domestic flatfish			181	220
domestic other			3,408	4,131
JV flatfish			146	177
JV other			<u>665</u>	<u>805</u>
			4,400	5,333

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## **BSAI Amendment 13    Observer Program, Sablefish Gear Allocations, Walrus Island Closure, Reporting Requirements**

**Dates:** BSAI Amendment 13 (GOA Amendment 18) was adopted by the Council in June 1989, and approved by the Secretary on November 1, 1989. A proposed rule (54 FR 36333) was published on September 1, 1989 and corrected on September 22, 1989 (54 FR 39022). A final rule implementing actions in Amendments 13/18 (54 FR 50386), except for the Observer Program, was published on December 6, 1989 and effective January 1, 1990. A correction was filed on January 11, 1990 (55 FR 1036). A final rule implementing the Observer Program (55 FR 4839) was published on February 12, 1990 and effective on February 7, 1990.

**Purpose and Need:** Since foreign fishing had been curtailed, NMFS needed to augment the fisheries observer program to cover the domestic fishery. The purpose of a comprehensive data collection program for the domestic groundfish fishery is to provide adequate and reliable data on which to:

- (1) base in-season and inter-season management decisions;
- (2) efficiently carry out resource management; and
- (3) measure fishery performance against existing and proposed management measures.

Additionally, the Council identified concerns regarding sablefish bycatch and a 50% decline in the number of walrus hauled out on Round Island.

**Regulation Summary:** Amendment 13 to the groundfish FMPs authorized a comprehensive domestic fishery observer program. The 1990 and 1991 Observer Plans required specific levels of observer coverage which varied with size of fishing vessel and quantity of fish processed.

The Observer Plans required that owners and operators of vessels and shoreside processing facilities participating in the groundfish fishery arrange for and pay for the cost of placing observers aboard their vessels and at their shoreside processing facilities beginning in January 1990. Each vessel or processor required to have observer coverage is responsible for the cost of obtaining the required observers from a certified contractor.

Amendment 13 also:

- (1) allocated sablefish: 50/50 percent to fixed and trawl gear in the BS and 75/25 percent to fixed and trawl gear in the AI;
- (2) closed waters seaward of 3 miles out to 12 miles surrounding the Walrus Islands (Round Island and the Twins) and Cape Peirce from April 1 through September 30 to groundfish fishing;
- (3) deleted fishing season dates from the FMPs but retained them in regulation;
- (4) clarified authority to recommend TACs for additional or fewer target species within the "target species" category.

**Analysis:** A 193-page EA/RIR/IRFA (final draft dated July 21, 1989) was prepared for this amendment. Alternatives examined included the preferred alternative and the status quo for four of the five actions affecting GOA groundfish management. In approving its action to allocate sablefish between fixed and trawl gear, the Council also considered an alternative to determine and allocate "true" bycatch needs, with any residual being made available to the directed fishery without regard to gear type.

**Results:** The domestic observer program provides information for stock assessment and in-season management, including the ability to accurately assess catch and bycatch in the fisheries. Three problems were later identified for observer coverage payment. It was not an equitable system in that some operations paid for 100% coverage and others did not pay anything, it limited the ability of NMFS to effectively manage the observer program, and it may result in a conflict of interest that could reduce the credibility of observer data. The research plan, under Amendment 30, was designed to address these three problems. Industry support for such a change is demonstrated by the willingness and ability of the industry to convince Congress and the President to amend the Act to allow the North Pacific Fisheries Research Plan to be established and paid for by a broad-based system of user fees. The proposed plan was to be applicable to the groundfish, halibut, and BSAI crab fisheries. Instead, implementation was delayed one year, then replaced with a modified pay-as-you-go system adopted under Amendments 47/47. Fees were collected by NMFS in the first year of implementation, which were later returned when the research plan was repealed.

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## BSAI Amendment 14 Regulate Pollock Roe Stripping, Seasonal Allowance Schedule for Pollock

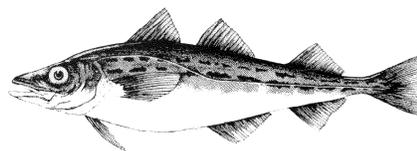
**Dates:** Amendment 14 (GOA Amendment 19) was approved by the Council in June 1990. NMFS published the final rule on January 7, 1991 (56 FR 492), effective January 1, 1991.

**Purpose and Need:** Growth of the domestic harvesting and processing capacity in the pollock fishery had created competition for the pollock TAC by 1990. Competition for pollock during the roe season is intensified due to the high value of the roe relative to other products. In addition, extraction of roe can be done faster than production of other pollock products. By roe stripping, fishermen can increase their share of the pollock TAC by quickly producing the most valuable product at the least cost. This amendment was intended to address the following problems:

- (a) roe stripping is a wasteful use of the pollock resource;
- (b) roe stripping causes unintended allocation of pollock TAC among seasons and industry sectors;
- (c) roe stripping may adversely affect the ecosystem;
- (d) roe stripping may adversely affect the future productivity of the stock; and
- (e) roe stripping increases the difficulty of accurately monitoring the pollock TAC for inseason management.

**Regulation Summary:** The amendment implemented rules that regulated the practice of stripping roe (eggs) from female pollock and discarding female and male pollock carcasses without further processing, and seasonally allocated the TAC of pollock. Season opening dates were established as follows for the GOA: January 1, April, July, and October, and for the BSAI: January 1 and June 1. To get at the issue of roe stripping, product recovery rate standards were established, which if exceeded would constitute a violation. The recovery rate standard established was 10 percent of the total round-weight equivalent of pollock and other pollock products onboard a vessel at any time during a fishing trip. To extrapolate round weight equivalents, the rule established product recovery rates as follows: fillet (18%), surimi (15%), mince (17%), meal (17%), and head & gut (50%).

**Analysis:** A 138-page EA/RIR/IRFA (final draft dated July 20, 1990) was prepared for this amendment. Five primary alternatives including the status quo were considered. The other alternatives that were not chosen would have just prohibited pollock roe-stripping, required full utilization of all pollock in pollock fisheries, or implemented seasonal allowances for pollock to reduce the amount harvested in the winter-early spring. Options for these alternatives included applying the regulations only to certain areas, and restricting the GOA pollock fishery to midwater gear only. The alternative adopted combined the elements of roe-stripping and seasonal allowances for all areas.



**Results:** Since the amendment was approved, the practice of roe stripping has stopped. In 1993, regulations were further tightened to close loopholes that could have potentially undermined the intent of the roe stripping regulations (58 FR 57752). 'Fishing trip' and 'pollock roe' were better defined as were pollock products that could be used to calculate retainable amounts of pollock roe. Full retention and utilization of pollock were required under Amendment 49.

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## **BSAI Amendment 15 Establish Sablefish Individual Fishing Quotas, Establish Western Alaska Community Development Quota Program**

**Dates:** NMFS published the proposed rule for BSAI Amendment 15 and GOA Amendment 20 on December 3, 1992 (57 FR 57130) with a corrected version published December 29, 1992 (57 FR 61870). These amendments were adopted jointly by the Council in December 1991. The final rule was published November 9, 1993 (58 FR 59375), with the effective date of implementation December 9, 1993. Actual program implementation was March 15, 1995, following applications, appeals, and establishment of monitoring systems. Portions of the regulations were amended in subsequent final rules.

**Purpose and Need:** In 1987, the Council recognized a need to take management action with regard to the sablefish fishery because it was exhibiting significant problems created by a short-season, derby-style fishery. Over time, with the constant increase of new entrants in the fishery, the sablefish fixed gear fishing seasons had degenerated to several short seasons each year. Typical problems included allocation conflicts, gear conflict, deadloss from lost gear, increased bycatch and discard mortality, excess harvesting capacity, decrease in product wholesomeness, safety concerns, and economic instability in the fisheries and fishing communities. In December 1988, the Council decided that the status quo was unacceptable and expressed a desire to explore the limited access options of license limitation, Individual Fishing Quotas (IFQs), and annual fishing allotments in a draft EIS. In January 1990, the Council decided to focus on IFQ options as an alternative to the status quo. The IFQ approach was preferable in that it provided fishermen with the authority to decide how much and what type of investment they wished to make to harvest the resource (by guaranteeing a certain amount of catch at the beginning of the season and extending the season over a period of 8 months), while also addressing the problems created by a derby-style fishery. In addition, in early 1991, the Council found that the management problems in the fixed gear sablefish fishery also afflicted the halibut fishery, and therefore decided to consider a similar IFQ system for the halibut fishery. The intent was that a single IFQ program would apply to both fisheries.

The IFQ Program is a regulatory regime designed to promote the conservation and management of the halibut and sablefish fisheries, and to further the objectives of the Magnuson-Stevens Act and the Northern Pacific Halibut Act. The program essentially assigns the privilege of harvesting a percentage of the sablefish and halibut quota to specific individuals with a history of harvest in the fisheries. The rights given to each person are proportional to their fixed gear halibut and sablefish landings during the qualifying period determined by the Council and are represented as quota shares. Under this program, only persons holding quota shares are allowed to make fixed gear landings of halibut and sablefish in the regulatory areas identified.

**Regulation Summary:** The IFQ Program was approved for the Pacific halibut and sablefish fixed gear fisheries in the Federal waters of the BSAI and GOA, and these fisheries have been managed under the program since 1995. The regulations outline several key provisions of the program: initial allocation of quota shares; vessel categories; transfer provisions; use and ownership provisions; the annual process for allocating quota shares (QS); and the establishment of Community Development Quotas. The regulations state that legal landings of halibut or sablefish harvested with fixed gear had to occur at any time during 1988-1990 to qualify for an initial allocation of quota share. Generally, if a vessel owner or lessee is qualified, their initial quota share would be based on their highest total landing of halibut for any 5 years of the 7-year base period 1984-1990. For sablefish, the initial quota share would be based on the highest total landing of sablefish for any 5 years of the 6-year base period 1985-1990. Each person eligible to receive quota share would have it assigned to one of four vessel categories: "A"-freezer vessels of any length; "B"-catcher vessels greater than 60'; "C"-catcher vessels less than or equal to 60' for sablefish, or between 35'-60' for halibut; "D"-catcher vessels less than or equal to 35' for halibut. Initial quota share would be assigned to the vessel category that a person's most recent fixed gear landings of groundfish or halibut were caught by that vessel. Various restrictions on transfer and ownership are designed to maintain the owner/operator characteristics of the fleet, and to prevent consolidation of QS in the hands of a few participants.

**Analysis:** A Supplemental Environmental Impact Statement/Environmental Impact Statement (final draft dated September 1992) and several appendices containing background information and an evaluation of the New Zealand Individual Transferrable Quota program were prepared for the initial review of the IFQ management alternative. Two alternatives were considered: 1) the status quo open access system characterized by fixed quotas for each regulatory area, and 2) IFQs. In addition, the document recognized the Council's previous determination that open access or more traditional management measures are not acceptable for the sablefish fishery. The Council rejected license limitation on the basis that it may not be possible to reduce the fleet size in an equitable manner, and because of the significant potential for the reduction in vessel number to be offset by an increase in fishing power per vessel. Annual fishing allotments that were also considered previously were deemed a more complicated management program that would not solve the race for fish. With the preferred IFQ alternative, the Council intended to acknowledge and reward long-term and consistent participation in the fisheries; those whose catch histories showed less dependence on and participation in the fisheries were supposed to receive relatively small amounts of quota share. However, the method by which initial quota shares were calculated also allowed for one to two years of poor performance in the fishery due to circumstances beyond a person's control.

**Results:** The fixed gear halibut and sablefish IFQ program continues to rationalize the fishery and is generally considered a successful market-based management system to address overcapitalization. Overall, for the combined sablefish and halibut fisheries, an estimated total of 5,875 vessel owners received initial quota shares, and as expected, the number of quota share holders has decreased over time. The total number of initial issuees (unique number of people) in the halibut fishery was 4,827, which was reduced to 3,795 by the end of 1998. The total number of issuees in the sablefish fishery was 1,048, reduced to 919 by the end of

*Continued*

1998. The fishing season was converted from several 24-hour period openers each year to an eight-month season from March 15 to November 15. Among some of the anticipated and realized benefits are bycatch reductions and safety improvements. Bycatch reduction was inherent in the program, due to the close interaction between sablefish and halibut fisheries. Much of the longline bycatch of halibut occurred in the sablefish fisheries, and many fishermen fish for both (and received IFQ for both). To the extent sablefish fishermen have halibut IFQ, this halibut is now retained and counted against the target quotas, as opposed to being caught as bycatch and discarded (by regulation it previously had to be discarded). This resulted in an immediate reduction of the GOA halibut Prohibited Species Cap from 750 metric tons annually to around 150 metric tons annually (Oliver and Pautzke 1997). Likewise, improved safety is inherent in the program; instead of having to fish intensely under any weather conditions, fishermen can choose their fishing weather considering the seasons, grounds, and size and sea worthiness of their vessel.

In addition, IFQs have reduced gear conflicts and fishing mortality due to lost gear within the sablefish and halibut fisheries by reducing the intense competition for grounds in a short time. Product quality and price has also increased under the IFQ Program, as fishermen have more time to cater to the fresh fish market. At the time of the Council decision, analysts estimated that the total annual benefits of the IFQ program would range from \$30.1 to \$67.6 million.

Subsequent regulations were proposed following the final rule for Amendments 15/20, to refine various portions of the regulations implementing the IFQ Program and make the program more responsive to the conservation and management goals specified in the Magnuson-Stevens Act. Some of the changes were intended to clarify ambiguous regulations, and others were new provisions designed to make the program more effective. The comprehensive list of regulatory provisions added or amended is contained in the final rule (60 FR 87).

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## BSAI Amendment 16 Interim Harvest Levels, Revise Prohibited Species Catch Limits for Crab and Halibut and Apportion by Fishery and Season, Fishing Gear Restrictions, Define Overfishing, Implement Vessel Incentive Program

**Dates:** BSAI Amendment 16 (GOA Amendment 19) was adopted by the Council in June 1990. NMFS published a proposed rule on September 18, 1990 (55 FR 38347) and a final rule implementing the approved portions of Amendment 16 on January 24, 1991 (56 FR 2700). Effective date of implementation was January 18, 1991. The amendment was revised to include a vessel incentive program, and the interim final rule was published on May 10, 1991 (56 FR 21619), effective May 6, 1991 through June 5, 1991.

**Purpose and Need:** A number of management measures were bundled together in Amendment 16, including PSC bycatch management, procedures for specifying TAC, and gear restrictions. Management measures designed to control the bycatch of crab and halibut in the domestic and joint venture groundfish fisheries in the Bering Sea/Aleutian Islands Area (BSAI) were implemented as the result of Amendment 12a. These management measures expired at the end of 1990. The Council felt that without management measures to control bycatch, the levels of red king crab, *C. bairdi* Tanner crab, and Pacific halibut bycatch would be too high, and there were no incentives for vessel operators to reduce their bycatch. The main purpose of this amendment was to better manage PSC bycatch in non-directed fisheries.

Because of insufficient time to modify regulations between the end of the December Council meeting and January 1 of a new fishing year, this amendment was developed to establish interim TACs so that the fishery would open on January 1. Prior to this amendment, changes to gear definitions or other restrictions required an FMP amendment to change. In order to respond more rapidly to changes in the fishery, the purpose of this action was to allow gear restrictions to be accomplished through a regulatory amendment. An overfished definition was added to the FMP because revised "Guidelines for Fishery Management Plans" (the "602 Guidelines") required each FMP to include an objective and measurable definition of overfishing for each stock or stock complex under management.

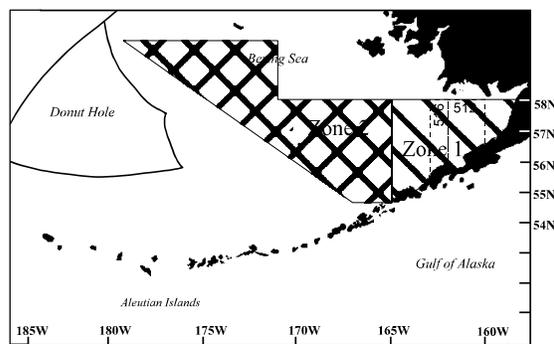
**Regulation Summary:** The Amendment contained 8 approved management measures as follows:

1. Modified PSC limits and bycatch limitation zones for halibut, bairdi crab, and red king crab in the BSAI;
2. Apportioned PSC limits into bycatch allowances for trawl fishery categories;
3. Allowed seasonal allocation of halibut and crab PSC;
4. Established procedures for interim TAC specifications
5. Established fishing gear restrictions (definition of pelagic trawl, biodegradable panels & halibut excluders on pot gear); and
6. Established definitions of overfishing.

Later revisions to the amendment included addition of a vessel incentive program, which would issue civil penalties (fines) to vessels that exceeded seasonal fixed bycatch rate standards for halibut and crab taken in specified target fisheries.

**Analysis:** A 213-page EA/RIR/IRFA (final draft dated July 31, 1990) was prepared for this amendment. In the original draft, three primary alternatives including the status quo were considered: (1) the status quo which allows the 12a provisions to expire at the end of 1990; (2) a one year extension of the 12a provisions; and (3) a one year or indefinite extension of Amendment 12a provisions modified to add PSC cap apportionments for the Domestic Annual Processing (DAP) rock sole and deep-water trawl (Greenland turbot/sablefish) fisheries, permit seasonal allowances of PSC limits, and provide for sanctions against vessels whose bycatch rates for red king crab, *C. bairdi* Tanner crab or halibut significantly exceed a fishery average. The analysis was revised several times to address other issues, including the vessel incentive program.

**Results:** Portions of the proposed amendment (i.e. the penalty box program) were disapproved by the Secretary. In response, revisions to this amendment were made in BSAI Amendment 16a and in Amendment 19/24.



Location of the crab bycatch limitation zones.

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## **BSAI Amendment 16a Establish Herring Prohibited Species Catch Limits and Herring Savings Areas, Specify Allocation of Pollock Total Allowable Catch to Bottom Trawl**

**Dates:** Amendment 16a was adopted by the Council in September 1990. NMFS published a proposed rule on April 15, 1991 (56 FR 15063) and a final rule on July 18, 1991 (56 FR 32984). Effective dates of implementation were July 12 and August 12, 1991 for different parts of the regulations.

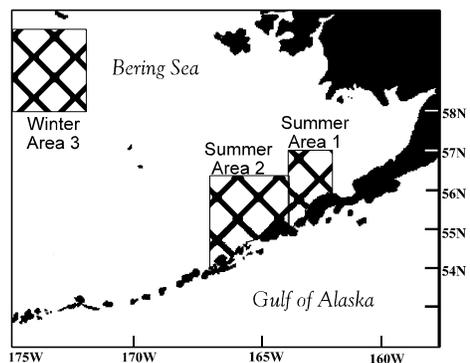
**Purpose and Need:** Amendment 16a was designed to address management of herring bycatch and other bycatch taken in domestic trawl fisheries. In particular, it defined the “hot spot authority,” intended to give the Regional Director flexibility to close specific small areas inseason when bycatch rates were high. This also allowed for limitation of the pollock TAC to gears other than pelagic trawl gear, and established a prohibited species limit for herring. Herring in the eastern Bering Sea had declined from a peak in the mid 1980's, and unconstrained bycatch in trawl fisheries had jumped to high levels relative to exploitable biomass in 1989. This was a cause for concern because when the bycatch mortality was added to the mortality due to the directed inshore fishery, exploitation rates exceeded the State's harvest policy for herring. The ‘hot spot’ authority was proposed to reduce prohibited species bycatch rates and to provide fishermen a greater opportunity to harvest groundfish TAC prior to reaching established PSC limits. A limitation on bottom trawling for pollock was included in the amendment to reduce the amount of crab and halibut bycatch in this fishery.

**Regulation Summary:** Amendment 16a established prohibited species bycatch limits for Pacific herring taken as bycatch in trawl fisheries. The annual PSC limit was set at 1% of the annual biomass of eastern Bering Sea herring, and is apportioned among trawl fishery categories. Attainment of any apportionment triggers closure of herring savings areas to that fishery. The Herring Savings Areas are described as follows:

(1) Summer Herring Savings Area 1 means the part of the Bering Sea subarea that is south of 57° N. latitude and between 162° and 164° W longitude from 12:00 noon Alaska Local Time (ALT) June 15 through 12:00 noon ALT July 1 of a fishing year.

(2) Summer Herring Savings Area 2 means the part of the Bering Sea subarea that is south of 56°30' N. latitude and between 164° and 167° W. longitude from 12:00 noon ALT July 1 through 12:00 noon ALT August 15 of a fishing year.

(3) Winter Herring Savings Area means that part of the Bering Sea subarea that is between 58° and 60° N. latitudes and between 172° and 175° W. longitudes from 12:00 noon ALT September 1 through 12:00 noon ALT March 1 of the succeeding fishing year.



**Location of the Herring Savings Areas.**

The Regional Director may promulgate an inseason closure of an area (for up to 60 days) to reduce prohibited species bycatch rates. A number of factors must be considered when implementing any ‘hot spot’ closure.

Also, Amendment 16a allows the Regional Director, in consultation with the Council, to limit the amount of pollock that may be taken with trawls other than pelagic trawls. The Council's recommendations are to be available to the public for comment under the annual TAC specification process.

**Analysis:** A 47-page EA/RIR (final draft dated March 1, 1991) plus tables, was prepared for this amendment. There were four alternatives, including the status quo, for herring savings areas considered. The alternatives not chosen would have established smaller or larger winter savings areas. Options for trigger limits included 1%, 2%, 4%, and 8%. The alternative chosen was for the lowest PSC limit (1%) and an intermediate sized winter savings area.

**Results:** Herring bycatch has been controlled so that the 1% level has not been exceeded. Nevertheless, herring biomass in the eastern Bering Sea remains at moderate levels. Few, if any, hot spot actions have been taken by the Regional Director. The pollock fishery was required to use only pelagic trawl gear with implementation of Amendment 57.

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## **BSAI Amendment 17    Renew Walrus Islands Closures, Experimental Permits, Establish Bogoslof District**

**Dates:** Amendment 17 was adopted by the Council in August 1991. NMFS published a proposed rule on December 4, 1991 (56 FR 63487) and a final rule on March 26, 1992 (57 FR 10430). Effective date of implementation was April 24, 1992, except for certain sections effective April 1, 1992.

**Purpose and Need:** The purpose of the amendment was to address several conservation issues in one package:

1. Authorize experimental fishing permits:

An FMP amendment is proposed whereby the Regional Director, in consultation with the Council and Alaska Fishery Science Center, may issue experimental fishing permits to persons for purposes of obtaining information necessary to promote fishery conservation and management of the fisheries.

2. Establish Walrus Islands groundfish fishing closures:

An FMP amendment is proposed which would institute protective measures for the Walrus Islands in northern Bristol Bay, by reducing the potential disturbance problems caused by vessel activity in the vicinity of haulout areas. The 12-mile buffer zone created in 1989 will expire at the end of 1991.

3. Establish the Bogoslof District:

An FMP amendment is proposed which would create a separate statistical subarea around Bogoslof Island. This measure would allow for the establishment of a separate TAC for pollock in this subarea, thereby providing regulatory protection of Aleutian Basin pollock during spawning to help rebuild the Aleutian Basin pollock stock.

4. Definition of a groundfish pot:

A regulatory amendment is proposed that would define a groundfish pot to differentiate it from king crab and Tanner crab pots. The intent of this action was to address potential enforcement problems of potential crab fishing under the guise of groundfish fishing.

**Regulation Summary:** Amendment 17 prohibits all vessels federally permitted to fish for groundfish from entering the walrus haulout closure areas from April 1 through September 30. These areas include the EEZ within 12 miles of islands named Round Island and The Twins, and around Cape Peirce.

Amendment 17 allows the NMFS Regional Director, after consulting with the Director of the Alaska Fishery Science Center and with the Council, to authorize for limited experimental purposes, the target or incidental harvest of groundfish that would otherwise be prohibited. The amendment also established the Bogoslof Area.

**Analysis:** A 71-page EA/RIR/IRFA (final draft dated May 14, 1991) was prepared for this amendment. Five management actions were evaluated under this amendment package. The number of alternatives considered under each action were as follows: experimental fishing permits (2), walrus haulout buffer zones (3), rescind GOA area 68 (2), establish the Bogoslof District in the Bering Sea (2), and pot gear restrictions (4). The alternative not adopted for the walrus haulouts would have established a larger groundfish fishing closure from Cape Constantine to Cape Pierce, which would have prohibited the fleet from a productive fishing area for yellowfin sole. This alternative was not chosen because it would have resulted in forgone exvessel revenues of up to \$14 million per year, and would have resulted in higher halibut and crab bycatch rates by pushing the fleet to outside areas. Regarding pot gear restrictions, the alternatives not chosen would have conflicted with State regulations or would have required fishermen to have separate pots for groundfish and crab.

**Results:** Since the amendment was approved, the Aleutian Basin pollock stock has not recovered from overfishing by international fleets in the Donut hole, which occurred in the mid to late 1980s. Numerous experimental fishing permits have been issued to test gear modifications, observer sampling, methodology, bycatch mortality reduction techniques, etc.

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## **BSAI Amendment 18 Inshore/Offshore Allocations for Pollock, Establish Catcher Vessel Operational Area, Designate Western Alaska Community Development Quota for Pollock**

**Dates:** Amendment 18 was adopted by the Council in June 1991 along with Amendment 23 to the FMP for the groundfish of the Gulf of Alaska. NMFS published a proposed rule on December 20, 1991 (56 FR 66009). The final rule was issued June 3, 1992, and the effective date of implementation was June 1, 1992 (57 FR 23321). The revised final rule was issued December 24, 1992 (57 FR 61326).

**Purpose and Need:** Amendment 18 developed out of a concern to prevent preemption of resources by one industry sector over another. Substantial processing of pollock by several catcher/processor vessels contributed to an early closure of the pollock fishery in the Shelikof Strait area in 1989, effectively preventing inshore components from realizing their anticipated economic benefit from processing pollock. Upon industry request, the Council considered the issues of coastal community development and shoreside preference at its June 1989 meeting and adopted the Fishery Planning Committee's suggested management alternatives for analysis. The problem statement adopted by the Council identified the issue as a resource allocation problem and stated that specific processing allocations for the inshore and offshore sectors established at the beginning of a fishing year would resolve the preemption problem and allow operators to better plan their harvesting and processing activities for the year.

To address this problem, the Council determined the need to establish inshore/offshore allocations of pollock and Pacific cod in the GOA, and pollock in the BSAI. In addition, the amendments would establish a Catcher Vessel Operational Area (CVOA) in the Bering Sea, which would limit access to pollock within the area to catcher vessels delivering to inshore or offshore processors. These amendments also established the Western Alaska Community Development Quota (CDQ) program pollock allocations, to provide Western Alaska communities with long-term employment and access to the fisheries. The primary purpose of Amendments 18 and 23 was to protect the inshore component of the fishery from preemption by the offshore fleet. The amendments provided an interim solution for the inshore component, which includes small coastal communities that are highly dependent on fishing to maintain economic stability. While the amendments did not directly address overcapitalization in the fisheries, the approval by the Council specifically expressed an intent to develop and implement a more comprehensive, long-term limited access program.

**Regulation Summary:** The alternative adopted and approved defined the inshore and offshore components of the fisheries. BSAI Amendment 18 was only partially approved, allocating 35% of the 1992 non-roe pollock season TAC to the inshore component, and the remaining 65% to the offshore component. The portion that was not approved would have further allocated pollock through 1995: (the inshore allocation would have increased to 40% in 1993 and 45% in both 1994 and 1995). A NMFS economic review indicating a large net loss to the Nation as a result of this action provided the rationale for disapproval by the Secretary of Commerce. (Analysis of adjoining GOA Amendment 23 indicated a net benefit; therefore, that amendment was approved in full. The GOA inshore component was allocated 90% of the Pacific cod TAC and 100% of the pollock TAC for each fishing year.) While catcher/processors from the offshore component would not be able to conduct directed pollock fishing in the GOA, they would be allowed appropriate bycatch amounts. Amendment 18 also established the CVOA south of 56° N. latitude and between 163° and 168° W. longitudes and the Community Development Quota program. As a result of the CDQ program, 7.5 percent of the BSAI pollock TAC was reserved for CDQ fisheries (a nonspecific reserve) at the beginning of the year, and that amount would be reduced as allocations are made to community development projects.

**Analysis:** An extensive final SEIS/RIR/IRFA (dated March 1992) and a 265-page appendix containing community profiles were prepared for these amendments. Eight alternatives including the status quo were considered. The alternatives not chosen would have implemented traditional management tools or formed an allocation system with a different basis, such as vessel class, species, or at the individual vessel level. The alternative chosen was broadened to include development of a Comprehensive Fishery Rationalization Program, of which inshore/offshore allocations would be a part.

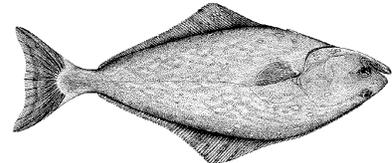
**Results:** After the partial amendment was approved, in September 1992 the Council submitted revised BSAI Amendment 18 to NMFS for review. NMFS approved pollock allocations of 35% for pollock processing by the inshore component and 65% by the offshore component for each of the years 1993-95. These allocations resulted in a redistribution of fish from one sector (offshore) to another (onshore), and provided for stability and business planning advantages for both sectors. Stability in dependent coastal communities was also enhanced by this amendment. Allocations to the western Alaska CDQ program provided the economic base and opportunity for 56 Alaskan coastal communities to become integral participants in the BSAI commercial fisheries, through direct revenues from the pollock allocation and development of fisheries infrastructures.

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## **BSAI Amendment 19    Establish Prohibited Species Catch Limits for Non-Trawl Fisheries, Revise Trawl Fishery Categories for Prohibited Species Catch Accounting, Delay Fisheries Start Date, Expand Vessel Incentive Program**

**Dates:** BSAI Amendment 19 (GOA Amendment 24 ) was adopted by the Council in December, 1991. NMFS published the final rule on September 23, 1992 (57 FR 43926). Effective date of implementation was September 30, 1992.

**Purpose and Need:** Amendment 19 was initiated to further address bycatch issues that were raised under Amendments 16 to the BSAI FMP and 21 to the GOA FMP. The purpose of this amendment was to control and reduce halibut bycatch mortality in the Alaska groundfish fisheries in response to the international, social, and economic conflicts between U.S. and Canadian halibut fishermen and U.S. groundfish fishermen that take halibut as bycatch.



**Regulation Summary:** Amendments 19/24 established three FMP amendment management measures. These are as follows: 1) For 1992, reduce the Pacific halibut prohibited species catch (PSC) limit established for BSAI trawl gear from 5,333 metric tons (mt) to 5,033 mt, but retain the primary halibut PSC limit at 4,400 mt; 2) For 1992, establish a 750 mt Pacific halibut bycatch mortality limit for BSAI fixed gear; and 3) Establish FMP authority to develop and implement regulatory amendments that allow for time/area closures to reduce prohibited species bycatch rates (revised “hotspot authority”). In addition to the above FMP amendments, the following amendments to current regulations were adopted:

- (1) Revise BSAI fishery definitions for purposes of monitoring fishery specific bycatch allowances and assigning vessels to fisheries for purposes of the vessel incentive program;
- (2) Revise the management of BSAI trawl fishery categories for PSC accounting;
- (3) Expand the vessel incentive program to address halibut bycatch rates in all trawl fisheries;
- (4) Delay the season opening date of the BSAI and GOA groundfish trawl fisheries to January 20 of each fishing year to reduce salmon and halibut bycatch rates;
- (5) Further delay the season opening date of the GOA trawl rockfish fishery to the Monday closest to July 1 to reduce halibut and chinook salmon bycatch rates; and
- (6) Change directed fishing standards to further limit halibut bycatch associated with bottom trawl fisheries.

**Analysis:** A 111-page EA/RIR/IRFA (final draft dated April 10, 1992) was prepared for this amendment. The analysis was broken down into different management actions, and alternatives for each were evaluated separately. The number of alternatives (including the status quo) considered varied for each management measure.

**Results:** Since the amendment was approved, bycatch of crab and halibut has been controlled to stay within the PSC limits. PSC catch limits have been apportioned among different trawl fisheries in the BSAI, and fisheries have been closed when their respective apportionments/seasonal allowances were reached. Catch of groundfish (particularly flatfish) has been foregone due to these restrictions. Few vessels have been cited for violations of the vessel incentive program. PSC management was again revisited in following amendments, such as BSAI Amendment 25.

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## BSAI Amendment 20 Steller Sea Lion Buffer Zones

**Dates:** BSAI Amendment 20 (GOA Amendment 25) was adopted by the Council in September 1991. NMFS published the proposed rule on November 18, 1991 (56 FR 58214), and the final rule on January 23, 1992 (57 FR 2683). Effective date of implementation was January 20, 1992.

**Purpose and Need:** Amendment 20 was proposed to allow regulations to be implemented to afford marine mammals additional protection, particularly Steller sea lions. Steller sea lions were listed as threatened under the Endangered Species Act on November 26, 1990 (55 FR 49204). Although the ultimate cause of the Steller sea lions decline remains unknown, Steller sea lions had been incidentally taken in fishing gear, intentionally killed and harassed by fishermen, and may have competed with commercial fisheries for food resources. The purpose of this amendment was to reduce the likelihood that commercial groundfish removals would deplete Steller sea lion prey abundance in key habitats, as well as to reduce incidental take of Steller sea lions.

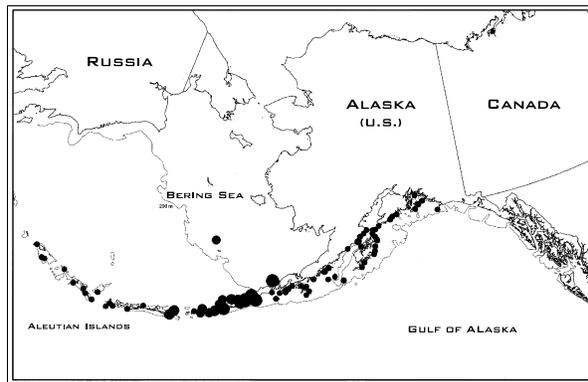
**Regulation Summary:** Regulations authorized by Amendment 20 implemented the following measures:

- 1) Areas are closed year-round to fishing by vessels using trawl gear within 10 nautical miles of key Steller sea lion rookeries located in the GOA and BSAI management areas.
- 2) Areas are closed within 20 nm of five sea lion rookeries to directed pollock fisheries during the "A" season. These rookeries are Sea Lion Rocks, Akun Island, Akutan Island, Seguam Island, and Agligadak Island
- 3) In the GOA, the specified total allowable catch for pollock in the combined western/central area is further divided among three pollock management districts: Area 61 (170°-159° W. longitudes), Area 62 (159°-154° W. longitudes), and Area 63 (154°-147° W. longitudes). The Shelikof Strait district was eliminated. To prevent excessive accumulation of unharvested portions in any quarterly allowance of the pollock TAC, a limit of 150 percent of the initial quarterly allowance in each pollock management district was established.

**Analysis:** A 29 page EA/RIR/IRFA was prepared for the trawl closure area section and a 10 page EA/RIR/IRFA was prepared for the section revising GOA districts (final drafts undated, but near October 30, 1991). Five alternatives including the status quo were considered for the trawl closure section and two alternatives were considered for the GOA districts section of the Amendment. The other alternatives not chosen would have established larger time/area closures (20 nm year-round, 10 nm in summer with 20 nm winter extensions, 20 nm summer with 60 nm winter extensions). The alternative chosen (10 nm year-round rookery closures) represented an approximation of the average summer foraging range (average was 8 miles; maximum of 21 miles) for the six female Steller sea lions with pups tagged and tracked.

**Results:** Many subsequent actions have been taken to minimize the impacts of fisheries on Steller sea lions. On March 12, 1993, NMFS extended the no-trawl zone around Ugamak Island out to 20 nm during the pollock roe fishery (58 FR 13561). Amendment 28 to the BSAI FMP subdivided the Aleutian Islands region into 3 districts to reduce localized depletion of Atka mackerel. Critical habitat for Steller sea lions was designated on August 27, 1993 (58 FR 45269). Amendment 45 to the GOA groundfish FMP further subdivided the areas for pollock fishing; these were further modified by regulatory amendment in June (63 FR 31939). A regulatory amendment implemented in 1999 seasonally apportioned the AI Atka mackerel TAC into two seasons, incrementally shifted the allowable catch outside of Steller sea lion critical habitat area, and added a 20 nm no-trawl zone around Seguam rookery.

In 1997, the western population (west of 144° longitude) of Steller sea lions was listed as endangered under the Endangered Species Act. In April 1998, plaintiffs (Greenpeace, the American Oceans Campaign, and the Sierra Club) filed suit against NMFS challenging the FMPs under both the Endangered Species Act and the National Environmental Protection Act. In December 1998, NMFS issued a Biological Opinion that the Alaska pollock fisheries proposed for the years 1999 to 2002 were likely to jeopardize the continued existence of Steller sea lions and modify its critical habitat. As a result, numerous management actions were taken via emergency rule and standard rulemaking to temporally and spatially disperse the pollock fisheries, and establish numerous no-trawl zones around rookeries and haulouts.



**Location of Steller sea lion rookery and haulouts closed to pollock fishing in 1999.**

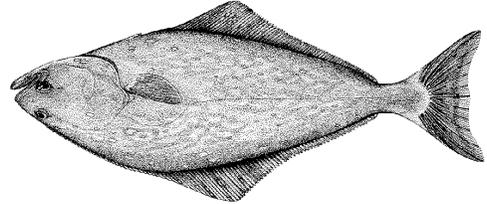
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## **BSAI Amendment 21 Framework Halibut Prohibited Species Catch Limits Including Authority to Specify by Fishery Category or Season**

**Dates:** Amendment 21 was adopted by the Council in June 1992, and approved by NMFS on February 9, 1993. NMFS published a final rule on March 18, 1993 (58 FR 14524). Effective date of implementation was March 17, 1993.

**Purpose and Need:** The purpose of the amendment was to control halibut bycatch in groundfish fisheries. Halibut bycatch limits for trawl and non-trawl gear fisheries that were established for 1992 under Amendment 19 were scheduled to expire at the end of 1992. Without further regulatory action, no halibut bycatch restrictions would be in effect for BSAI non-trawl fisheries in 1993 and beyond, and the halibut bycatch limit for trawl gear fisheries would revert back to the 1991 level of 5,333 metric tons.

There were two other problems addressed in the amendment. First, the trawl PSC limit was previously established in terms of bycatch, not bycatch mortality. Therefore, it did not address directly the management goal of controlling bycatch mortality and limited the methods available to fishermen to meet that goal. Second, the PSC limits could only be changed with an FMP amendment. This can be a cumbersome and lengthy process and may prevent timely and efficient changes to the PSC limits as the biological, economic, and social factors that determine the appropriate PSC limits change.



**Regulation Summary:** Amendment 21 implemented the following measures:

1. Establish halibut bycatch limits in terms of halibut mortality rather than halibut bycatch;
2. Establish halibut bycatch mortality limits for trawl and non trawl fisheries in regulations rather than in the FMP to allow for changes in bycatch mortality limits through a regulatory amendment process rather than an FMP amendment; and
3. Establish FMP authority to annually apportion the non-trawl halibut bycatch mortality limit among fisheries and seasons as bycatch allowances. This authority would be similar to FMP provisions for annual specification of bycatch allowances of prohibited species catch limits among trawl fisheries.

Consistent with this amendment, regulations established a 3,775 mt halibut bycatch mortality limit for trawl gear fisheries and a 900 mt halibut bycatch mortality limit for non-trawl fisheries.

**Analysis:** A 94-page EA/RIR/IRFA (final draft dated November 3, 1992) was prepared for this amendment. Six alternatives including the status quo were considered. The other alternatives that were not chosen would have established halibut bycatch limits only (not mortality based), or established fixed bycatch mortality limits for trawl fisheries in the FMP or regulations. In addition, three options for bycatch and mortality limits were analyzed. The alternative chosen established halibut bycatch limits in terms of mortality, allowed the PSC limits to be changed by regulatory amendment, allowed apportionment and seasonal allowances to be specified, and allowed some non-trawl fisheries (e.g., pot fisheries) to be exempt from the non-trawl PSC limits.

**Results:** Since the amendment was approved, halibut bycatch mortality limits have not been exceeded. Further, fishermen have developed ways to reduce halibut mortality (e.g., careful release, deck sorting) to better achieve OY in the groundfish fisheries. Note that the halibut bycatch mortality limit for trawl gear was reduced by 100 mt with implementation of Amendment 57.

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## BSAI Amendment 21a Pribilof Islands Habitat Conservation Area

**Dates:** Amendment 21a was adopted by the Council in April 1994, and approved by NMFS on December 12, 1994. NMFS published a proposed rule on October 17, 1994 (59 FR 52277), and the final rule on January 20, 1995 (60 FR 4110). Effective date of implementation was January 20, 1995.

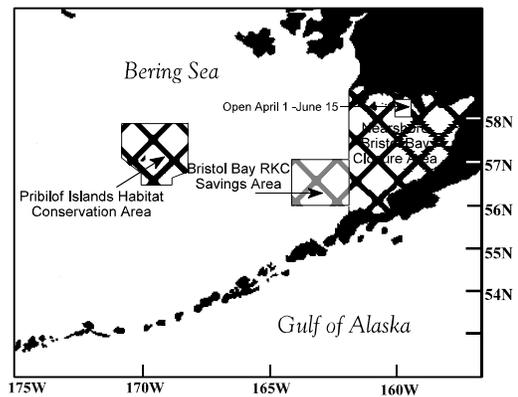
**Purpose and Need:** The purpose of the amendment was to eliminate trawl activities in areas of importance to blue king crab and Korean hair crab stocks so that these stocks may build to and be maintained at exploitable levels. In addition, the amendment would reduce bycatch of juvenile halibut and crab, and mitigate any unobserved mortality or habitat modification that occurred due to trawling.

**Regulation Summary:** All trawling is prohibited at all times in the EEZ within the area bounded by a straight line connecting the following pairs of coordinates in the following order:

(57° 57.0', 168° 30.0')  
(56° 55.2', 168° 30.0')  
(56° 48.0', 169° 2.4')  
(56° 34.2', 169° 2.4')  
(56° 30.0', 169° 25.2')  
(56° 30.0', 169° 44.1')  
(56° 55.8', 170° 21.6')  
(57° 13.8', 171° 0.0')  
(57° 57.0', 171° 0.0')  
(57° 57.0', 168° 30.0')

**Analysis:** A 106-page EA/RIR (final draft dated September 12, 1994) was prepared for this amendment. Eleven alternatives including the status quo were considered. The other alternatives that were not chosen would have established different area closure configurations or established a closure based on a trigger level of crab bycatch. Through spatial display of NMFS annual trawl surveys; foreign, JV, and domestic groundfish observer data; and the directed commercial crab catch, the analysis provided an understanding of blue king crab habitat, trawl fishing effort and the distribution or feeding areas of other marine species. Analysis of this information was used to delineate an area for closures that provides trawl access to the majority of groundfish resources in the Pribilof Islands area, yet affords habitat protection for blue king crab. The boundary selected does not encompass the entire range of blue king crab in the area, but does surround the habitat with highest blue king crab concentrations. Included in the boundary is habitat vital to juvenile blue king crab, populations of red king crab, populations of Korean hair crab, and some of the area important to foraging sea birds and marine mammals. The boundary in Alternative 8 was selected to allow trawl access to the edge of the 100 m contour and the groundfish resources to the east and north of the Pribilof Islands. The boundary was also drawn with straight edges and as few corners as possible in order to facilitate ease of closure enforcement.

**Results:** Since the amendment was approved, most crab stocks have declined. Blue king crab declined from a recent peak in 1995 (8.4 million crabs) to very low levels (3.2 million crabs). Hair crabs similarly declined from 11.8 million crabs in 1995 to only 5.6 million crabs in 1999. Other crab stocks (e.g., Tanner and snow crabs) utilizing the conservation area have declined over the time period as well and are now considered overfished. Pribilof Island red king crabs have increased and are well above target biomass.



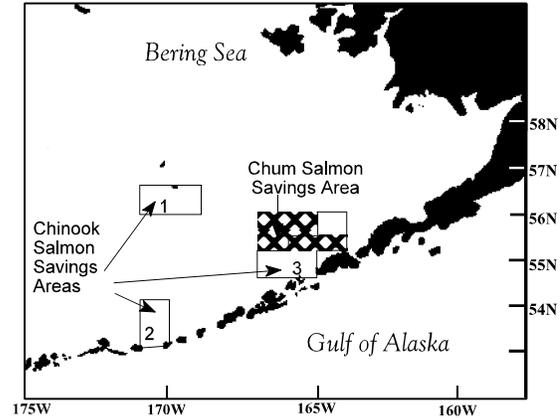
*Location of trawl closure areas to protect red and blue king crab habitats.*

## BSAI Amendment 21b Chinook Salmon Savings Areas

**Dates:** Amendment 21b was adopted by the Council in November 1995. NMFS published final rule on November 29, 1995 (60 FR 61215). Effective date of implementation was January 1, 1996.

**Purpose and Need:** Salmon are a target species in directed salmon fisheries, but are taken as incidental bycatch in groundfish trawl fisheries. The objective of the amendment was to provide the Council with the means to control chinook salmon bycatch in the BSAI groundfish trawl fisheries. Chinook salmon bycatch control measures were thought to be needed for two reasons. First, many chinook salmon stocks are fully utilized, and uncontrolled bycatch constitutes an additional, unaccounted for allocation of the resources. Second, uncontrolled bycatch levels exceeding recent highs may lead to conservation problems for Alaskan and Canadian chinook salmon populations. During the previous 10 years, several major river systems had experienced low levels of returns, particularly the Nushagak, Yukon, and Kuskokwim rivers.

**Regulation Summary:** Amendment 21b established measures to control the amount of chinook salmon taken as bycatch in BSAI trawl fisheries. Specifically, the alternative adopted would close three areas in the BSAI to all trawling when 48,000 chinook salmon were taken as bycatch. The chinook salmon savings areas are shown in the adjacent figure. A closure will remain in effect from the time the trigger is reached until April 16, when the areas would reopen to trawling for the remainder of the year.



Location of the chinook and chum salmon savings areas in the BSAI.

**Analysis:** A 203-page EA/RIR/IRFA (final draft dated August 16, 1995) was prepared for this amendment. Three primary alternatives including the status quo were considered. There were 8 different area closure options, two bycatch limit options, and three seasonal closure options. The other primary alternative that was not chosen would have established a time/area closure but without a PSC limit that triggered a closure. In selecting the preferred alternative, the Council recognized that a PSC limit of 48,000 chinook salmon would not constrain groundfish fisheries in most years, but would allow for closures in areas and times of historic high salmon bycatch.

**Results:** Although more than 48,000 chinook salmon were taken over the course of a year in 1996, 1997, and 1998, closure of the area has not been triggered because the cap was not exceeded prior to April 15. Total number of chinook salmon taken annually as bycatch in BSAI groundfish fisheries is shown in the adjacent table. In February 1999, the Council adopted Amendment 58, which reduced the chinook salmon bycatch trigger level to 29,000 chinook salmon (with year-round accounting) and refined the closure areas based on more recent data.

Despite these actions, chinook salmon populations in western Alaska remain in relatively poor shape, and have not yet recovered to earlier levels.

### Number of chinook salmon taken as incidental bycatch in BSAI trawl fisheries, 1989-1999.

Year	Chinook Salmon
1989	40,354
1990	13,990
1991	35,766
1992	37,372
1993	45,964
1994	43,636
1995	23,079
1996	63,179
1997	50,218
1998	58,966
1999	12,918
2000	7,497
2001	38,270
2002	37,555

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## BSAI Amendment 22 Establish Trawl Gear Test Zones

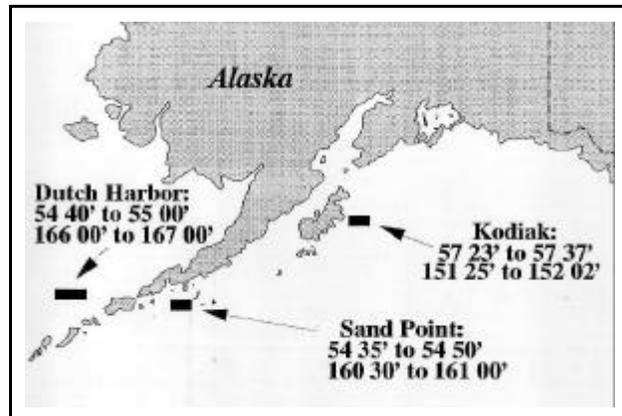
**Dates:** BSAI Amendment 22 and GOA Amendment 27 were adopted by the Council in April 1992. NMFS published a proposed rule on December 14, 1992 (57 FR 59702) and a final rule on January 22, 1993 (58 FR 5660).

**Purpose and Need:** The purpose of the amendment was to provide trawl fishermen an opportunity to test their trawl fishing gear when the GOA or BSAI is otherwise closed to trawling. Until 1992, the GOA and BSAI were open to trawling for most of the year, and fishermen were able to test gear in preparation for a season opening. However, in 1992, new regulations delayed the opening of the trawl season from January 1 to January 20 to reduce the bycatch rates of chinook salmon and Pacific halibut. The purpose of this amendment was to allow fishermen to test their gear and begin fishing efficiently at the beginning of a season, reducing lost fishing time that might result from gear problems.

**Regulation Summary:** Amendment 22 allows the Secretary to promulgate regulations establishing areas where specific types of fishing gear may be tested, to be available for use when the fishing grounds are closed to that gear type. Specific gear test areas contained in regulations that implement the FMP were allowed by regulatory amendment. These gear test areas would be established in order to provide fishermen the opportunity to ensure that their gear is in proper working order prior to a directed fishery opening. The test areas must conform to the following conditions:

- (1) Depth and bottom type must be suitable for testing the particular gear type.
- (2) Must be outside State waters.
- (3) Must be in areas not normally closed to fishing with that gear type.
- (4) Must be in areas that are not usually fished heavily by that gear type.
- (5) Must not be within a designated Steller sea lion protection area at any time of the year.

The rule implementing this amendment established three trawl test areas: Dutch Harbor (54°40' to 55°00' N; 166°00' to 167°00' W), Sand Point (54°35' to 54°50' N; 160°30' to 161°00' W), and Kodiak (57°23' to 57°37' N; 151°25' to 152°02' W). The regulation further required that the trawl cod end must be left unzipped so as not to retain fish, that groundfish may not be onboard, and that the time used to test gear would not contribute to observer coverage requirements.



Location of trawl test zones in the Alaska EEZ.

**Analysis:** A 13-page EA/RIR/IRFA (final draft dated September 1, 1992) was prepared for this amendment. Two alternatives including the status quo were considered.

**Results:** Since the amendment was approved, fishermen have been able to test their gear when trawl fishing is otherwise prohibited and no subsequent changes to the areas have been made.

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## BSAI Amendment 23 Moratorium

**Dates:** The final version of BSAI Amendment 23 was adopted by the Council in December, 1994. NMFS published a proposed rule for BSAI Amendment 23 and GOA Amendment 28, and Crab Amendment 5 on May 12, 1995 (60 FR 25677). The final rule was published on August 10, 1995 (60 FR 40763). Effective date of implementation for most sections of the amendment was September 11, 1995.

**Purpose and Need:** In 1987, concerned with excess harvesting capacity in the groundfish, crab, and halibut fisheries of the BSAI and GOA, the Council established a committee to examine the problem of overcapitalization. Upon concluding that allocation conflicts and overcapitalization would worsen under the current open access system, the committee recommended a limited access management approach for these three fisheries. Concerned with the potential for speculative entry into the fisheries during discussions of management alternatives, NMFS published a control date notice of February 9, 1992. Anyone not having previously participated in the fisheries before that date would not be assured future access to the fisheries should a limited access system be adopted.

The purpose of this amendment was to provide for an interim measure to slow significant increases in the harvesting capacity of the groundfish and crab fishing fleets until a Comprehensive Rationalization Plan (CRP) could be implemented. The CRP, which continues to be developed by the Council, is intended to resolve the overall issue of overcapitalization on a long-term basis, and transition the fisheries from an open access management system to a more market-based, limited access system. Without the regulatory ability to institute a moratorium, the Council feared that potentially unlimited new entry into the fishery would exacerbate overcapitalization and hinder the ultimate development of a successful CRP. The anticipated short-term effects of the amendment included increasing economic benefits to fishermen and reducing the risk of overfishing.

**Regulation Summary:** After several proposed moratoriums, the final rule required a moratorium permit for vessels within specific vessel categories that harvest groundfish and BSAI crab resources off Alaska. Generally, a vessel qualified for a moratorium permit if it made a legal landing of any moratorium species during the qualifying period of January 1, 1988 through February 9, 1992. In addition, a vessel that made a legal landing during the qualifying period, in either a groundfish or crab fishery, but not both, can cross over as a new vessel in the fishery in which it did not make a legal landing in the qualifying period provided: 1) it uses the same gear type in the new fishery as it used to qualify for the moratorium in the other fishery; or 2) it made a legal landing in the crossover fishery during the qualifying period and it uses only the same gear type it used in that period.

**Analysis:** A 22-page supplemental analysis (final draft dated February 1995) was prepared for the final resubmittal of the proposed moratorium for these amendments, which were originally approved by the Council in 1992. The supplemental analysis outlined the changes from the original moratorium proposal: revision of the qualification period, halibut and sablefish qualification, consideration of current participation, crossovers, and the appeals process. The analysis also indicated that the revised moratorium would allow 4,144 unique vessels in the crab and groundfish fisheries, about 1,800 more than the current participant fleet but significantly less than the 15,709 unique vessels that participated in the fisheries since 1978 that had the potential to re-enter if no action was taken.

**Results:** Since the amendment was approved, the Council has implemented the License Limitation Program (LLP) to limit entry into the groundfish and crab fisheries off of Alaska. As anticipated, the LLP (Amendment 60 to the BSAI FMP/Amendment 58 to the GOA FMP/Amendment 10 to the BSAI Crab FMP) replaced the vessel moratorium established in these amendments starting in the 2000 fishing season. For general licenses, the base qualifying period established was January 1, 1988, through June 27, 1992, approximately four months longer than the moratorium qualification period, in order to be consistent with the Council's published cutoff date for qualification under the Comprehensive Rationalization Plan. The LLP also required an area endorsement for the BSAI or the GOA, to provide for present participation in the fisheries (the qualifying period being January 1, 1992 through June 17, 1995). The moratorium established by Amendments 23 and 28 limited speculative entry into the fisheries while the LLP was being developed and approved, and kept the overcapitalization situation from worsening during development of the long-term Comprehensive Rationalization Plan. In addition, the moratorium qualifications could be transferred to other vessels (provided that the length of the new vessel was the same or less than the original), and so helped provide a basis for the LLP transfer process.

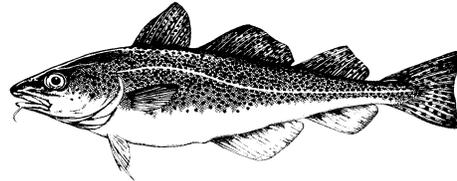
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## BSAI Amendment 24 Pacific Cod Allocation by Gear Type and Season

**Dates:** Amendment 24 was adopted by the Council in June 1993. NMFS published a proposed rule to implement Amendment 24 on October 27, 1993 (58 FR 57803). The final rule was published on January 28, 1994 (59 Notice 4009). Effective date of implementation was February 28, 1994.

**Purpose and Need:** The amendment was proposed in response to socioeconomic concerns of the fishing industry and the need for stability in the trawl gear and fixed gear (longline, pot, and jig) fleets that target Pacific cod. The fishery was exhibiting numerous overcapitalization problems such as compressed fishing seasons, high bycatch and waste, gear conflicts, and an overall reduction in benefit from the fishery. At the April 1993 meeting, the Council developed a problem statement that focused on resolving overcapitalization in the BSAI Pacific cod fishery. In June, the Council recommended three management measures to be implemented through 1996: 1) allocation of the BSAI Pacific cod initial Total Allowable Catch (TAC) among the jig gear, fixed (longline and pot) gear, and trawl gear fleets; 2) seasonally apportion the amount of Pacific cod TAC allocated to vessels using longline or pot gear; and 3) provide the authority to reallocate Pacific cod from the trawl sector to the longline and pot sectors, and vice versa, if NMFS determines that one gear group or the other will not be able to harvest its full allocation. The part of the jig gear harvest that is expected to go unharvested would also be reallocated to the trawl and longline or pot sectors.



The Council's action was intended to provide industry and community stability by directly allocating to gear groups approximately the average percent of Pacific cod taken with these gear types during the years 1991-1993. While the fixed and trawl gear fleet were allocated about their average catch, the amendment allowed for a substantial increase in the share of the fixed gear catch taken with jig gear. This was intended to increase participation of small, shore-based vessels. Without explicit gear allocations, the Pacific cod fishery would continue to operate under an open access situation, and the amount of cod taken by each gear group would be based on how well individual vessels compete among gear groups. A direct allocation combined with seasonal apportionment in the fixed gear sector was expected to provide the potential for each gear group to increase the average benefits received from the harvest of Pacific cod.

**Regulation Summary:** Amendment 24 was proposed to authorize the explicit allocation of BSAI Pacific cod among vessels using trawl, hook-and-line or pot gear, and jig gear through 1996. The alternative adopted and approved allocated the BSAI Pacific cod TAC to the jig gear (2%), hook-and-line or pot gear (44%) and trawl gear (54%) fleets. The action also authorized the seasonal apportionment of the Pacific cod TAC for hook-and-line and pot gear, creating three four-month seasons. In addition, the regulation allowed for the reallocation of Pacific cod from the trawl sector to the longline and pot sectors, and vice versa, if NMFS determines that one gear group or the other will not be able to harvest its full allocation.

**Analysis:** A 77-page EA/RIR/IRFA (final draft dated October 1993) and a separate volume of nine appendices were prepared for this amendment. Two types of changes were considered: the direct allocation to gear groups and the seasonal apportionment of the fixed gear BSAI Pacific cod allocation. The analysis determined that the preferred alternative would provide stability in terms of the distribution of catch between the trawl and non-trawl fisheries, improve the current situation by reducing salmon and other prohibited species bycatch rates, and provide information to develop more effective management measures in the future.

**Results:** The BSAI Pacific cod allocations resulting from Amendment 24 were approved through 1996. At the December 1995 Council meeting, it was noted that while the action provided the necessary stability to the various gear sectors, significant regulatory, economic, and biological changes had occurred in the Pacific cod fishery since the amendment was implemented in 1994. These changes were incorporated into the original analysis with a specific focus on prohibited species mortality, impacts on habitat, and cod discards by the different gear sectors. In June 1996, the Council approved Amendment 46 to continue allocations of the Pacific cod TAC, revising the allocation as follows: 51% to fixed gear, 47% to trawl gear, and 2% to jig gear. Most recently, the Council approved BSAI Amendment 64 (October 1999), to further split the BSAI Pacific cod fixed gear allocation between freezer longline, catcher longline and pot vessels.

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## BSAI Amendment 25 Adjust Trawl Prohibited Species Catch Limits for Halibut

**Dates:** Amendment 25 was adopted by the Council in December 1992 along with regulatory amendments that affect the use of prohibited species catch (PSC) observer data. NMFS published a proposed rule to implement Amendment 25 on January 19, 1994 (59 FR 2817). Effective date of implementation was May 20, 1994. (59 FR 18757; April 20, 1994.)

**Purpose and Need:** Amendment 25 was proposed to eliminate the primary Pacific halibut PSC limit that, when reached, closes Bycatch Limitation Zones 1 and 2H of the Bering Sea. Originally, under Amendment 12a to the BSAI FMP, a 4,400 mt primary halibut PSC limit and a 5,333 mt secondary limit were established for specified BSAI trawl fisheries. When the primary limit was reached, Zones 1 and 2H were closed to directed fishing for specified groundfish species by vessels using non-pelagic trawl gear. When the secondary limit was reached, the entire BSAI was closed to directed trawl fishing for specified groundfish species. The intent was to reduce halibut bycatch rates experienced by the trawl fisheries without prohibiting the groundfish trawl fisheries access to the entire BSAI groundfish resource.

Amendment 12a expired December 31, 1990 and was replaced by Amendment 16, which maintained the existing PSC limits during 1991. Amendment 16 was eventually replaced by Amendment 19, which was effective only for the 1992 fishing year and reduced the secondary limit to 5,033 mt. (This action was eventually superseded by Amendment 21, which simply converted the PSC limits from catch limits to mortality limits.) As a result, the smaller difference between the primary and secondary limits made it difficult for NMFS to monitor the primary limit in a manner to allow closures before the secondary limit was reached; therefore, most trawl closures ensuing from bycatch restrictions were implemented under the secondary limit. At this point, the effectiveness of a primary PSC limit to reduce halibut bycatch came into question. NMFS was finding that initial closure of Bycatch Limitation Zones actually often increased bycatch rates by forcing fisheries to move to areas with lower groundfish catch per unit effort and higher halibut bycatch rates.

Amendment 25 was proposed to respond to the concerns about the usefulness of the primary PSC limit and its potential for exacerbating halibut bycatch rates in the BSAI trawl groundfish fisheries. The intent was to eliminate the primary PSC limit and use only the overall (secondary) halibut bycatch mortality limit established for the BSAI trawl fisheries. This action was necessary to promote the management and conservation of halibut and other fish resources as specified in the objectives of the Magnuson-Stevens Act and the FMPs, and to better meet the original intent of Amendment 12a.

**Regulation Summary:** The approved alternative eliminated the primary PSC limit, but did not affect the overall halibut bycatch mortality limit (3,775 mt) for the BSAI trawl fisheries.

The action also implemented regulatory amendments which 1) prohibited discards of salmon taken as bycatch in the BSAI groundfish trawl fisheries until a NMFS-certified observer determines the number of salmon and collects any necessary data; and 2) established the authority to release to the public vessel-specific observer data on bycatch of prohibited species in the BSAI and GOA groundfish fisheries.

**Analysis:** A 21-page EA/RIR (final draft dated December 1993) was prepared for this amendment. Three alternatives including the status quo were considered. One alternative addressed the elimination of the primary PSC limit and the other alternative addressed the regulatory amendments proposing the mandatory retention of salmon and authorized release of observer data on prohibited species bycatch. The analysis determined that both alternatives would improve the current situation by reducing salmon and other prohibited species bycatch rates and providing information to develop more effective management measures in the future.

**Results:** Since the amendment was approved, trawl halibut bycatch mortality has decreased slightly, as has the overall trawl bycatch mortality limit. The following are the trawl halibut bycatch mortality rates in the BSAI groundfish fisheries since the amendment was approved in 1994 (NMFS 2000):

<u>Year</u>	<u>Total Halibut Mortality (mt)</u>	<u>Total Halibut Cap (mt)</u>
1999	3,460	3,492
1998	3,432	3,492
1997	3,574	3,775
1996	3,766	3,775
1995	3,753	3,775

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## BSAI Amendment 26 Salmon Retention for Food Banks

**Dates:** BSAI Amendment 26 (GOA Amendment 29) was adopted by the Council in September 1994. NMFS published a final rule on July 24, 1996 (61 FR 38354). Effective date of implementation was July 19, 1996. Selection of an authorized distributor for donated salmon was announced on August 16, 1996 (61 FR 42591).

**Purpose and Need:** The Alaska groundfish fisheries result in incidental fishing mortality of Pacific salmon. Vessel operators participating in these fisheries typically use trawl, hook-and-line, or pot gear. Trawl gear operations account for most of the groundfish catch, harvesting 92 percent and 94 percent of the groundfish catch during 1992 and 1993, respectively. Trawl gear fisheries for Alaska groundfish also account for more than 99 percent of the salmon bycatch by the Alaska groundfish fisheries. These fish are dead when brought on board a vessel and must be returned to Federal waters as prohibited species once a NMFS-certified observer has determined the number of salmon and completed the collection of any biological or scientific data.



The incidental salmon mortality experienced in the groundfish fisheries is one of several competing uses of the fully utilized salmon resource. Salmon also are used as catch and bycatch in directed commercial, subsistence, and sport salmon fisheries and as bycatch in other non-salmon and non-groundfish fisheries. Salmon used as bycatch in the groundfish fisheries and in other fisheries can exacerbate the management problem associated with the allocation of salmon among escapement goals set by Alaska State management policy and the terminal salmon fisheries. The groundfish fisheries may result in reduced escapement or harvest in the salmon fisheries, thereby imposing a cost on other salmon users.

Amendment 21 would authorize the voluntary retention and processing of salmon taken as bycatch in the Alaska trawl fisheries for donation to needy individuals. The intent of this action was to reduce bycatch and waste and potentially provide the opportunity to collect additional data that would support a more long-term solution to the salmon bycatch problem.

**Regulation Summary:** The Salmon Donation Program authorizes the distribution of Pacific Salmon taken as bycatch in the groundfish trawl fisheries in the groundfish fisheries off Alaska to economically disadvantaged individuals through NMFS authorized distributor selected by the Regional Director in accordance with federal regulations implemented under the FMP.

**Analysis:** A 24-page EA/RIR (final draft dated March 1996) was prepared for this amendment. Three alternatives including the status quo were considered. Under the status quo alternative, all bycaught salmon would be retained until a NMFS-certified observer has determined the number of salmon and collected any biological or scientific data. Salmon could not be retained for reasons other than the collection of biological or scientific data and ultimately must be discarded in Federal waters as a prohibited species. The other alternative not chosen would have mandated that every salmon taken in the Alaska groundfish trawl fisheries be retained, processed for human consumption, and donated to a nonprofit foodbank organization. Because NMFS's authority under the Magnuson - Stevens Act to directly regulate harvesting and processing fishery resources is limited to the EEZ, this alternative was not developed further but instead provided a qualitative comparison with the other alternatives.

**Results:** The Salmon Donation Program was implemented in 1996 after two years of assessment under several experimental fishing permits. Based on the results from the Salmon Donation Program, it appears that the program was effective at reducing bycatch waste without increasing total bycatch and that the program merits expansion. Since the amendment was approved, many fishing companies have voluntarily participated in the donation program. Through 1998, the authorized distributor, Northwest Food Strategies, has distributed over 3 million pounds (approximately 12 million meals) of donated salmon and halibut to needy people.

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## **BSAI Amendment 27 Research Plan/Observer Program (not implemented)**

**Dates:** BSAI Amendment 27 (GOA Amendment 30) was adopted by the Council in June 1992, then reconsidered and adopted as revised in December 1993. NMFS published a proposed rule on May 6, 1994 (59 FR 23664) and a final rule on September 6, 1994 (59 FR 46126). Effective date of implementation was October 6, 1994. Amendment 1 (which delayed implementation until 1997) to the research plan was announced on December 26, 1995 (60 FR 66755).

**Purpose and Need:** Amendments 13 and 18 to the groundfish FMPs authorized a comprehensive domestic fishery observer program. The 1990 and 1991 observer program required specific levels of observer coverage which varied with size of fishing vessel and quantity of fish processed by floating and shoreside processors. These requirements were established because it was recognized that living marine resources could not be effectively managed without the types of information that were either available only or most efficiently through an observer program.

The observer program required that owners and operators of vessels and shoreside processing facilities participating in the groundfish fishery arrange for and pay for the cost of placing observers aboard their vessels and at their shoreside processing facilities beginning in January, 1990. Each vessel or processor required to have observer coverage is responsible for the cost of obtaining the required observers from a certified contractor. The cost averaged between \$5,800 and \$7,100 per observer month in 1991. There were three problems identified for this method of paying for observer coverage. It was not an equitable system in that some operations paid for 100% coverage and others did not pay anything, it limited the ability of the NMFS to effectively manage the observer program, and it may have resulted in a conflict of interest that could reduce the credibility of observer data. It also based observer coverage levels on a simple vessel length criterion, which likely does not result in the most efficient, appropriate coverage across all fisheries. The Research plan was designed to address these problems. Industry support for such a change is demonstrated by the willingness and ability of the industry to convince Congress to amend the Act to allow the North Pacific Fisheries Research Plan to be established and paid for by a broad-based system of user fees. The proposed plan was to be applicable to the groundfish, halibut, and BSAI crab fisheries.

**Regulation Summary:** The Magnuson-Stevens Act authorized the Council and the Secretary to establish a North Pacific Fisheries Research Plan which: (1) requires that observers be stationed on fishing vessels and at fish processing facilities, and (2) establishes a system of fees to pay for the cost of implementing the research plan. The Research Plan, as adopted under this amendment, contained four objectives and elements that included observer employment and contracts, observer duties, data collection and transmission, annual determination of coverage levels by fishery, in-season changes to coverage levels, establishment of an observer oversight committee, coordination between the NMFS groundfish and ADF&G shellfish observer programs, a fee assessment (up to 2% of ex-vessel value of harvested fish), and details on fee collection and contingency plans in case of funding shortfalls.

**Analysis:** A 26-page EA/RIR (final draft dated March 22, 1994), together with a lengthy (100+ pp.) appendix section, was prepared for this amendment. Three alternatives including the status quo were considered. Under the status quo alternative, the authority to establish a research plan would not be used, existing observer coverage requirements and contracting arrangements would be used, and no observer program would be implemented for the halibut fishery. The alternative adopted provided for a research plan, and attendant fee on landings, to address problems identified with the existing observer program.

**Results:** Though the amendment was approved, it was never fully implemented. Instead, implementation was delayed one year, then replaced with a modified pay-as-you-go system adopted under Amendments 47/47. Start-up fees were collected by NMFS in the first year of implementation (1995), but the Council repealed the Research Plan due to various concerns, including the possibility that the fee would not cover all necessary coverage levels. Fees were refunded following the repeal of the Plan. An Observer Committee has been convened to examine fee plan alternatives and is currently evaluating possible options.

## BSAI Amendment 28 Divide Aleutian Islands into Regulatory Areas

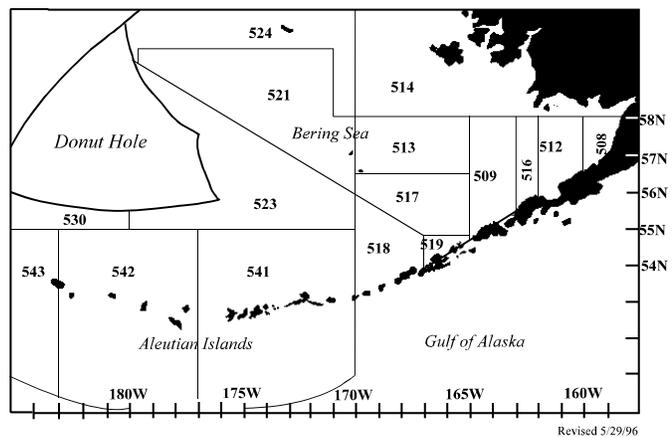
**Dates:** Amendment 28 was adopted by the Council in January 1993. NMFS published a proposed rule on April 23, 1993 (58 FR 21695), and a final rule on July 13, 1993 (58 FR 37660). Effective date of implementation was August 11, 1993.

**Purpose and Need:** A groundfish species or species group may be apportioned to the entire BSAI, or to smaller areas defined in the FMP or implementing regulations, provided that sufficient biological information exists with which to establish acceptable biological catches (ABCs) for the areas of interest. Prior to this amendment, the Aleutian Islands area was not subdivided under the FMP. Therefore, groundfish ABCs and catch limits could not be apportioned to smaller areas within the Aleutian Islands (AI) region. For some species, particularly Atka mackerel, fishing effort had traditionally occurred in the eastern end of the AI, nearest Dutch Harbor. This situation can result in undesirable effects of highly concentrated effort, such as the potential for localized depletion of groundfish, intensified competition with marine predators for fishery resources, and greater possibility of habitat degradation. The purpose of this amendment was to allow ABCs and TACs to be allocated into smaller areas in the AI region, thereby spreading out fishing effort over a larger area.

**Regulation Summary:** Under Amendment 28, the Aleutian Islands region was split into three management districts at 177° W longitude and 177° E longitude. The eastern, central, and western AI districts are shown in the adjacent figure and are denoted as statistical areas 541, 542, and 543.

**Analysis:** A 93-page EA/RIR (final draft dated June 8, 1993) was prepared for this amendment. Three alternatives including the status quo were considered. Besides the status quo, the other alternative that was not chosen would have split the AI into only two districts with the dividing line at 177° E longitude. The alternative chosen was more conservative in that defining smaller areas for ABC and TAC allocation may reduce the potential for localized depletion and competition with marine mammals.

**Results:** Since the amendment was approved, ABCs and TACs for Atka mackerel and Pacific Ocean Perch have been allocated among the three AI districts based on biomass distribution.



Statistical and regulatory areas for the Bering Sea and Aleutian Islands groundfish fisheries.

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## **BSAI Amendment 29 Salmon Bycatch Accounting (withdrawn)**

**Dates:** Amendment 29 was evaluated by the Council in June and September 1993.

**Purpose and Need:** The purpose of this amendment was to reduce salmon bycatch in trawl fisheries. The incidental salmon fishing mortality experienced in the groundfish fisheries is one of several competing uses of the fully utilized salmon resource. Salmon are also used as catch and bycatch in directed commercial, subsistence, and sport salmon fisheries and as bycatch in other non-salmon fisheries. The groundfish fisheries may result in reduced escapement or harvest in the salmon fisheries, thereby imposing a cost on other salmon users.

If sufficient incentives exist for a vessel operator to move to another area or take other action to reduce the possibility of continued high bycatch rates, then incidence of repeated high salmon bycatch rates on a haul by haul basis may be curtailed. Nonetheless, some salmon bycatch is unavoidable in the groundfish trawl fisheries, as a degree of unpredictability is associated with salmon bycatch. Difficulties may exist for individual vessel operators to take action that will predictably reduce salmon bycatch rates on a haul by haul basis. The purpose of this amendment is to reduce salmon bycatch by holding individual vessel operators responsible for the amount of salmon bycatch their vessel takes.

**Regulation Summary:** The amendment was never adopted and the vessel incentive portion was never implemented. NMFS expressed reservations about obtaining statistically valid estimates of salmon bycatch amounts for use in enforcing a vessel incentive program. Additionally, there were concerns raised about establishing a haul by haul vessel incentive program because the possibility of a vessel randomly encountering large numbers of salmon in a single haul, as well as vessels that deliver unsorted cod ends to shoreside operations. In both cases, violators would be unable to take action to avoid a violation. Notwithstanding these issues, it was felt that significant staff resources would need to be shifted to monitor salmon bycatch, enforce, and prosecute salmon bycatch violators.

Given the difficulties presented in establishing a regulatory solution to individual vessel bycatch accounting, amendment development was put on hold while industry representatives developed their own voluntary program named the Salmon Foundation. Participants assessed themselves a \$20 fee per chinook and raised a total of \$120,000 in 1994. The purpose of the Foundation was to use income generated from salmon bycatch assessment payments to develop a salmon bycatch avoidance program for the BSAI trawl fisheries and to fund research on stock origin of salmon taken as bycatch. After the Council adopted the time area closures in April 1995, the industry stopped the bycatch assessment fees, so the research monies were spent and the Foundation dissolved.

**Analysis:** A 45-page EA/RIR/FRFA (public review draft dated May 14, 1993) plus a 39-page addendum was prepared for this amendment. Two primary alternatives including the status quo, together with five options for Alternative 2 were considered. The options considered would implement a salmon vessel incentive program similar to the halibut program (bycatch standards with compliance based on observer samples), and various configurations of a salmon incentive program that is independent of observer sampling procedures. The suboptions of an observer independent program included counting all salmon, extrapolation based on product recovery or landed weights, and mandatory retention of salmon for observer counting.

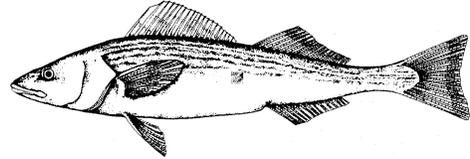
**Results:** The amendment was never approved. Portions of the salmon bycatch control initiatives were adopted under Amendment 21b (time/area closures for chinook salmon), Amendment 35 (time area closures for chum salmon), and Amendment 26 (voluntary retention of salmon for foodbanks). Also, regulations were implemented that authorize disclosure of vessel specific observer information on prohibited species bycatch.

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## BSAI Amendment 30 Increase Community Development Quota Allocation for Sablefish

**Dates:** BSAI Amendment 30 (GOA Amendment 34) was adopted by the Council in April 1994. NMFS published the proposed rule on May 31, 1994 (59 FR 28048). The final rule was published August 24, 1994 (59 FR 43502). Effective date of implementation was September 23, 1994.

**Purpose and Need:** A 12% limit for allocation to individual CDQ applicants was placed in the FMPs for the BSAI and the GOA and in the implementing regulations in 1992. The purpose of the original 12% limit was to prevent monopolization of CDQ sablefish allocations and ensure an adequate distribution of benefits from the CDQ program. The 12% limit was set in the development phase, when there were potentially 55 communities initially determined to qualify. Had the limit been set too high, communities would have expended resources unnecessarily to compete for large portions of a limited sablefish reserve. Subsequently, the 55 communities formed six geographical groups, in order to pool their efforts in producing Community Development Plans and managing the CDQ harvest. The six groups are: Aleutian Pribilof Island Community Development Association; Bristol Bay Economic Development Corporation; Central Bering Sea Fisherman's Association; Coastal Villages Fisheries Cooperative; Norton Sound Economic Development Corporation; and Yukon Delta Fisheries Development Association. The reduction in the number of CDQ groups, combined with the 12% limit, resulted in an inability to allocate the entire CDQ reserve (6 groups x 12% = 72% of CDQ reserve). This amendment raised the allocation limit of the sablefish CDQ reserve from 12% to 33% in the FMP for the BSAI, so that the total sablefish CDQ reserve could be allocated, providing for a more efficient use of the public resource. Full allocation is also consistent with the Council intent and the resource management objectives of the Magnuson-Stevens Act. Amendment 34 to the FMP for the GOA corrected the inadvertent inclusion of the CDQ program in the FMP by removing and reserving section 4.4.1.1.8.



The sablefish CDQ program was designed to promote the revitalization of rural communities in Western Alaska by providing those communities access to nearby fishery resources. The purpose of the amendment is to further the Council intent of the program by fully allocating the CDQ reserve.

**Regulation Summary:** The alternative adopted and approved raised the sablefish Community Development Quota allocation limit for qualified applicants from 12% to 33% in order to allow total allocation of the sablefish CDQ reserve; removed the inadvertent inclusion of the CDQ program in the FMP for the GOA; and expanded the types of evidence that may be used to verify vessel leases for the halibut and sablefish individual fishing quota program. It was emphasized that this action did not change the amount of sablefish available for harvest by persons participating in the Pacific halibut and sablefish IFQ program.

**Analysis:** A 20-page Regulatory Impact Review (final draft dated March 1994) was prepared for this amendment. Two alternatives including the status quo were considered. The status quo did not require an environmental assessment because it was previously analyzed in the environmental documentation for the Individual Fishing Quota program, of which the CDQ program is a part. The status quo would require the communities to apply individually, and not as the six groups they had already formed. The proposed alternative would raise the sablefish allocation limit to 33%, and therefore fully allocate the CDQ reserve and more efficiently use the resource. The alternative chosen was also shown to be less obtrusive than the current process, in that groups formed for distribution can apply in their present form and alleviate excessive and needless competition between the 55 communities.

**Results:** The result of Amendment 30 is that the CDQ reserve is fully allocated and harvested. The 2000 CDQ sablefish allocation was 1,127,873 pounds in the BSAI which equaled 20% of the fixed gear total allowable catch. Since approval of Amendment 30, the CDQ allocation has been harvested as indicated in the box below.

BSAI CDQ Sablefish Allocations and Landings			
Year	Total Catch (pounds)	Total Allocation (pounds)	Percent of Allocation Landed
1995	593,833	1,080,449	55
1996	416,686	639,334	65
1997	490,002	639,334	77
1998	416,107	742,950	56

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## **BSAI Amendment 31 Sablefish Individual Fishing Quota Share Blocks**

**Dates:** The amendment was approved by the Council in September 1993, along with GOA Amendment 35 and a regulatory amendment affecting the Pacific halibut fishery in and off the State of Alaska. NMFS published the proposed rule for Amendment 31 on June 28, 1994 (59 FR 33272). Effective date of implementation for most sections was November 7, 1994 (59 FR 51135; October 7, 1994).

**Purpose and Need:** The IFQ program, implemented in 1995, assigned the privilege of harvesting a percentage of the sablefish and halibut quota (in the form of quota shares) to specific individuals with a history of harvest in the fisheries. Quota shares (QS) could be transferred, allowing people who did not receive an initial allocation to buy into the fishery. Concern over the potential for excessive consolidation of quota shares, the projected reduction of the longline fleet, and the social and economic effects on coastal communities, shore-based processors, and fishermen, was the impetus for Amendment 31. Amendment 31 implemented the Modified Block Proposal, which was intended to reduce the maximum potential consolidation relative to the existing IFQ program by significantly increasing the theoretical minimum number of quota share holders and thereby easing the transition from open access to IFQs.

The purpose of this amendment was to provide for the long-term productivity of the sablefish and halibut fisheries, as specified in the Magnuson-Stevens Act and the Halibut Act. In addition to sustaining the health of the fisheries, the Council needed to address the issue of protecting small producers, part-time participants, and entry-level participants who tend to disappear because of potential excessive consolidation under an IFQ program. The amendment is intended to protect the viability of these small entities without interfering with the opportunities currently available under the IFQ program for larger operations.

**Regulation Summary:** The Modified Block Proposal provided that initial allocations of QS that represent less than 20,000 lb of IFQ in the implementation year will be issued as a block, 2) QS that represents 20,000 lb or more of IFQ in the implementation year will be “unblocked”, and 3) QS in a block cannot be separated and must be transferred as a block. Fishermen can own up to two blocks of halibut and two blocks of sablefish QS in each area, but persons holding any amount of unblocked QS are limited to one block of QS per area. A sweep-up provision allowed fishermen to combine small amounts into fishable amounts: halibut blocks can be combined to a sum of less than 1,000 lbs and sablefish blocks can be combined until the sum reaches 3,000 lbs. The amendment also clarified that blocked and unblocked quota share would be transferable subject to the approval of the NMFS Regional Director. Because the Modified Block Proposal created the potential that some QS would become non-transferable because the size would exceed the quota share use limits established in prior regulations (50 CFR 676.22 (e)(f)); the alternative also allowed for the transfer of a quota share block exceeding the use limits by providing that one block could be divided into two blocks.

**Analysis:** A 283-page EA/RIR/IRFA (final draft dated May 25, 1994) was prepared for this amendment and adjoining GOA Amendment 35. The analysis reported that without a block amendment (no action), the IFQ program could potentially reduce the number of halibut and sablefish quota share fishermen to 200 and 100, respectively. Three separate block proposals were considered to ameliorate this problem. The two alternatives that were not chosen would have created unique, variable size blocks or partial blocks that could be transferred across catcher vessel classes, resulting in increased search and transaction costs of persons who want to sell or buy additional quota share. The alternative chosen also allows persons to purchase relatively small amounts of unblocked quota share, but lowers the associated transaction costs.

**Results:** Amendment 31 created both blocked and unblocked quota shares based on the 1994 quota. As anticipated, there has been some consolidation of quota share to fewer persons than received quota share by initial issuance, but significantly less so than if the block proposal had not been added. The total number of initial issuees (unique number of people) in the halibut fishery in 1995 was 4,827, reduced to 3,795 by the end of 1998. The total number of issuees in the sablefish fishery was 1,048, reduced to 919 by the end of 1998. The number of unique vessels landing halibut and sablefish before the IFQ program was 3,450 and 1,139 in 1994, and by 1998 the number of vessels was reduced to 1,601 and 449, respectively.

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## BSAI Amendment 32    Transfer of Sablefish Community Development Quota Compensation Quota Shares

**Dates:** BSAI Amendments 32 and 36 were approved by the Council in January 1995. NMFS published a proposed rule for BSAI Amendment 32 ( GOA Amendment 36) on October 13, 1995 (60 FR 53331). The final rule was published January 24, 1996 (61 FR 1844). Effective date of implementation was February 23, 1996.

**Purpose and Need:** The Community Development Quota (CDQ) program was proposed in conjunction with the IFQ program for sablefish and halibut management. The CDQ program apportioned designated percentages of the annual fixed gear total allowable catch (TAC) of sablefish and halibut to eligible Western Alaska communities, intending to provide near-shore communities with long-term, stable employment and access to the fishery resource. Apportioning part of the fixed gear TAC to communities reduced the amount of that TAC available for harvest by persons receiving annual allocations of IFQ. As a result, CDQ compensation quota shares (QS) were issued as partial compensation to persons who received (reduced) quota shares in CDQ areas.

Two problems were identified that inhibited the current transfer of CDQ compensation quota shares. Firstly, most CDQ compensation QS would be issued in allocations of less than 20,000 lbs and therefore would be blocked under the non-severable block provision (see BSAI Amendment 31/GOA Amendment 35). The block provision was added to the IFQ program to prevent excessive consolidation of fishing privileges. Blocked quota share, especially small blocks such as the CDQ compensation QS, is difficult to market because of the two-block limit. The second problem is that the IFQ program allowed transfer of quota shares only within the same vessel category, to prevent significant consolidation into large vessel operations. However, residents of CDQ areas traditionally employed smaller vessels than non-residents who received initially issued QS in the CDQ areas, making it difficult for residents of CDQ areas to increase their holdings as they must purchase larger vessels as well as initially issued QS in the larger vessel categories.

Amendments 32/36 were proposed to relieve the unintended consequences of the IFQ transfer restrictions, which are contrary to the original purpose of providing CDQ compensation quota shares. Relieving transfer restrictions on initial recipients of CDQ compensation QS effectively increases the remunerative value of those shares and facilitates the full utilization of the allocated resources managed under the IFQ program.

**Regulation Summary:** The amendment exempted some CDQ compensation QS from the block provision and allowed for a one year period of relief (one-time transfer) from the restriction against transferring CDQ compensation QS across vessel length categories. Regulations state that if a person is issued CDQ compensation QS for an area where the person already has regular QS, then their CDQ compensation QS is combined with their existing QS and is either “blocked” or “unblocked” depending on the sum total of their QS (this makes much of the CDQ compensation QS unidentifiable after issuance). If a person is issued CDQ compensation QS for an area in which the person doesn’t have other QS, the QS is left unblocked. The exemption does not include Category “A” vessels (vessels of any length authorized to process IFQ species).

**Analysis:** A 21-page Regulatory Impact Review (final draft dated January 1995) was prepared for this amendment. Including the status quo, two alternatives addressing the block provision and three alternatives addressing the transfer across vessel length classes were considered. The option that was not chosen would have allowed “pooling” of quota shares with other compensation share holders, as opposed to exempting CDQ compensation QS from the block provision in perpetuity. With regard to transfer across vessel length classes, the other alternative not chosen would have allowed a one-time trade across vessel classes as defined by a transaction involving initially issued large vessel QS in CDQ areas and small vessel CDQ compensation QS in non-CDQ areas. The alternative chosen is more flexible by not defining the type of transaction allowed.

**Results:** Since the amendment was approved, coastal communities that rely on the small vessel fleet have benefitted by having IFQ in more accessible areas. The action did not significantly change the overall character of the fleet because CDQ compensation quota share accounted for only 3.5% of the total amount of quota share issued in the non-CDQ areas of the Gulf of Alaska. A report examining the distribution of all QS by block status shows that 69.2% of the QS in the BSAI was blocked at the end of 1998. In the Gulf of Alaska, percentage of blocked QS ranged from 7.6% in the Central Gulf to 20.1% in the Western Gulf. In addition, the amount of swappable CDQ compensation QS—catcher vessel QS that can be fished on any size vessel until its first transfer—declined sharply by year-end 1998, even though there were very few actual swaps of this type of QS to other vessel categories. Most of the decline came from regular transfers, where CDQ compensation QS also loses its swappable status. Over the 1995-98 time period there were only five swaps in Southeast area, four in West Yakutat, and three each in the Central and Western Gulf.

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## BSAI Amendment 33 Limited Processing of Non-Individual Fishing Quota Species

**Dates:** Amendments 33 and 37 were approved by the Council in October 1995. NMFS published a proposed rule that would implement BSAI Amendment 33 (GOA Amendment 37) on April 2, 1996 (61 FR 14547). The final rule was published June 27, 1996 (61 FR 33382). Effective date of implementation was July 26, 1996.

**Purpose and Need:** The IFQ program was designed to promote the conservation and management objectives of the Magnuson-Stevens Act and Northern Pacific Halibut Act. The program was implemented in 1995 and assigned the privilege of harvesting a percentage of the sablefish and halibut quota to specific individuals with a history of harvest in the fisheries. Persons receive an annual allocation of IFQ and are authorized to harvest IFQ species.

Included in the IFQ program is a provision prohibiting the processing (freezing) of fish, other than IFQ halibut or sablefish, on board a harvesting freezer vessel if, along with that fish, IFQ sablefish were harvested by a person who has catcher vessel quota shares of sablefish. The Council's intent in allowing the use of catcher vessel quota share on freezer vessels was to increase the fishing opportunities of IFQs held by crew members. The prohibition on freezing non-IFQ species came out of a Council concern that, if the owners of large, industrial-type processing vessels could harvest IFQ species with IFQ assigned to vessel categories B, C, and D while processed fish are on board, these operators could acquire the majority of the "catcher vessel" quota share that would normally be harvested by smaller boats without processing capabilities. These smaller vessels usually use shoreside local processors in coastal communities. The Council did not want to dramatically change the character of the fisheries and deprive coastal communities of the revenue generated by small vessel deliveries of IFQ species.

The combination of allowing catcher vessel quota share to be used on freezer vessels with the prohibition on processing non-IFQ species resulted in unanticipated waste of non-IFQ species caught incidentally to sablefish. Persons are required to retain all Pacific cod and rockfish caught incidentally to IFQ sablefish. Pacific cod and rockfish have a shorter "shelf life" than sablefish, and a typical sablefish fishing trip is too long to maintain sufficient quality of incidentally caught non-IFQ fish. Without the ability to freeze the non-IFQ species, the fish was often landed in poor condition, decreasing the market value of the fish significantly.

The purpose of Amendments 33 and 37 was to address the lost revenue and waste that occurs because fish other than IFQ halibut and sablefish are discarded, or if not discarded, become a low quality product, due to the prohibition on processing fish other than IFQ halibut and sablefish. The amendments were necessary to allow fuller use of the fishery resources in and off of Alaska.

**Regulation Summary:** The alternative adopted and approved authorized the processing of fish other than IFQ halibut or IFQ sablefish on board the harvesting vessel by persons authorized to harvest IFQ sablefish based on an annual allocation of IFQ assigned to vessel categories B or C. This authorization is not extended to persons authorized to harvest IFQ halibut, due to the fact that halibut is characteristically prosecuted by local vessels that do not have onboard processing capabilities. Several modifications were also made to the regulations implementing the IFQ program in order to accommodate the new provision. In addition, while non-IFQ species could be frozen onboard, the freezing of IFQ sablefish caught with catcher vessel quota share on a freezer vessel would continue to be prohibited.

**Analysis:** A 14-page EA/ RIR (final draft dated March 8, 1996) was prepared for these amendments. The analysis determined that the proposal would not have a significant economic impact on a substantial number of small entities, and would not adversely effect shore-based plants because most of the bycatch of non-IFQ species would be discarded as the period of marketability of unprocessed product is typically exceeded. Two alternatives including the status quo were considered. The alternative chosen allows for the freezing of non-IFQ species when catcher vessel quota share is used on freezer vessels.

**Results:** In 1996, only thirty-eight sablefish quota share recipients in the freezer vessel category were eligible to use catcher vessel quota share from the 188 quota share holders in the less than 60 feet vessel class and 763 quota share holders in the greater than 60 feet vessel class. Allowing non-IFQ species caught incidentally to IFQ sablefish to be frozen onboard freezer longliners has significantly enhanced product quality and has allowed for the recovery of revenue otherwise lost to discards. The following is an estimate of commercial non-IFQ species landed by weight, for each 100 mt of sablefish landed in the BSAI longline sablefish fishery in 1999: 33 mt of Greenland turbot, 14 mt of rockfish, 2 mt of Pacific cod, and 4 mt of shortraker/rougheye (1999 Blend data). This equates to approximately half the weight of the targeted IFQ sablefish harvest—fish which would have potentially been discarded or in non-marketable condition had the prohibition on processing continued.

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## BSAI Amendment 34 Atka Mackerel Jig Allocation

**Dates:** Amendment 34 was adopted by the Council in June 1997. NMFS published the final rule on December 31, 1997 (62 FR 68228). Effective date of implementation was January 30, 1998.

**Purpose and Need:** The purpose of this amendment was to provide more opportunity for a local small-vessel jig gear fleet to fish for Atka mackerel in late spring and summer months without direct competition from the large, high-capacity trawl fleet that typically harvests the Eastern BSAI Atka mackerel TAC early in the fishing year. Jig gear harvests of Atka mackerel have been constrained to late spring and summer months in the BS near the port of Dutch Harbor because of the physical limitations of a small boat fleet. In 1997, the directed fishery for Atka mackerel in the Eastern BSAI was closed February 4. Atka mackerel became a prohibited species on February 28 when the fast-paced trawl fisheries harvested the TAC. As a result, the jig gear fleet did not have an opportunity to fish for this species in 1997. Based on Alaska Department of Fish and Game (ADF&G) fish tickets, 15 and 19 vessels using jig gear in the BS harvested 36 and 13 metric tons (mt) of Atka mackerel in 1994 and 1995, respectively. These amounts equate to 0.22 percent and 0.09 percent of the Atka mackerel harvest in the Eastern BSAI during these 2 years. Information from jig gear fishermen indicates that most of the Atka mackerel harvested by the jig gear fleet is used as bait in the jig gear fishery for Pacific cod, although interest exists to develop a fresh fish product for this species.

**Regulation Summary:** The Council adopted Amendment 34 to the FMP at its June 1997 meeting in response to concerns about the fast-paced nature of the Atka mackerel trawl fishery and the resulting preemption of the small-scale jig gear fishery. The Council's action would allocate up to 2 percent of the Atka mackerel TAC specified for the Eastern AI/BS to vessels using jig gear. The Council also voted to specify the jig gear allocation annually during the groundfish specifications process based on recent and anticipated harvests. This action was taken in consideration of the small amount of Atka mackerel annually harvested in recent years and to respond to trawl industry concerns about allocating more Atka mackerel to the jig gear fleet than could be harvested. Amendment 34 allowed for a ramp up provision, such that 1-percent of the Eastern AI/BS Atka mackerel TAC would be allocated to vessels using jig gear to begin the program. Once the jig gear fleet proved it could harvest that amount of TAC, the allocation could be increased to 2%.

**Analysis:** A 35-page EA/RIR/FRFA (final draft dated November 1997) was prepared for this amendment. Three alternatives including the status quo were considered. The other alternative that was not chosen would have established a jig gear only fishery for Atka mackerel in the eastern AI and Bering Sea. The alternative chosen allowed vessels using jig gear to harvest more Atka mackerel than they had previously ever harvested, but still allowed most of the TAC to be harvested, thereby minimizing impacts to vessels targeting mackerel with other gear.

**Results:** Since the amendment was approved, the jig gear fishery has not harvested any Atka mackerel TAC to speak of. The adjacent table shows the harvest of Atka mackerel in the Eastern Aleutian Islands / Bering Sea area in recent years.

**Catch (mt) of Atka mackerel by gear type in the eastern Aleutian Islands and Bering Sea, 1994-1999.**

<u>Year</u>	<u>Jig</u>	<u>Trawl</u>	<u>Longline</u>	<u>Pot</u>
1994	36	15,350	41	6
1995	13	14,069	46	80
1996	0	28,091	28	54
1997	0	16,242	26	50
1998	0	12,219	36	15
1999	0	16,231	6	11

## BSAI Amendment 35 Chum Salmon Savings Area

**Dates:** Amendment 35 was adopted by the Council in January 1995. The proposed rule was published April 25, 1995 (60 FR 20253), and the final rule was published on July 5, 1995 (60 FR 34904). Effective date of implementation was August 1, 1995.

**Purpose and Need:** Salmon are a target species in salmon fisheries, but are taken as incidental bycatch in groundfish trawl fisheries. The objective of the alternatives considered in the analysis is to provide the Council with the means to control chum salmon bycatch in the BSAI groundfish trawl fisheries. Chum salmon bycatch control measures were thought to be needed for two reasons. First, many chum salmon stocks are fully utilized, and uncontrolled bycatch constitutes an additional, unaccounted for allocation of the resources. Second, uncontrolled bycatch levels exceeding recent highs may lead to conservation problems for Alaskan chum salmon populations. During the previous 10 years, several major river systems had experienced low levels of returns, particularly the Nushagak, Yukon, and Kuskokwim rivers.

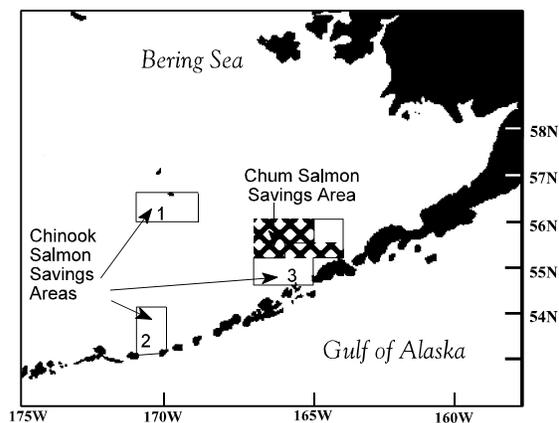
**Regulation Summary:** Amendment 35 established measures to control the amount of chum salmon taken as bycatch in BSAI trawl fisheries. Specifically, the alternative adopted would close an area in the BSAI to all trawling from August 1 through August 31 (the time of year when bycatch is highest). In addition, the area would remain closed or re-close after September 1, upon the attainment of a bycatch limit of 42,000 "other" salmon taken within the catcher vessel operational area (CVOA), through October 14. The chum salmon savings areas is the area bounded by a straight line connecting the following pairs of coordinates in the order listed:

56°00'N., 167°00'W.;  
 56°00'N., 165°00'W.;  
 55°30'N., 165°00'W.;  
 55°30'N., 164°00'W.;  
 55°00'N., 164°00'W.;  
 55°00'N., 167°00'W.;  
 56°00'N., 167°00'W.

**Analysis:** A 132-page EA/RIR/IRFA (final draft dated March 21, 1995) was prepared for this amendment. Four alternatives including the status quo were considered, along with seven options for closure areas. The other alternatives not chosen would have established a year-round closure in hotspot areas, or changed the starting date for the pollock 'B' season. The alternative chosen allowed for a time/area closure that would be expected to have high bycatch of chum salmon, and allowed for continuation of the closure if salmon bycatch remained high.

**Results:** Although more than 42,000 chum salmon were taken over the course of a year from 1995 through 1999, closure of the area has not been triggered because the cap was not attained within the accounting period. Total number of chum salmon taken annually as bycatch in BSAI groundfish fisheries is shown in the adjacent table.

Despite these actions, salmon populations in western Alaska remain in relatively poor shape, and have not yet recovered to earlier levels.



Location of the chinook and chum salmon savings areas in the BSAI.

**Number of chum salmon taken as incidental bycatch in BSAI trawl fisheries, 1989-1999. Note that >95% of the "other" salmon is chum salmon.**

Year	Other Salmon
1989	5,545
1990	16,661
1991	31,987
1992	38,919
1993	243,246
1994	94,508
1995	21,780
1996	77,926
1997	67,536
1998	69,237
1999	46,624

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## BSAI Amendment 36 Establish Forage Fish Category

**Dates:** BSAI Amendment 36 (GOA Amendment 39) was adopted by the Council in April 1997. NMFS published the proposed rule on December 12, 1997 (62 FR 65402) and the final rule on March 17, 1998 (63 FR 13009). Effective date of implementation was April 16, 1998.

**Purpose and Need:** Forage fish are generally small, abundant fishes that are preyed upon by marine mammals, seabirds and commercially important groundfish species. Forage fish perform a critical role in the complex ecosystem functions of the BSAI and the GOA by providing the transfer of energy from the primary or secondary producers to higher trophic levels. Significant declines in marine mammals and seabirds in the BSAI and GOA have raised concerns that decreases in the forage fish biomass may contribute to the further decline of marine mammal, seabird and commercially important fish populations. Forage fish are the principal diet of more than two thirds of Alaskan seabirds. In addition, many seabirds can subsist on a variety of invertebrates and fish during nonbreeding months but can only raise their nestlings on forage fish. Small forage fish such as capelin, herring, sand lance and eulachon also have been recognized as important prey items for a variety of marine mammal species including: Northern fur seal, Steller sea lion, harbor seal, spotted seal, bearded seal, humpback whale and fin whale.

**Regulation Summary:** Amendment 36 defined a forage fish species category and authorized that the management of this species category be specified in regulations in a manner that prevents the development of a commercial directed fishery for forage fish which are a critical food source for many marine mammal, seabird and fish species. Forage fish species are not included in a target species category. Management measures for the forage fish category will be specified in regulations and may include prohibitions on directed fishing, limitations on allowable bycatch retention amounts, or limitations on the sale, barter, trade or any other commercial exchange, as well as the processing of forage fish in a commercial processing facility.

The forage fish species category would include all species of the following families:

- Osmeridae (eulachon, capelin and other smelts),
- Myctophidae (lanternfishes),
- Bathylagidae (deep-sea smelts),
- Ammodytidae (Pacific sand lance),
- Trichodontidae (Pacific sand fish),
- Pholidae (gunnels),
- Stichaeidae (pricklebacks, warbonnets, eelblennys, cockscombs and shannys),
- Gonostomatidae (bristlemouths, lightfishes, and anglemouths),
- and the Order Euphausiacea (krill).

**Analysis:** A 59-page EA/RIR (final draft dated January 1998) was prepared for this amendment. Two alternatives including the status quo were considered, along with four options for the non-status quo alternative. The options not chosen would have put forage fish in the other species category or the prohibited species category. The alternative chosen would protect forage fish by prohibiting a directed fishery and the sale and barter of forage fish. The preferred alternative would also reduce waste by allowing retention (up to a maximum retainable bycatch amount as set in regulations) and processing (into fishmeal) those forage fish caught incidentally in groundfish fisheries.

**Results:** No commercial fishery has been allowed to develop on forage fish in the Exclusive Economic Zone off Alaska.

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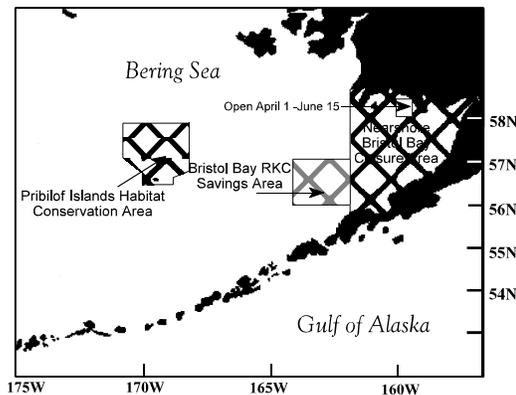
# BSAI Amendment 37 Modify Red King Crab Prohibited Species Catch Limits, Establish Bristol Bay Red King Crab Savings Area and Nearshore Bristol Bay Trawl Closure Area, Increase Observer Coverage

**Dates:** Amendment 37 was first adopted by the Council in September 1995, then rescinded and re-adopted as revised in June 1996. The final rule was published on December 16, 1996 (61 FR 65985). Effective date of implementation was January 1, 1997.

**Purpose and Need:** The 1995 NMFS bottom trawl survey indicated that exploitable biomass of Bristol Bay red king crab is at about one-fifth record levels. The stock was at its lowest level since the fishery was closed after the first stock collapse in 1983. In 1994 and 1995, Bristol Bay was closed to red king crab fishing because the number of female red king crab had declined below the threshold of 8.4 million crab. In addition, the annual trawl surveys indicated little prospect for increased recruitment of mature males or females, and low female spawning biomass. The purpose of Amendment 37 was to reduce the impacts of groundfish fisheries on the red king crab stock, thus assisting recovery of this crab stock.

**Regulation Summary:** Amendment 37 implemented the following measures:

- (1) A year round bottom trawl closure in the Bristol Bay Red king Crab Savings Area to directed fishing for groundfish by vessels using non-pelagic trawl gear. The southern edge of the Savings Area between 56° and 56°10' N. lat., however, would open if a guideline harvest level for Bristol Bay red king crab is established. A portion of the annual PSC limit would be specified for the subarea;
- (2) A year round closure to all trawling in the nearshore waters of Bristol Bay, with the exception that a portion of this area-between 159° and 160°W. long. and between 58° and 58°43' N. lat. - would remain open to trawling during the period April 1 to June 15 each year;
- (3) Increased observer coverage on all vessels, including vessels using pot, jig, and longline gear fishing for groundfish in the Savings Area and on trawl vessels fishing in the seasonal open area of the Bristol Bay nearshore waters closure; and
- (4) Adjustments to the Zone 1 PSC limit for red king crab taken in trawl fisheries. The PSC limit would be specified annually based on the abundance and biomass of Bristol Bay red king crab, as shown in the adjacent table.



Location of trawl closure areas to protect red and blue king crab habitats.

**PSC limits for red king crabs in trawl fisheries (in # of crabs).**

Crab Abundance	PSC Limit
Below threshold or 14.5 million lbs of effective spawning biomass (EBS)	35,000
Above threshold, but below 55 million lbs of EBS	100,000
Above 55 million lbs of EBS	200,000

**Analysis:** A 268-page EA/RIR/IRFA (final draft dated June 21, 1996) was prepared for this amendment. Three primary management measures were analyzed, each having at least three alternatives, including the status quo, as well as several options. The other alternatives and options not chosen would have defined slightly different time/area closures, and established PSC limits of 180,000 crabs or a PSC limit that fluctuated annually with crab abundance. The alternative chosen was more conservative because a larger area may offer more protection.

**Results:** Since the amendment was approved, bycatch of red king crab has been greatly reduced, and the Bristol Bay red king crab stock has rebuilt to levels that supported directed crab fisheries in 1996-1999, but is again declining due to lack of recruitment. In 1998, the Council adopted a provision to reduce the bycatch limit by an additional 3,000 red king crab as part of the regulation prohibiting the use of bottom trawl gear for pollock fisheries (Amendment 57).

**Number of red king crab taken in Zone 1 as incidental bycatch in BSAI trawl fisheries, 1994-1999.**

Year	Crabs
1994	232,933
1995	32,615
1996	18,449
1997	46,918
1998	38,224
1999	83,024

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## **BSAI Amendment 38    Extend    Inshore/Offshore Pollock Allocations, Reauthorize Pollock Community Development Quota Program, Modify the Catcher Vessel Operational Area**

**Dates:** NMFS published a proposed rule to amend the BSAI and GOA FMPs on September 18, 1995 (60 FR 48087). Upon Council approval in June 1995, the final rule for BSAI Amendment 38 and GOA Amendment 40 was published on December 12, 1995 (60 FR 63654). Effective date of implementation was January 1, 1996.

**Purpose and Need:** Amendments 38 and 40 extended the provisions of Amendment 18 to the BSAI FMP and Amendment 23 to the GOA FMP, which expired on December 31, 1995. Amendments 18 and 23 (57 FR 23321; June 3, 1992) set inshore and offshore processor allocations of pollock in the BSAI and pollock and Pacific cod in the GOA, respectively, as a response to an early closure in 1989 when several catcher/processors harvested substantial amounts of pollock in the BSAI and GOA and forced an early closure of the GOA pollock fishery. Amendment 18 allocated 35% of the 1992 non-roe pollock season TAC to the inshore sector, and the remainder to the offshore sector. Shortly after, a 35-65% inshore/offshore split was set in a revised amendment for the years 1993-1995. Amendment 23 provided for an allocation of 90% of the Pacific cod TAC and 100% of the pollock TAC in the GOA to the inshore sector. In addition, the Catcher Vessel Operational Area (CVOA) and the Community Development Quota (CDQ) program in the BSAI were established. The CVOA limited access to pollock within the area to catcher vessels delivering to either inshore or offshore processors. The CDQ program allocated 7.5% of the BSAI pollock TAC to CDQ fisheries.

Amendments 38 and 40 were necessary to extend the inshore/offshore allocations set in Amendments 18 and 23 through December 31, 1998. The purpose of the amendments was to keep the fishery from turning back into the “free-for-all” it represented previously. Since the original inshore/offshore allocation, the Council had been working toward developing a long-term, comprehensive plan for rationalizing all the groundfish and crab fisheries in and off of Alaska. By the end of 1995, when it was evident that the plan would not be ready for implementation before the inshore/offshore allocations expired, the Council determined it was necessary to extend the provisions of Amendments 18 and 23 for an additional three years in order to maintain stability in the industry, facilitate further development of the comprehensive management regime, and allow for the realization of the goals and objectives of the pollock CDQ program.

In addition to the original need for this action, there was an industry request to move the western CVOA boundary eastward, based on the fact that part of the CVOA was not being used by catcher vessels delivering to inshore processors, and the area was not critical for protected species.

**Regulation Summary:** The provisions of BSAI Amendment 18 became the basis of Amendment 38, and the provisions of GOA Amendment 23 became the basis for Amendment 40. Thus, in the BSAI the apportionments of pollock in each subarea and season would be allocated 35% for processing by the inshore sector and 65% by the offshore sector. In the GOA, the apportionment of pollock would be allocated entirely for processing by the inshore sector, and the apportionment of Pacific cod would be allocated 90% for the inshore sector, 10% for the offshore sector. The amendments also reauthorized the CDQ pollock program with a few minor changes to the regulations. The only two substantive changes from the original plan amendments were: 1) movement of the western CVOA boundary 30 minutes to the east, and 2) allowing catcher/processors to use the CVOA if the pollock quota for processing by the inshore sector had already been harvested for the year.

**Analysis:** A 268-page EA/RIR/IRFA (final draft dated August 1, 1995) and several appendices were prepared for this amendment. Two alternatives were considered: 1) No action, and 2) continuation of the current program for a period of three additional years (1996-1998), including the pollock CDQ program as an unseverable element of the overall package. The analysis reiterated the Council’s intent not to consider alternative inshore/offshore allocation percentages, as that would likely require significant new and complex economic analyses, create unnecessary delays in implementing an allocation scheme, and be inconsistent with the overall intent to develop a more long-term solution through the Comprehensive Management Plan process.

**Results:** This amendment simply retained the existing inshore/offshore pollock processing allocations for an additional three year period, through 1998. Stability within and among industry sectors, and associated communities and participants, was maintained by this amendment.

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## **BSAI Amendment 39    Establish a License Limitation Program, Multi-Species Community Development Quota Program**

**Dates:** NMFS published a proposed rule for Amendment 39 to the BSAI FMP on August 15, 1997 (62 FR 43866). The amendment was adopted with Amendment 41 to the GOA FMP and Amendment 5 to the Commercial King and Tanner Crab Fisheries FMP. NMFS published the final rule on October 1, 1998 (63 FR 52642). Effective date of implementation was January 1, 1999, except for some parts effective January 1, 2000.

**Purpose and Need:** In 1992, the Council committed to rationalize the groundfish and crab fisheries and begin development of a Comprehensive Rationalization Plan (CRP). The CRP was prompted by concerns that expansion of the domestic harvesting fleet, in excess of that needed to efficiently harvest the optimum yield, was burdening compliance with the Magnuson-Stevens Act and severely deteriorating the economic benefits derived from the crab and groundfish fisheries. The Council examined several management alternatives including, license limitation programs, individual fishing quotas (IFQs), and more traditional measures, and determined that a limited entry program had the most potential to address the immediate overcapitalization problems of the industry. As a result, the Council approved the License Limitation Program (LLP) in 1995, recognizing the need for further rationalization in the future.

The overall purpose of the LLP is to help resolve the competing and oftentimes conflicting needs of the domestic fisheries that developed under open access and to close the gap between fishing capacity and the available fishery resource. The LLP limits the number, size, and specific operation of vessels fishing crab and groundfish in the BSAI and GOA based on historical participation. During the design and refinement of the LLP, the Vessel Moratorium Program (VMP) was implemented to provide industry stability and curtail interim increases in fishing capacity. The intent was for the LLP to replace the VMP upon implementation.

Amendment 39 also expanded the Community Development Quota (CDQ) Program by including in CDQ allocations a percentage of the total allowable catch (TAC) of groundfish and crab species in the BSAI that was not previously included in the existing CDQ programs for pollock, halibut, and sablefish.

**Regulation Summary:** The final rule limited access to the commercial groundfish fisheries in the BSAI and GOA and commercial crab fisheries in the BSAI, except for demersal shelf rockfish east of 140° W. longitude and sablefish managed under the IFQ program. The rule provided for the following: issuance of a single type of groundfish license; LLP is not applicable to waters of the State of Alaska; licenses would be issued to current owners (as of 6/17/95) of qualified vessels; licenses would be designated as catcher vessel or catcher/processor and with one of three vessel length classes; the crab and groundfish base qualifying period is 1/1/88-6/27/92 and the groundfish area endorsement qualifying period is 1/1/92-6/17/95; endorsement areas are defined as Aleutian Islands, Bering Sea, Western Gulf, Central Gulf, and Southeast Outside, or state waters shoreward of those endorsement areas; landing requirements for general license and area endorsement qualifications by vessel class; and additional provisions addressing crossover vessels, transfers, and vessel linkages. The rule also included in CDQ allocations 7.5% of the TAC of groundfish and crab in the BSAI that was not originally included in the CDQ programs for pollock, halibut, and sablefish.

**Analysis:** A final EA/RIR (dated September 1997) and several supplemental analyses considered the status quo and a general license limitation alternative. Out of a comprehensive list of elements and options the Council considered during the debates on LLP, the analysis identified one option for each component of a license limitation program to create the preferred alternative described above in the final rule. A supporting document also analyzed the differences between the vessel moratorium program and the license limitation program passed by the Council. The vessel moratorium was more liberal in terms of qualification criteria and the areas a vessel could fish. Under the moratorium a vessel was only required to make one landing of a qualifying species between 1/1/88 and 2/9/92, and having met that criteria the moratorium permit holders could fish groundfish in any federal waters off Alaska. Therefore, because the LLP had dual qualification criteria, many fewer vessels were expected to qualify than did for the moratorium.

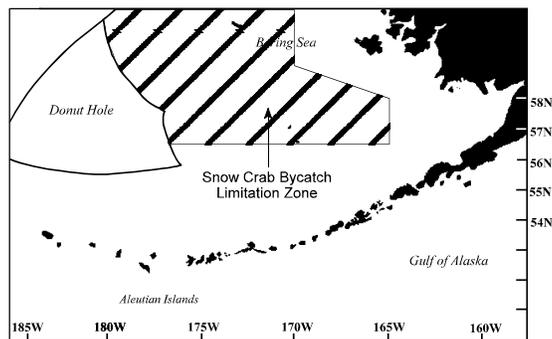
**Results:** The LLP went into effect on January 1, 2000, thus an evaluation of the program and the final number of license holders is not yet available. The LLP continues to be refined through subsequent amendments. The Council recently approved BSAI Amendment 60, GOA Amendment 58, and BSAI Crab Amendment 10 which amended the LLP to include: a crab recency requirement of one landing during 1/1/96-2/7/98 in addition to the general license and area endorsement qualifications; a requirement that the vessel name is included on the license; license designations for the type of gear authorized to harvest LLP groundfish as either "trawl" or "non-trawl" gear (or both); and a requirement that the vessel itself would be a specific characteristic of the license and could not be severed (i.e., the license could not be used on any other vessel). In addition, Amendment 67 to the BSAI FMP was approved by the Council in April 2000. This amendment requires a Pacific cod species and gear endorsement to fish in the BSAI fixed gear Pacific cod fishery, including recent participation criteria for the period 1995-1999, in addition to the general license and area endorsement qualifications.

## BSAI Amendment 40

## Establish Opilio Prohibited Species Catch Limits and Bycatch Limitation Zones

**Dates:** Amendment 40 was adopted by the Council in December 1996. The proposed rule was published August 13, 1997 (62 FR 43307), and the final rule was published December 22, 1997 (62 FR 66829). Effective date of implementation was January 21, 1998.

**Purpose and Need:** Recruitment of Bering Sea *C. opilio* (snow crab) stock was at a relatively low level, based on NMFS bottom trawl survey data. The 1996 *C. opilio* season produced only 64.6 million lb for the 235 vessels participating. This was the lowest catch since 1984. Survey data from 1996 indicated that adult males were abundant, but females and pre-recruits were becoming less abundant. The groundfish fisheries incidentally catch crab. An objective of the FMP is to minimize the impact of groundfish fisheries on crab and other prohibited species while providing for rational and optimal use of the region's fishery resources. All gear types used to catch groundfish have some potential to incidentally catch crab, but the large majority of crab bycatch occurs in trawl fisheries for flatfish. Byatch limits for *C. opilio* had never been established for Bering Sea trawl fisheries. The objective of this amendment was to control snow crab bycatch in trawl fisheries and provide some protection for the snow crab stock.



Location of the *C. opilio* bycatch limitation zone.

**Regulation Summary:** Under Amendment 40 of the BSAI Groundfish FMP, PSC limits for snow crab (*C. opilio*) taken in groundfish fisheries are based on total abundance of *opilio* crab as indicated by the NMFS standard trawl survey (NPFMC 1996). The snow crab PSC cap is set at 0.1133% of the Bering Sea snow crab abundance index, with a minimum PSC of 4.5 million snow crab and a maximum of 13 million snow crab. Snow crab taken within the “C. Opilio Bycatch Limitation Zone” (COBLZ) accrue towards the PSC limits established for individual trawl fisheries. Upon attainment of a snow crab PSC limit apportioned to a particular trawl target fishery, the COBLZ would be closed to directed fishing for species in that trawl fishery category, except for pollock with nonpelagic trawl gear. The COBLZ within the EEZ is an area defined as that portion of the Bering Sea Subarea north of 56°30' N. latitude that are west of a line connecting the following coordinates in the order listed:

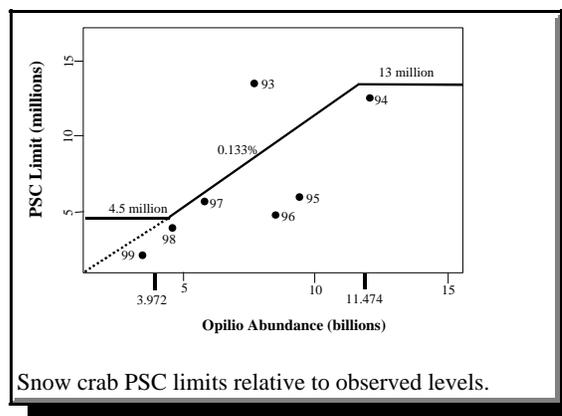
56°30' N. lat.,	165°00' W. long.
58°00' N. lat.,	165°00' W. long.
59°30' N. lat.,	170°00' W. long.

and north along 170°00' W. longitude to its intersection with the U.S.-Russian Boundary.

**Analysis:** A 44 page EA/RIR/IRFA (final draft dated October 2, 1997) was prepared for this amendment. Four alternatives including the status quo were considered. The other alternatives and options that were not chosen would have established a fixed PSC limit of 6 million or 11 million crab, or a PSC limit that fluctuated with abundance at all stock sizes. The alternative chosen incorporated fixed limits at high and low stock sizes, and fluctuating levels at intermediate stock sizes.

**Results:** Since the amendment was approved, bycatch of *C. opilio* crab has been greatly reduced. In 1998, the Council adopted a provision to reduce *C. opilio* crab bycatch by an additional 150,000 crab as part of the regulation prohibiting the use of bottom trawl gear for pollock fisheries (Amendment 57).

The *C. opilio* crab stock was deemed “overfished” on September 24, 1999, because the survey estimate of spawning stock biomass fell below the minimum spawning stock threshold established for this crab stock. The Council is developing a rebuilding plan that considers reducing the PSC limit at low stock sizes.



Snow crab PSC limits relative to observed levels.

## BSAI Amendment 41 Reduced Bairdi Prohibited Species Catch Limits

**Dates:** Amendment 41 was adopted by the Council in September 1996. The proposed rule was published on January 2, 1997 (62 FR 85), and the final rule was published on March 24, 1997 (62 FR 13839). Effective date of implementation was April 23, 1997.

**Purpose and Need:** The Bering Sea Tanner crab *C. bairdi* stock was measured to be at near historically low levels, based on NMFS bottom trawl survey data. The fishery was also in trouble. The 1995 Tanner crab season produced only 4.5 million lb (2017 mt) for the 196 vessels participating. This amount was the lowest catch since the fishery reopened in 1988. Preliminary 1996 survey data indicated that the stock decline would continue. Tanner crab PSC limits for trawl fisheries established under Amendment 10 were 1,000,000 crab in zone 1 and 3,000,000 crab in zone 2. The objective of this amendment was to reduce Tanner crab bycatch in trawl fisheries, particularly at low stock sizes, to assist in recovery of this stock.

**Regulation Summary:** The alternative adopted and approved under Amendment 41 provides for the annual specification of the revised PSC limits based on the total estimated abundance of *C. bairdi* as shown in the adjacent table. *C. bairdi* taken as bycatch within the zones accrue towards the PSC limits established for individual trawl fisheries. Upon attainment of a PSC limit apportioned to a particular trawl target fishery, that fishery is prohibited from fishing within the specified zone. Note that in 1998, the Council adopted a provision to reduce opilio crab bycatch by an additional 50,000 *C. bairdi* crab as part of the regulation prohibiting the use of bottom trawl gear for pollock fisheries.

### PSC limits for *C. bairdi* Tanner crab established by Amend. 41.

Species	Zone	Crab Abundance	PSC Limit
Tanner Crab	Zone 1	0-150 million crabs	0.5% of abundance
		150-270 million crabs	750,000
		270-400 million crabs	850,000
		over 400 million crabs	1,000,000
Tanner Crab	Zone 2	0-175 million crabs	1.2% of abundance
		175-290 million crabs	2,100,000
		290-400 million crabs	2,550,000
		over 400 million crabs	3,000,000

**Analysis:** A 41-page EA/RIR/IRFA (final draft dated November 20, 1996) was prepared for this amendment. Three alternatives including the status quo were considered. The other alternative that was not chosen would have reduced the PSC limits to a fixed level regardless of stock size (900,000 crab in Zone 1 and up to 2,100,000 crab in Zone 2). The alternative chosen was more conservative in that defining a larger area may offer more protection.

### Number of *C. bairdi* crabs taken as incidental bycatch in BSAI trawl fisheries, 1994-1999.

Year	Zone 1	Zone 2
1994	748,848	1,709,724
1995	900,036	1,288,895
1996	840,389	969,103
1997	821,173	1,062,618
1998	564,320	901,134
1999	360,200	494,360

**Results:** Since the amendment was approved, bycatch of Tanner crab has been reduced. Nevertheless, the Tanner crab stock continued to decline, and was deemed "overfished" on March 3, 1999 because the survey estimate of spawning stock biomass fell below the minimum spawning stock threshold established for this crab stock. In October 1999, the Council adopted a rebuilding plan for this stock, but determined that bycatch limits established under Amendment 41 were sufficiently conservative.

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## BSAI Amendment 42 Individual Fishing Quota Vessel Buy Down

**Dates:** Amendment 42 to the BSAI (GOA 42) FMP was initiated by the Council in 1995. The proposed rule was published on June 25, 1996 (61 FR 32767) and the final rule, on August 22, 1996 (61 FR 43312). Effective date of implementation was August 16, 1996.

**Purpose and Need:** During the first year of fishing under the Individual Fishing Quota (IFQ) Program in 1995, IFQ fishermen reported that the prohibition against using or transferring QS across vessel categories limited their ability to improve the profitability of their operations. Many fishermen had received QS that represented far fewer pounds than their catch history prior to the IFQ program. Small boat fishermen reported the scarcity of medium- and large-size QS blocks ( $\geq 5,000$  lb (2.3 mt)) available to smaller vessels and requested that the Council enable them to purchase shares from QS holders in larger vessel size categories. Also, category B vessel operators reported difficulties in using or marketing small category B blocks and requested the opportunity either to downsize operations or to sell smaller QS blocks to owners of smaller vessels.

Amendment 42 was intended to relieve certain restrictions in the IFQ Program by increasing the flexibility of QS use and transfer while maintaining the management goals of the IFQ Program and to provide small boat fishermen with more opportunities to improve the profitability of their operations.

**Regulation Summary:** Amendment 42 and a regulatory amendment to the IFQ Program for fixed gear Pacific halibut and sablefish fisheries in and off Alaska allowed QS initially assigned to a larger vessel category to be used on smaller vessels, while continuing to prohibit the use of QS or its associated IFQ assigned to smaller vessel categories on larger vessels. QS will continue to be assigned to vessel categories by existing criteria at Sec. 679.40(a)(5) (I) through (vi) and will retain original vessel category assignments. However, halibut and sablefish QS and their associated IFQ assigned to vessel Category B, can be used on vessels of any size and halibut QS assigned to vessel Category C likewise can be used on vessels of categories C and D. The regulations continue to prohibit the use of QS and IFQ on vessels larger than the maximum length on average (LOA) of the category to which the QS was originally assigned. It does not apply to halibut in IFQ regulatory areas 2C or to sablefish east of 140° W. long. Halibut QS assigned to vessel Category B in IFQ regulatory areas 2C and sablefish QS east of 140° W. long. are prohibited from use on vessels less than or equal to 60 ft (18.3 m) LOA except in QS blocks equivalent to less than 5,000 lb (2.3 mt) based on the 1996 Total Allowable Catch (TAC).

**Analysis:** A 31-page analysis (Secretarial review draft dated August 5, 1996) examined two alternatives to the status quo. The Council ultimately recommended an alternative that included an exemption for Southeast Alaska. Allowing the “buydown” to occur only for category B blocks < 5,000 lb in Southeast still benefits crewmen and small vessel owners who would be able to use small category B blocks on smaller vessels without affecting the market price of category B medium and large blocks and unblocked QS.

**Results:** Amendment 42 is assumed to have attained its goal of increasing the availability of QS’s to owners of smaller vessels, however, no systematic evaluation has been performed.

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## BSAI Amendment 43 Increase Individual Fishing Quota Vessel Buy Down

**Dates:** Amendments 43/43 to the BSAI and GOA FMPs were initiated by the Council in 1995. The proposed rule was published on September 27, 1996 (61 FR 50797) and the final rule on December 26, 1996 (61 FR 67962). Effective date of implementation was December 20, 1996.

**Purpose and Need:** This amendment along with a regulatory amendment to effect the same regulatory change for halibut was deemed necessary to increase the consolidation (“sweep-up”) levels for small quota share (QS) blocks for Pacific halibut and sablefish managed under the IFQ program. The IFQ longline industry reported that current sweep-up levels do not equal the harvest of a viable fishing trip and proposed a moderate increase in these levels to allow greater amounts of QS to be swept-up into economically “fishable” amounts, without overly increasing consolidation or allowing the creation of large-sized blocks. This action is intended to maintain consistency with the objectives of the IFQ program (i.e., prevent excessive consolidation of QS, maintain diversity of the fishing fleet, and allow new entrants into the fishery), while increasing the program’s flexibility by allowing a moderately greater amount of QS to be “swept-up” into larger amounts that can be fished more economically.

**Regulation Summary:** Amendment 43 increased the sweep-up levels for small QS blocks for Pacific halibut and sablefish from a 1,000 lb (0.45 mt) maximum for Pacific halibut and 3,000 lb (1.4 mt) maximum for sablefish to a 3,000 lb (1.4 mt) maximum and a 5,000 lb (2.3 mt) maximum, respectively. Two other changes were recommended to accompany these increases:

- 1) The base year TAC for determining the pounds would be the 1996, rather than 1994, TAC which was used for the first sweep-up levels;
- 2) Once QS levels are established for the appropriate regulatory areas based on the 1996 TAC, those QS levels would be fixed and codified. This would eliminate any confusion as to the appropriate sweep-up level in pounds, which would fluctuate with changes in the annual TAC.

Sablefish	Halibut
(I) Southeast Outside district: 33,270 QS	(I) Area 2C: 19,992 QS
(ii) West Yakutat district: 43,390 QS	(ii) Area 3A: 27,912 QS
(iii) Central Gulf area: 46,055 QS	(iii) Area 3B: 44,193 QS
(iv) Western Gulf area: 48,410 QS	(iv) Subarea 4A: 22,947 QS
(v) Aleutian Islands subarea: 99,210 QS	(v) Subarea 4B: 15,087 QS
(vi) Bering Sea subarea: 91,275 QS	(vi) Subarea 4C: 30,930 QS
	(vii) Subarea 4D: 26,082 QS
	(viii) Subarea 4E: 0 QS

The maximum number of QS units that may be consolidated into a single QS block in each IFQ regulatory area is shown in the above table.

**Analysis:** A 32-page analysis (Secretarial review draft dated November 27, 1996) included a range of alternatives of setting the sweep-up level at 1,000, 3,000, and 5,000 lb for halibut and 3,000, 5,000, and 7,000 lb for sablefish. The Council rejected the status quo levels (the lowest) and the highest levels. The analysis concluded that a moderate increase in the sweep-up levels would likely increase the transfer of very small, blocked QS to crew and small boat fishermen who seek to increase their holdings. While some price increases in small block shares might have occurred, a price differential was projected to remain between smaller and larger QS blocks. If the ability to transfer and consolidate small blocks would increase, then the number of unfished blocks would decrease.

At much larger sweep-up levels than currently allowed, the price differential between blocked and unblocked shares was projected to be lost. The effectiveness of the Block Program may be reduced at large sizes since large blocks and unblocked shares have been reported to sell at roughly the same price and would eliminate entry level QS. Price structure goals of the Block Program would be lost, as well. The differential pricing of larger blocked and unblocked QS would be further exacerbated by the paucity of financing for the IFQ industry at the time, particularly for crew and new entrants without capital or assets.

**Results:** Relatively few sweep-up transactions occurred in 1995 and 1996. Following implementation of Amendment 43, the number of sweep-up transactions increased substantially related to the higher sweep-up limits. In 1998, the number decreased to levels closer to those similar to 1995 and 1996. In total, the number of sweepable blocks declined by 693 for halibut and 151 for sablefish from 1995 through 1998.

## BSAI Amendment 44 Overfishing Definitions

**Dates:** Amendments 44/44 to the BSAI and GOA FMPs were adopted by the Council in June 1996. The notice of approval for this amendment was published on January 17, 1997 (62 FR 2656). Effective date of implementation was January 9, 1997.

**Purpose and Need:** In response to the national standards established in the Magnuson Act and advisory guidelines, the Council developed an objective and measurable definition of overfishing and, in 1991, implemented that definition under Amendments 16 (BSAI) and 21 (GOA) to the FMPs. In the years since implementation of that definition, fishery scientists had the opportunity to evaluate the efficacy of these definitions of ABC and overfishing. In light of that experience and with the increased understanding of the reference fishing mortality rates used to define ABCs and overfishing, fishery scientists had raised several concerns about the definitions and the extent to which they reflect and account for levels of uncertainty about fish populations. Consequently, NMFS's Overfishing Definitions Review Panel and the Council's Scientific and Statistical Committee recommended redefining ABC and overfishing to facilitate more conservative, risk-averse management measures when stock size and mortality rates are not fully known. The purpose of this Amendment was to revise the ABC and overfishing definitions to be consistent with these recommendations.

**Regulation Summary:** Amendments 44/44 provided for more conservative definitions of ABC and OFL. The fishing mortality rate used to calculate ABC was capped by the overfishing rate. The maximum allowable fishing rates were prescribed through a set of 6 tiers which are listed in descending order of preference, corresponding to descending information availability. These tiers are shown in the adjacent table. Harvest rates used to establish ABCs are reduced at low stock size levels, thereby allowing rebuilding of depleted stocks. If the biomass of any stock falls below  $B_{MSY}$  or  $B_{40\%}$  (the long-term average biomass that would be expected under average recruitment and  $F=F_{40\%}$ ), the fishing mortality is reduced relative to stock status. This serves as an implicit rebuilding plan should a stock fall below a reasonable abundance level.

**Analysis:** A 60-page EA (final draft dated January 6, 1997) was prepared for this amendment. Two alternatives including the status quo were considered. The alternative chosen was more conservative for several reasons. First, the overfishing rate varies with biomass. Second, the ABC fishing rate is reduced when biomass is below levels that produce maximum sustainable yields. Lastly, more caution is incorporated into establishing fishing rates when less information is available; this is particularly true of tier 1.

**Results:** The amendment resulted in lower (more conservative) ABCs; consequently, total allowable catch levels were reduced for many species. The definitions adopted under Amendments 44/44 were further revised under Amendments 56/56.

### Tiers used to determine ABC and OFL for BSAI groundfish stocks under Amendment 44.

- (1) Information available: Reliable point estimates of B and  $B_{MSY}$  and reliable pdf of  $F_{MSY}$ .
  - 1a) Stock status:  $B/B_{MSY} > 1$   
 $F_{OFL} = m_A$ , the arithmetic mean of the pdf  
 $F_{ABC} \leq m_H$ , the harmonic mean of the pdf
  - 1b) Stock status:  $a < B/B_{MSY} \leq 1$   
 $F_{OFL} = m_A \times (B/B_{MSY} - a)/(1 - a)$   
 $F_{ABC} \leq m_H \times (B/B_{MSY} - a)/(1 - a)$
  - 1c) Stock status:  $B/B_{MSY} \leq a$   
 $F_{OFL} = 0$   
 $F_{ABC} = 0$
- (2) Information available: Reliable point estimates of B,  $B_{MSY}$ ,  $F_{MSY}$ ,  $F_{30\%}$ , and  $F_{40\%}$ .
  - 2a) Stock status:  $B/B_{MSY} > 1$   
 $F_{OFL} = F_{MSY} \times (F_{30\%}/F_{40\%})$   
 $F_{ABC} \leq F_{MSY}$
  - 2b) Stock status:  $a < B/B_{MSY} \leq 1$   
 $F_{OFL} = F_{MSY} \times (F_{30\%}/F_{40\%}) \times (B/B_{MSY} - a)/(1 - a)$   
 $F_{ABC} \leq F_{MSY} \times (B/B_{MSY} - a)/(1 - a)$
  - 2c) Stock status:  $B/B_{MSY} \leq a$   
 $F_{OFL} = 0$   
 $F_{ABC} = 0$
- (3) Information available: Reliable point estimates of B,  $B_{40\%}$ ,  $F_{30\%}$ , and  $F_{40\%}$ .
  - 3a) Stock status:  $B/B_{40\%} > 1$   
 $F_{OFL} = F_{30\%}$   
 $F_{ABC} \leq F_{40\%}$
  - 3b) Stock status:  $a < B/B_{40\%} \leq 1$   
 $F_{OFL} = F_{30\%} \times (B/B_{40\%} - a)/(1 - a)$   
 $F_{ABC} \leq F_{40\%} \times (B/B_{40\%} - a)/(1 - a)$
  - 3c) Stock status:  $B/B_{40\%} \leq a$   
 $F_{OFL} = 0$   
 $F_{ABC} = 0$
- (4) Information available: Reliable point estimates of B,  $F_{30\%}$ , and  $F_{40\%}$ .
  - $F_{OFL} = F_{30\%}$   
 $F_{ABC} \leq F_{40\%}$
- (5) Information available: Reliable point estimates of B and natural mortality rate M.
  - $F_{OFL} = M$   
 $F_{ABC} \leq 0.75 \times M$
- (6) Information available: Reliable catch history from 1978 through 1995.
  - $OFL =$  the average catch from 1978 through 1995, unless an alternative value is established by the SSC on the basis of the best available scientific information  
 $ABC \leq 0.75 \times OFL$

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## **BSAI Amendment 45    Permanently Extend Community Development Quota Allocation**

**Dates:** Amendment 45 was adopted by the Council in June 1998. The final and interim emergency rules were published on January 26, 1999 (64 FR 3877). Effective date of implementation was January 21, 1999.

**Purpose and Need:** The allocation of pollock TAC to the CDQ program from 1992 through 1998 had been instrumental in providing the revenues, employment, and training benefits to achieve the Council's goals of helping western Alaska communities to develop and support commercial fishery activities that result in ongoing, regionally based commercial fisheries or related businesses. The 1996 amendments to section 305 of the Magnuson-Stevens Act require the Council and the Secretary to "establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program." An amendment to the FMP was necessary to continue the allocation of pollock to the CDQ program.

Amendments 18 and 38 authorized the allocation of 7.5% of pollock total allowable catch (TAC) in the Bering Sea and Aleutian Islands (BSAI) to the Western Alaska Community Development Program for the groundfish and crab fisheries for three years periods between 1993 and 1998. Amendment 45:

- 1) permanently extended the CDQ allocation which was to sunset December 31, 1998;
- 2) removed the pollock CDQ program from the inshore/offshore section of the FMP and reorganized three separate CDQ-related sections of the FMP;
- 3) increased the pollock allocation to 10% through December 31, 2004 to comport with the provisions of the American Fisheries Act of 1998.

**Regulation Summary:** Ten percent of pollock and 7.5% of all other groundfish and crab TACs are set aside for the Western Alaska CDQ program.

**Analysis:** A 146-page analysis (Secretarial review draft dated December 1, 1998) considered the economic impacts of the first 6 years of the pollock CDQ program in western Alaska. The analysis estimated that 249 entities are affected by regulations governing the BSAI pollock fishery, of which 130 are small entities. Sixty-five Alaska villages near the Bering Sea formed six CDQ groups and established partnerships with fishing corporations. Five communities whose residents participate in the BSAI pollock fisheries but are not eligible for the CDQ program, 140 trawl catcher vessels, 31 trawl catcher/processors, three motherships, and eight shoreside processing plants were also affected.

The EA/RIR/IRFA estimates that in 1997, over 200 people from CDQ communities were employed directly in the pollock harvesting and processing industry, and a total of about 1,200 CDQ program related jobs had been created. These jobs are in CDQ program management (6 % of jobs), pollock harvesting and processing (27 %), other fisheries harvesting and processing (50 %), and other employment (17 %).

NMFS considered two alternatives to minimize economic impacts on the small entities negatively affected by this action. The first alternative would be to allocate 3.5 % of pollock TAC to the CDQ reserve. Although this alternative would benefit the small entities not receiving CDQ allocation, the benefits accruing to the (then) 56 CDQ communities would have been considerably less. Those communities have limited opportunities for generating income and investment such that the reduction from 7.5 % to 3.5 % reserve would have likely produced significant negative economic impacts on these small entities. The second alternative would have let the present reserve of 7.5 % of pollock TAC expire at the end of 1998. This action would result in a further shift of impacts from one set of small entities to another. It would benefit the non-CDQ participants in the fishery while cutting revenues of the CDQ groups.

**Results:** The pollock CDQ allocations have led to training and employment opportunities for community residents. Since the inception of the program in 1992, the program has provided approximately 1,000 jobs annually for Western Alaska residents. Total wages exceeded \$30 million during the 1992-1999 period. The CDQ program has also contributed to infrastructure development projects within the region as well as loan programs and investment opportunities for local fishermen. The six CDQ groups have earned over \$20 million per year from contracts with their industry partners that harvest the pollock CDQ quotas on behalf of the CDQ groups. The value of the CDQ groups' equity ownership in fishing vessels, on-shore development projects, loan portfolios, and Individual Fishing Quota holdings has increased an average of 37 % per year since 1992, and totaled approximately \$64 million in 1997.

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## **BSAI Amendment 46 Pacific Cod Allocation II**

**Dates:** Amendment 46 was adopted by the Council in June 1996. NMFS published a proposed rule to implement Amendment 46 to the Fishery Management Plan for the groundfish of the BSAI on August 22, 1996 (61 FR 43325). The final rule was published on November 20, 1996 (61 FR 59029). Effective date of implementation was January 1, 1997.

**Purpose and Need:** Amendment 46 was proposed to extend the management measures authorized by Amendment 24 beyond 1996. Amendment 24 authorized the explicit allocation of BSAI Pacific cod among vessels using trawl, hook-and-line or pot gear, and jig gear. The amendment also authorized the seasonal apportionment of the amount of Pacific cod allocated to vessels using hook-and-line or pot gear and the reallocation of the unused portion of one gear's allocation to other gear types.

Amendment 24 was proposed in response to socioeconomic concerns of the fishing industry and the need for stability in the trawl gear and fixed gear (longline, pot, and jig) fleets. The fishery was exhibiting numerous overcapitalization problems such as compressed fishing seasons, high bycatch and waste, gear conflicts, and an overall reduction in benefit from the fishery. At the April 1993 meeting, the Council developed a problem statement that focused on resolving overcapitalization in the BSAI Pacific cod fishery, and in June recommended the Amendment 24 management measures to be implemented through 1996. The alternative approved allocated the BSAI Pacific cod TAC to the jig gear (2%), hook-and-line or pot gear (44%) and trawl gear (54%) fleets.

The Council's action was intended to provide industry and community stability by directly allocating to gear groups approximately the average percent of Pacific cod taken with these gear types during 1991-1993. In addition, the intent of the seasonal apportionment in the fixed gear sector was to allow for a first and third season fishery when halibut bycatch rates, product quality, and markets are most advantageous. Upon the expiration of Amendment 24, the Council began an analysis to extend the allocations. At the December 1995 Council meeting, it was noted that while the action provided the necessary stability to the various gear sectors, significant regulatory, economic, and biological changes had occurred in the Pacific cod fishery since the amendment was implemented in 1994. These changes were incorporated into the original analysis with a specific focus on reducing prohibited species mortality, impacts on habitat, and cod discards by the different gear sectors. The analysis examined a range of possible allocations, and the Council then tasked an industry-based negotiating committee to agree on a new allocation regime that would be acceptable to all sectors of the fishery. The final percentages were chosen based on the current harvest percentage taken by the trawl and fixed gear sectors under current halibut PSC limits while retaining the 2% allocation for jig gear.

### **Regulation Summary:**

- 1) **BSAI Pacific cod TAC Apportionments:** Trawl sector: 47% (The trawl apportionment will be split between catcher vessels and catcher processors 50/50.); Fixed gear sector: 51%; Jig gear sector: 2%
- 2) **Roll-overs:** On September 15 of each year, the Regional Director shall reallocate 100% of any projected unused amount of the Pacific cod allocated to jig vessels to the fixed gear vessels. If, during a fishing year, the Regional Director determines that vessels using trawl gear or hook-and-line or pot gear will not be able to harvest the entire amount of Pacific cod allocated to those vessels, then NMFS shall reallocate the projected unused amount of Pacific cod to vessels using the other gear type(s).
- 3) **Halibut PSC Mortality Caps:** The trawl halibut PSC mortality cap for Pacific cod will be no greater than 1,600 mt. The hook-and-line gear halibut PSC mortality cap for Pacific cod will be no greater than 900 mt.
- 4) **Review:** No sunset provision, but the Council will review this agreement in four years following the date of implementation.

**Analysis:** A 173-page EA/RIR (final draft dated October 1996) was prepared for this amendment. Six alternative allocation splits, including no action, were considered. While the specific allocation preferred by the negotiating group and approved by the Council was not explicitly identified in the analysis, it was well within the range of alternatives considered. Thus, the Council had sufficient information on the impacts of the alternative to make a decision.

**Results:** The allocations established in Amendment 46 have continued to stabilize the BSAI cod fishery as the Council continues on the path towards comprehensive rationalization. However, since the amendment was passed, there have been further allocation and limited entry measures imposed on the BSAI Pacific cod fishery by Amendments 64, 67 and 77.

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## **BSAI Amendment 47 Third Party Observer Program (withdrawn)**

WITHDRAWN - At the December 1997 meeting the Council was scheduled to take action approving an alternative observer program structure - a Joint Partnership Agreement (JPA) between NMFS and the Pacific States Marine Fisheries Commission (PSMFC), which would have established PSMFC as a third party procurement point for observers. This was being considered as a replacement for the repealed Research Plan (Amendment 30), in an effort to address conflict of interest and other issues in the existing pay-as-you-go program structure. Due to legal concerns of PSMFC this amendment was not approved by the Council and was never forwarded for Secretarial review. Instead, the existing pay-as-you-go program was extended for an additional time period, through year 2000. Currently, NMFS and Council staff are working on revised program structure alternatives, including a fee-based plan, and the current program will be extended through 2002.

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## **BSAI Amendment 48 Total Allowable Catch Streamlining (tabled)**

**Dates:** The BSAI and GOA Plan Teams first proposed streamlining the groundfish specifications process in 1996. The Council initiated Amendments 48 to the BSAI and GOA FMPs in December 1996 to address administrative and public notice issues. The Council's preferred action to rollover harvest specifications from one year to the next was approved in June 1998. ABCs, TACs, and PSC amounts would remain unchanged from year to year until revised in a final rule. In July 1999, the NMFS Regional Administrator notified the Council that the Council's preferred alternative was not in compliance with the National Environmental Policy Act, the Administrative Procedures Act, and the Regulatory Flexibility Act. However, the Council and NMFS acknowledge the continuing need to revise the existing TAC specification process to meet the following objectives:

- 1) manage fisheries based on the best available information;
- 2) make adjustments to TAC amounts to respond to new information or conservation concerns;
- 3) comply with NEPA, ESA, and RFA provisions while minimizing unnecessary disruption to fisheries;
- 4) provide adequate opportunity for public review and comment on new information leading to annual TAC recommendations; and
- 5) promote administrative efficiency while minimizing public confusion regarding proposed and interim specifications.

**Purpose and Need:** The annual specification process for the Alaska groundfish fisheries needs to be improved to serve the public better, by:

- 1) eliminating the publication of proposed and possibly misleading information in proposed and interim specifications;
- 2) enhancing the ability of NMFS to adjust the TAC and PSC amounts inseason;
- 3) removing obsolete references to foreign and joint venture management measures.

**Regulation Summary:** This amendment was not formally submitted to the Secretary and no regulations have been implemented.

**Analysis:** A 13-page analysis concluded that the existing specification process could be improved. Proposed specifications may be outdated by the time they are published for public review. Interested parties realize that those numbers will change, sometimes considerably, after release of the final SAFE reports and December Council meeting. The *Federal Register* publication of proposed specifications, therefore, may no longer serve a useful purpose.

Rejected alternatives included:

- 1) scheduling the Council and Plan Team meetings to occur earlier in the year to allow more time to publish proposed and final specifications; interim specifications would be unnecessary. A limiting factor to the specification process is the time needed by the Plan Teams to analyze data and produce final SAFE documents. Survey data is not available until late summer or early fall, and it is unlikely that assessments of the fisheries could be made any earlier. The Plan Teams and the Council prefer to base their recommendations on the most current possible information. A minimum of two weeks is needed between the November Plan Team meeting and the December Council meeting for the SAFE reports to be released for public review. It would be impracticable, therefore, for the specification process to occur any earlier in the year.
- 2) change the fishing year to an April 1-March 31 cycle so that the final specifications could be published in enough time to eliminate the need for interim specifications. This change in fishing year could also benefit the Plan Teams if they were allowed more time to analyze fishery data. However, NMFS is required to provide annual statistics to other organizations, such as the United Nations Food and Agriculture Organization. Coordination with State-managed fisheries, which operate on the calendar year would be difficult. Finally, some biologists believe that the calendar year is the best time period in which to manage temperate species, since they reproduce early in the spring and a measure of year class strength and recruitment is available to the scientists each year in time to do annual stock assessments. If the fishing year were changed, fish year classes may be split into different years, complicating the determination of recruitment, growth, and mortality.

**Results:** The Council currently reviewing a revised Amendment 48.

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## BSAI Amendment 49 Improved Retention / Improved Utilization Program

**Dates:** Amendment 49 was approved by the Council in September 1996. The proposed rule was published on June 26, 1997 (62 FR 34429). The final rule was published December 3, 1997 (62 FR 63880). Effective date of implementation was January 3, 1998. Amendment 49 to the GOA FMP was implemented as separate rulemaking.

**Purpose and Need:** To reduce discards, the Council adopted an improved retention and utilization program (IR/IU) for all groundfish target fisheries. This action was deemed necessary to address one of the Council's comprehensive fishery management goals, adopted in 1984, to "minimize the catch, mortality, and waste of non-target species and reduce the adverse impacts of one fishery on another." The Council also recognized that fish caught as bycatch in one fishery represent an allocation away from any target fishery for the bycatch species. In addition, a priority objective of the FMP is to "provide for the rational and optimal use, in a biological and socioeconomic sense, of the region's fisheries resources as a whole."

The IR/IU program was intended to improve utilization and effective control/reduction of bycatch and discards in the fisheries off Alaska to address the following problems:

- 1) bycatch and discard loss of groundfish, crab, herring, salmon, and other non-target species;
- 2) economic loss and waste associated with the discard mortality of target species harvested but not retained for economic reasons;
- 3) inability to provide for a long-term, stable fisheries-based economy due to loss of fishery resources through wasteful fishing practices;
- 4) the need to promote improved retention and utilization of fish resources by reducing waste of target groundfish species to achieve long-term sustainable economic benefits to the nation.

**Regulation Summary:** Amendment 49 required all vessels fishing for groundfish in the BSAI to retain all pollock and Pacific cod beginning January 1, 1998, and all rock sole and yellowfin sole beginning January 1, 2003. It established a 15-percent minimum utilization standard for all at-sea processors.

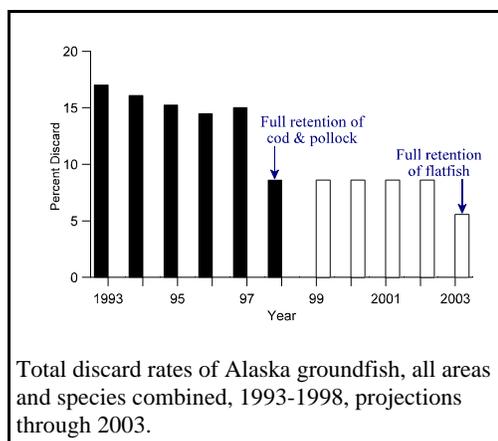
**Analysis:** A 200-page analysis (Secretarial review draft dated September 3, 1997) reviewed a variety of bycatch reduction plans that had been discussed by the Council since 1993. While other alternatives were discussed, primary focus was given to these three alternative programs:

- 1) individual fishing quotas for groundfish species;
- 2) a "Harvest Priority" program that would provide for quota set-asides for vessels exhibiting low bycatch rates of non-target species;
- 3) retention and utilization mandates, with built-in incentives for fishing operations to avoid unwanted species.

In the 1997 Bering Sea/Aleutian Islands groundfish fisheries, a total of 258,000 mt of groundfish was discarded, equating to about 15% of the total groundfish catch. The analysis determined that pollock, Pacific cod, rock sole, and yellowfin sole represent approximately 76 percent of the total discards of allocated groundfish in the BSAI groundfish fisheries. The Council concluded that by requiring 100 percent retention of these four species, initially pollock and Pacific cod, and subsequently yellowfin and rock sole, the Council's objective of "substantially reducing discards of unprocessed groundfish" in these fisheries could be achieved.

**Results:** Beginning in 1998, 100% retention of pollock and Pacific cod was required, regardless of how or where it was caught. Only fish not fit for human consumption can be legally discarded. This measure has dramatically reduced overall discard of groundfish. For example in 1997, about 22,100 mt of cod (8.6% of the cod catch) and 94,800 mt of pollock (8.2% of the pollock catch) were discarded. In 1998, discard amounted to only 4,300 mt of cod (2.2%) and 16,200 mt of pollock (1.6%). Bering Sea and Aleutian Islands rock sole and yellowfin sole retention will be required beginning in 2003; the delay will allow for development of new markets and gear technological responses by the vessels engaged in these fisheries. These retention requirements are expected to reduce overall discard rates (all species) from about 15% to about 5%.

The implementation of IR/IU for rock sole and yellowfin sole has been repealed in 2003 (see Amendment 75).



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## **BSAI Amendment 50 Halibut Donation Program**

**Dates:** Amendment 50 was adopted in April 1997 and implemented in June 1998, after administrative difficulties were addressed in the design of the program initiated in 1993. It expanded the existing Salmon Donation Program (SDP) to create a Prohibited Species Donation (PSD) program that would include halibut as well as salmon. The final rule for BSAI and GOA Amendments 50/50 (63 FR 32144) was published on June 12, 1998. The effective date of implementation was July 13, 1998 (63 FR 32144). This rule was effective only for a limited period ending December 31, 2000, to allow the Council to assess its success. (In June 2000 the Council permanently extended the program with a built-in, periodic review, but no sunset.)

**Purpose and Need:** Approximately 6,500 metric tons of halibut were taken incidentally to the Alaska groundfish fisheries during 1999. Vessels participating in these fisheries typically use trawl, hook-and-line, or pot gear, with trawl gear accounting for most of the groundfish catch and halibut bycatch. A portion of this bycatch is landed dead at shoreside processing facilities and must be returned to Federal waters for disposal as a prohibited species. The Council's intent was to:

- (1) reduce regulatory discards and protein waste in the groundfish trawl fisheries;
- (2) provide additional opportunity to collect biological samples or scientific data; and
- (3) support an industry initiative to reduce regulatory discards and provided a healthy alternative to the diets of needy people.

The purpose of this amendment was to reduce the waste of dead, but wholesome, fish, and in doing so provide public benefit by allowing fish that would otherwise be discarded to be retained for processing and delivery to food bank organizations. Any costs associated with this recommended action would be borne by the voluntarily participating shoreside processors and the NMFS authorized distributor.

**Regulation Summary:** This action authorized the voluntary donation of Pacific halibut taken as bycatch in specified groundfish trawl fisheries off Alaska to economically disadvantaged individuals. Under the prohibited species donation program, NMFS expanded the existing salmon donation program to also authorize distributions by tax-exempt organizations through a NMFS-authorized distributor. The program is limited to dead halibut landed by trawl catcher vessels to shoreside processors.

**Analysis:** The Council discourages the discard of incidental catches of fish as wasteful. Managing halibut incidentally caught in the groundfish fisheries as a prohibited species is an appropriate short term bycatch measure. Except under the prohibited species donation program, retention of prohibited species captured while harvesting groundfish is prohibited to prevent covert targeting on these species. The prohibition removes the incentive that groundfish fishermen might otherwise have to target on the relatively high valued prohibited species, and thereby, results in a lower incidental catch. It also eliminates the market competition that might otherwise exist between domestic halibut fishermen and groundfish fishermen who might land halibut in the absence of the prohibition.

A 20-page analysis (Secretarial review draft dated September 12, 1997) determined that no changes in fishing activities that would affect the amount of groundfish harvested nor the amount of halibut taken as bycatch in the Alaska trawl fisheries was expected by the preferred alternative. The total burden to processors resulting from the preferred alternative could not be estimated because participation would be voluntary; however, based on information acquired through the SDP, costs were estimated at approximately 20 cents per pound for donated halibut.

**Results:** Waste of salmon and halibut has been reduced by allowing bycatch to be donated to food banks. The food banks in turn distribute the fish to needy people in the northwestern United States. Many fishing companies voluntarily participate in the donation program. Through 1998, over 3 million pounds of donated salmon have produced an estimated 12 million meals for needy persons. To date, two of three plants in Dutch Harbor have donated halibut. Although limited to no more than 50,000 lb, the actual donated amount was 21,196 lb in 1998 and 4,476 lb in 1999. Inconsistency in reporting and enforcement may have led to the decline in participation in 1999.

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## BSAI Amendment 51 Extend the Catcher Vessel Operational Area

**Dates:** Amendment 51 was approved by the Council in June 1998. NMFS published a proposed rule to amend the BSAI and GOA Groundfish FMPs on October 29, 1998 (63 FR 57996). The final rule for BSAI Amendment 51 and GOA Amendment 51 was published on January 25, 1999 (64 FR 3653). Effective date of implementation was January 20, 1999.

**Purpose and Need:** The TACs for pollock in the BSAI and for pollock and Pacific cod in the GOA have been allocated between the inshore and offshore components of the groundfish fisheries since 1992. Amendments 51/51 were proposed to extend the provisions of Amendment 38 to the BSAI FMP and Amendment 40 to the GOA FMP, which expired on December 31, 1998. Amendments 38 and 40 previously extended BSAI Amendment 18 and GOA Amendment 23, respectively. The original amendments set processor allocations of the pollock TAC in the BSAI and pollock and Pacific cod processor allocations in the GOA, as a response to an early closure in 1989 when several catcher/processers harvested substantial amounts of pollock in the BSAI and GOA and forced an early closure of the GOA pollock fishery. The amendments allocated 35% to the inshore and 65% to the offshore processing sector of the BSAI pollock fishery, and allocated 90% of the cod and 100% of the pollock to the inshore processing sector in the GOA. The Catcher Vessel Operational Area (CVOA) and the Community Development Quota (CDQ) program were also established. The CVOA limited access to pollock within the area to catcher vessels delivering to either inshore or offshore processors. The CDQ program allocated 7.5% of the BSAI pollock TAC to CDQ fisheries.

At its meeting in June 1998, the Council took final action to adopt Amendments 51/51 to the FMPs. By proposing these FMP amendments, the Council intended to change the inshore/offshore allocations in the BSAI but continue the existing allocations in the GOA. However, on October 21, 1998, the President signed the American Fisheries Act (AFA) into law (Pub. L. 105-277). The AFA, among other things, allocated the BSAI pollock TACs differently than the Council had recommended. The Council held a special meeting November 10-13, 1998, in part to discuss the effects of AFA on its inshore/offshore proposal and other management programs. In light of the AFA, the Council recommended specific changes to its Amendment 51/51 proposal, and on December 15, 1998, NMFS partially approved BSAI Amendment 51 and fully approved GOA Amendment 51. The decision not to approve parts of BSAI Amendment 51 is consistent with the Council's intent for achieving consistency with the AFA as expressed at its meeting in November 1998.

Section 206 of the AFA specifically mandates an allocation of 10% of the pollock TAC to a directed fishing allowance for the CDQ program plus an additional allocation of pollock for incidental catches in all non-pollock fisheries. Of the remaining pollock TAC, the law stipulates the following allocations: 50% to the inshore component, 40% to the offshore component (catcher processors), 10% to the offshore component (motherships). The effective period of the inshore/offshore allocations specified in the AFA is January 1, 1999, through December 31, 2004 (sec. 206 and 213).

**Regulation Summary:** As adopted by the Council in June 1998, the BSAI amendment contemplated four changes to the current inshore/offshore allocation regime. In light of the AFA, the BSAI inshore/offshore pollock allocations were disapproved, and the only change (partially) approved related to the Catcher Vessel Operational Area (CVOA). The original Amendment 51 would have changed the existing CVOA rules by excluding from the CVOA all catcher vessels that deliver pollock to the offshore component (catcher/processers and motherships). Motherships had previously been allowed to operate within the CVOA, receiving and processing pollock harvested by catcher vessels. Catcher/processor vessels had not been allowed to harvest pollock in the CVOA during the B season. In recommending the CVOA portion of Amendment 51, the Council attempted to create parity between motherships and catcher/processor vessels. NMFS approved all of the proposed amendment maintaining the CVOA with the exception of that component. This is because the AFA specifies separate allocations of the pollock TACs for the mothership and catcher/processor sectors, thereby achieving the parity intended by the Council. Hence, the exclusion of catcher vessels from the CVOA that deliver to the offshore component was an unnecessary duplication of an AFA provision, and as such, was inconsistent with National Standard 7. Note that although the approved CVOA provisions are effectively the same as they were for 1996-98, further restrictions on fishing in the CVOA were implemented in 1999 to mitigate the effects of pollock fishing on Steller sea lions and their critical habitat, within which much of the CVOA lies.

**Analysis:** A 299-page EA/RIR/IRFA (final draft dated December 9, 1998) was prepared for Amendment 51/51. Five alternatives were considered, including: the no action alternative; a rollover of the existing inshore/offshore program; several options to revise the BSAI pollock processing inshore/offshore percentages; a set-aside for catcher vessels less than 125' length overall; and a set-aside for catcher vessels less than 155' length overall. The Council's preferred alternative was to allocate 39% of the BSAI pollock TAC inshore and 61% offshore (after CDQs are deducted from the BSAI TAC), and to maintain the current GOA allocations of 90% Pacific cod and 100% pollock to the inshore sector. The Council also adopted a 2.5% set-aside for BSAI catcher vessels less than 125' length overall delivering to processors in the inshore sector. While the Council's preferred BSAI allocation split was not a specified alternative, it was well within the range of BSAI allocation percentages evaluated in the analysis—the analysis evaluated options to allocate 25%, 30%, 40%, and 45% of the BSAI pollock TAC to the inshore sector. With the passage of the AFA, however, the portions of the amendment stipulating BSAI pollock allocations became immaterial, thus only the GOA portions of the amendment and the provisions relevant to the CVOA were approved.

**Results:** The major provisions of this amendment (primarily the percentage allocations of the TAC for pollock processing) were disapproved given the passage of the AFA. The AFA instituted a different allocation among sectors, and instituted a fundamentally different management program for BSAI pollock including the formation of fishery cooperatives (see Amendment 61/61).

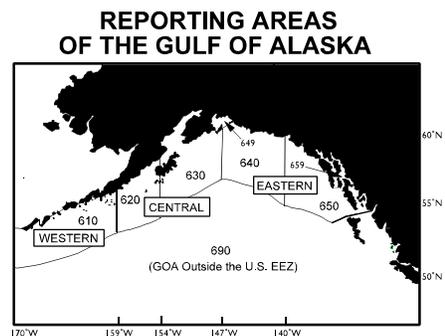
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## BSAI Amendment 52 Vessel Registration Program (tabled)

**Dates:** The Council initiated an analysis of two complementary management actions in Amendments 52 to the BSAI and GOA FMPs in December 1997 and approved it in February 1998. A plan amendment to authorize NMFS to establish a vessel registration program for “at risk” fisheries that met certain criteria has been tabled because of changes in the fisheries as a result of the American Fisheries Act and Amendment 61. Only a regulatory amendment for a stand down for trawl vessels transiting between the BSAI and GOA was submitted to the Secretary and approved. The final rule for BSAI and GOA Amendments 52/52 was published on September 11, 1998 (63 FR 48641). Effective date of implementation for the standdown was September 8, 1998.

**Purpose and Need:** Management of the inshore pollock and Pacific cod fisheries of the Western and Central (W/C) Regulatory Area of the Gulf of Alaska (GOA) had become increasingly difficult. The risk of harvest overruns had grown due to TAC amounts that are small relative to the potential fishing effort. The problem has been most acute in the Western Regulatory Area due to the constant potential pressure that numerous large catcher vessels based in the Bering Sea (BS) could cross into the GOA to participate in pollock and Pacific cod openings that have relatively small TACs. NMFS lacked a pre-season vessel registration program that could gauge potential effort in these fisheries prior to openings, and inseason catch information in these fisheries was neither timely nor accurate enough to allow adequate management.

The objective of Amendment 52 was to create a vessel registration program to require vessels to announce their participation in either the BSAI or GOA pollock and Pacific cod fisheries before the fishery commenced. This action is necessary to prevent unexpected shifts of fishing effort between BSAI and GOA fisheries that can lead to overharvests of total allowable catch (TAC) in the Western and Central Regulatory Areas of the GOA. It is intended to further the stated goals and objectives of the BSAI and GOA FMPs.



**Regulation Summary:** Under a vessel registration program, NMFS would establish criteria to determine which fisheries would require registration. Based on these criteria, NMFS would create a roster of “registration fisheries” that would be announced at the beginning of each year and supplemented as necessary on an inseason basis throughout the year. Criteria for establishing a registration requirement for a fishery could include:

- 1) the size of the TAC amount or PSC limit specified for the fishery relative to the degree of interest in that fishery,
- 2) a fishery for which the TAC or PSC limit was exceeded by a significant amount in the previous year and the current year’s quota and expected effort are similar,
- 3) a fishery for which the above two criteria may not apply but an expanded interest has developed inseason, and
- 4) a “mop-up” fishery.

Vessel operators would be required to register with NMFS a certain number of days before beginning directed fishing in a registration fishery and penalties would be established for non-compliance.

**Analysis:** A 25-page EA/RIR/IRFA (public review draft dated January 1998) was prepared for this amendment. Two complementary management actions were considered by the Council, in addition to the status quo alternative. The analysis concluded that the fleet as a whole would benefit if NMFS is able to manage “at risk” fisheries so that quotas are more fully harvested and the overhead costs associated with re-crewing and transiting to the fishing grounds for short term “mop-up” openings could be avoided. A registration requirement would reduce the flexibility of vessel operators to enter and leave fisheries at will. In some cases, this could pose costs for certain operations if they realize mid-course that they would prefer to be participating in a short term fishery for which they have not registered. Nevertheless, while a registration requirement for certain “at risk” fisheries will increase the constraints on the fleet, it will serve to increase the ability of NMFS to manage such fisheries to obtain optimum yield and provide the greatest net benefit to the nation.

**Results:** Due to higher priorities, the vessel registration program was not developed by NMFS. As a result of the American Fisheries Act of 1998, the structure of the pollock fisheries in the BSAI has been significantly altered, obviating the need for the vessel registration program as originally envisioned by the Council. A broader vessel registration program in conjunction with electronic reporting requirements may be developed in the future.

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## BSAI Amendment 53 Shortraker/Rougheye Rockfish Allocation in Aleutian Islands by Gear

**Dates:** Amendment 53 was adopted by the Council in February 1999. The final rule for this amendment was published on July 28, 1998 (63 FR 40190). Effective date of implementation was July 22, 1998.

**Purpose and Need:** Shortraker rockfish and rougheye rockfish (SR/RE) are commercially valuable species which are managed together as a complex. However, amounts available to the commercial fisheries are limited by a relatively small total allowable catch (TAC) amount that is fully needed to support incidental catch or bycatch needs in other groundfish fisheries. As a result, the directed fishery for SR/RE typically is closed at the beginning of the fishing year. Bycatch of SR/RE is highest in the Pacific ocean perch (POP) and Atka mackerel trawl fisheries, but SR/RE also are taken in non-trawl fisheries.

In 1997, unanticipated high harvest rates of SR/RE in the POP and Atka mackerel trawl fisheries undermined the effectiveness of inseason management and resulted in harvest amounts that exceeded the acceptable biological catch. Estimates of SR/RE bycatch through mid-1997 indicated that the overfishing level would be reached if fisheries that took these species in the AI were not closed. As a result, NMFS prohibited the retention of Atka mackerel, Pacific cod, and rockfish by vessels using trawl gear and retention of Pacific cod and Greenland turbot by vessels using hook-and-line gear. Thus, although overfishing concerns stemmed primarily from the bycatch of SR/RE in the POP and Atka mackerel trawl fisheries, non-trawl fisheries that also take incidental amounts of these rockfish also were closed, or threatened with closure, to prevent overfishing of SR/RE. These overfishing closures disrupted fishing plans and resulted in a loss of economic opportunity for the trawl and non-trawl fishing industry. To get at this problem, separate maximum retainable bycatch (MRB) percentages were established for SR/RE that would minimize the impact that "topping off" behavior may have on the rate at which the SR/RE TAC is reached. "Topping off" occurs when vessel operators alter fishing operations to catch more of these species up to the amount under MRB constraints. To minimize this practice, a separate MRB percentage was established for SR/RE of 7 percent relative to certain deepwater species (primarily POP) and 2 percent relative to all other species except arrowtooth flounder, which cannot be used as a species against which SR/RE may be retained.

In spite of the proposed MRB percentages, overall bycatch amounts of SR/RE still could pose concern because the TAC amounts annually specified for SR/RE are small in comparison to the high volume POP and Atka mackerel trawl fisheries. Consequently, representatives of the trawl and non-trawl industries recommended that the Council adopt an FMP amendment to allocate SR/RE between gear groups.

**Regulation Summary:** At its February 1998 meeting, the Council approved Amendment 53 to the FMP. After subtraction of reserves, this amendment would allocate 30 percent of the remaining SR/RE TAC to non-trawl gear and 70 percent of the remaining SR/RE TAC to trawl gear.

**Analysis:** A 27-page EA/RIR (final draft dated June 1998) was prepared for this amendment. Two alternatives including the status quo were considered. The alternative adopted and approved was based on an industry recommended allocation of SR/RE TAC between trawl and non-trawl vessels, which was intended to provide an allocation to the non-trawl fleet in excess of actual relative harvest in recent years. Trawl industry representatives endorsed this split, recognizing that trawl bycatch rates likely will decrease as a result of the proposed reduction in the MRB percentages for SR/RE. A gear allocation based solely on historical catch between gear groups would not adequately account for the fact that non-trawl fisheries have been preempted in the past by closures resulting from trawl bycatch of SR/RE. The gear-specific allocation of SR/RE will allow more effective management of SR/RE in both fisheries and minimize the potential for over harvest of the SR/RE TAC.

**Table showing catch of shortraker and rougheye rockfish in the Aleutian Islands region, by gear type.**

<u>Year</u>	<u>Trawl</u>	<u>Longline</u>	<u>Pot</u>
1994	764	159	3
1995	459	99	0
1996	771	189	0
1997	946	96	0
1998	414	269	0
1999	340	144	0

**Results:** Since the amendment was approved, more SR/RE has been landed by vessels using longline gear, and less by those using trawl gear. Also, the inseason management issues relative to unanticipated effort in this fishery have been resolved.

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## BSAI Amendment 54 Individual Fishing Quota Indirect Ownership and Use Caps

**Dates:** The Council approved Amendments 54 to the BSAI and GOA FMPs in October 1998. The final rule implementing this action was issued April 29, 2002 (67 FR 20915). Effective date of implementation was May 29, 2002.

**Purpose and Need:** During the 1995-97 IFQ seasons, NMFS broadly interpreted the FMP and regulatory language to allow persons holding initial allocation QS to hire skippers to fish their IFQ on vessels owned by other "persons," provided that the QS holder could show a corporate association to the owner of the vessel. This policy allows individual QS holders to hire skippers to fish their IFQ on vessels owned by corporations or partnerships in which the individual QS holders are shareholders or partners. The policy also allows corporations or partnerships holding QS to fish the collectively held QS on a vessel owned by individuals who are shareholders or partners in the corporation or partnership. At the beginning of the 1997 IFQ season, NMFS announced to the IFQ fleet that this policy of broadly interpreting the term "person" as it pertains to IFQ hired skipper provisions would continue until the Council could clarify its original intent. Two other clarifying FMP language changes were also included in this action.

Three actions proposed for this plan amendment were:

(1) Revise the FMP to allow a QS holder's association to a vessel owner, through corporate or other collective ties, to substitute for the QS holder's vessel ownership *per se* for purposes of hiring a skipper to fish the QS holder's IFQ. (This document analyzes a proposal to revise the current FMP language and pertinent regulations to authorize a QS holder's indirect vessel ownership, through corporate or other collective ties, to serve as a substitute for direct vessel ownership *per se* for purposes of the IFQ program's hired skipper provisions.)

(2) Revise the definition of "a change in the corporation or partnership" in the FMPs to include language specific to estates. Estates are included under the definition of the term "Person" in the FMPs and 50 CFR 679.2 as "corporations, partnerships, associations, or other entities." The FMPs and IFQ implementing regulations require that upon any change in a corporation, partnership, or other entity that holds QS the QS transfer to a qualified individual. A "change" in a corporation, partnership, or other entity is defined as the addition of a shareholder or partner to the corporation, partnership, or collective entity. This definition is not applicable to estates, because estates are not collective entities which may acquire additional shareholders, partners, or members. Nevertheless, because an estate's QS would not automatically transfer to an heir once the estate is probated, the FMPs and IFQ regulations need to define the point at which estates must transfer their QS to a qualified individual.

(3) Change sablefish use limits from percentages of the total number of QS units in the QS pool for each area to a specific number of QS units. In June 1996, the Council approved a regulatory amendment to increase the Bering Sea (Area 4) halibut use caps from ½ percent to the QS equivalents of 1 ½ percent based on 1996 QS pools. This amendment also revised the halibut use limits to be expressed as a fixed number of QS units rather than as a percentage, in order to provide QS holders with a more stable reference for measuring their holdings against area use caps. Sablefish IFQ use limits are set in the FMPs. Consequently, the regulatory change to the halibut use limits could not at the same time change the calculation of sablefish use limits to a fixed number of QS units for consistency. This FMP amendment would effect that revision to calculate the sablefish in QS units based on the appropriate percentage of the 1996 QS pools. This change would standardize the application of use caps for both halibut and sablefish fisheries and would provide the same level of predictability for sablefish QS holdings as currently exists for halibut QS.

**Analysis:** A 20-page EA/RIR/IRFA (Secretarial Review draft dated January 2001) was prepared for this amendment. Three separate management actions were considered. One status quo and one proposed alternative were considered for each action.

**Results:** The amendment was implemented in 2002.

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## BSAI Amendment 55 Define Essential Fish Habitat

**Dates:** NMFS published Essential Fish Habitat (EFH) guidelines as interim final rule on December 19, 1997 (62 FR 66531). Amendment 55 was adopted by the Council in June 1998 along with EFH amendments for other FMPs (groundfish, salmon, scallops, crab). The final rule for BSAI and GOA Amendments 55/55 was published on April 26, 1999 (64 FR 20216). Effective date of implementation was January 20, 1999.

**Purpose and Need:** The Magnuson-Stevens Act was amended in 1996 by the Sustainable Fisheries Act. The new Act mandated that any FMP must include a provision to describe and identify essential fish habitat (EFH) for the fishery, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. Essential fish habitat has been broadly defined by the Act to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity". All eight regional councils are required to amend their fishery management plans by October 1998 to:

- identify and describe EFH for species managed under a fishery management plan;
- describe adverse impacts to that habitat from fishing activities and non-fishing activities;
- recommend conservation and enhancement measures necessary to help minimize impacts, protect, and restore that habitat; and
- include conservation and enhancement measures necessary to minimize to the extent practicable, adverse impacts from fishing on EFH.

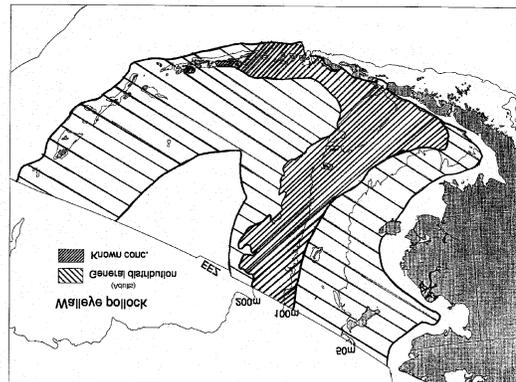
The purpose of this amendment is to provide for improved long-term productivity of the fisheries, to allow NMFS and the Council to be more proactive in protecting habitat areas, and by alerting other federal and state agencies about areas of concern. Federal agencies engaging in activities that may adversely affect EFH must consult with NMFS regarding those activities. NMFS must, and the Council may, make suggestions on how to mitigate any potential habitat damage. The Council will be required to comment on any project that may adversely affect salmon habitat or habitat of any other anadromous fish (smelt, steelhead, etc.).

**Regulation Summary:** The alternative adopted and approved defined EFH as all habitat within a general distribution for a species life stage, for all information levels and under all stock conditions. A general distribution area is a subset of a species range. For any species listed under the Endangered Species Act, EFH includes all areas identified as "critical habitat". EFH was described in text, tables, and maps. Habitat areas of particular concern were identified as living substrates in shallow and deep waters, and freshwater habitats used by anadromous fish.

**Analysis:** A 364-page EA (final draft dated January 1999) and a background assessment report were prepared for this amendment. Three alternatives including the status quo were considered. The other alternative that was not chosen would have defined EFH only as areas of high concentration for each life stage. The alternative chosen was more conservative in that defining a larger area may offer more protection.

**Results:** Since the amendment was approved, NMFS has been sued by a coalition of plaintiffs (Earthjustice Legal Defense Fund, Center for Marine Conservation, National Audubon Society, and others) who allege that the EFH amendment failed to meet statutory requirements (did not analyze the effects of fishing on habitat, and did not impose practicable measures to minimize impacts of fishing gear) and violated the National Environmental Policy Act (NEPA).

In February 2000, the Council reviewed the first draft analysis for management measures that would identify additional habitat areas of particular concern (HAPC) types and areas, and take additional measures to protect HAPC from potential effects caused by fishing activities. Alternative management actions that were considered included making HAPC biota (e.g., mussels, kelp, sponges) a prohibited species, and prohibiting bottom fishing in areas shown to have concentrations of Gorgonian coral, which have been shown to be long lived (500 yrs), vulnerable to fishing gear, and important habitat for rockfish. Based on public testimony, and input from its advisory committees, the Council voted to split the amendment and associated analysis into two parts. Part one, which the Council adopted as final action in April 2000, prohibits the commercial harvest, sale and processing of sponges and corals. Part two of the HAPC amendments, which will require a longer time line, will be to develop a more comprehensive and iterative process for HAPC identification and habitat protection involving researchers, stakeholders, and management agencies.



Example of EFH distribution map.

## BSAI Amendment 56 Revised Overfishing Definitions

**Dates:** Amendments 56/56 to the BSAI and GOA FMPs were adopted by the Council in June 1998. The notice of approval for this amendment was published on March 8, 1999 (64 FR 10952). Effective date of implementation was January 27, 1999.

**Purpose and Need:** The 1996 amendments to the Magnuson-Stevens Act defined the terms “overfishing” and “overfished” to mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield (MSY) on a continuing basis. Additionally, it requires that all FMPs specify objective and measurable criteria for identifying when the fishery is overfished and, in the case of a fishery which is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing and rebuild the fishery. The Magnuson-Stevens Act further required regional fishery management councils to submit amendments, by October 11, 1998, that would bring fishery management plans into compliance.

The Magnuson-Stevens Act and the revised guidelines indicate that MSY, treated as a target strategy under the current FMP definition of overfishing, should represent a limit rather than a target. This means that “limit” harvest strategies (such as the rules used to specify overfishing levels [OFL]) should result in a long-term average catch that approximates MSY, and that “target” harvest strategies (such as the rules used to specify ABC) should result in catches that are substantially more conservative than the limit. Because tiers 2-4 of the current FMP definition could be interpreted as treating MSY as a target rather than as a limit, Amendment 56 revised tiers 2-4 by changing the default fishing mortality rate value from  $F_{30\%}$  to the more conservative estimate of  $F_{35\%}$ .

**Regulation Summary:** Amendment 56 revised the ABC and overfishing definitions set under Amendment 44 to be more precautionary. Like Amendment 44, the maximum allowable rates are prescribed through a set of six tiers which are listed below in descending order of preference, corresponding to descending order of information availability. For most tiers, ABC is based on  $F_{40\%}$ , which is the fishing mortality rate associated with an equilibrium level of spawning per recruit (SPR) equal to 40% of the equilibrium level of spawning per recruit in the absence of any fishing. To further minimize the possibility of catches jeopardizing a stock’s long term productivity, there is a buffer established between ABC and OFL. Amendment 56 modified the OFL definition from  $F_{30\%}$  to  $F_{35\%}$  for stocks having tiers 2-4 information.

**Analysis:** A 24-page EA (final draft dated June 23, 1998) was prepared for this amendment. Two alternatives including the status quo were considered. The alternative chosen was more conservative in that it consistently treats MSY as a limit rather than a target.

**Results:** These definitions are currently being used in the annual quota specifications process.

### Tiers used to determine ABC and OFL for BSAI groundfish stocks under Amendment 56.

- (1) Information available: Reliable point estimates of B and  $B_{MSY}$  and reliable pdf of  $F_{MSY}$ .
  - 1a) Stock status:  $B/B_{MSY} > 1$   
 $F_{OFL} = m_A$ , the arithmetic mean of the pdf  
 $F_{ABC} \leq m_H$ , the harmonic mean of the pdf
  - 1b) Stock status:  $a < B/B_{MSY} \leq 1$   
 $F_{OFL} = m_A \times (B/B_{MSY} - a)/(1 - a)$   
 $F_{ABC} \leq m_H \times (B/B_{MSY} - a)/(1 - a)$
  - 1c) Stock status:  $B/B_{MSY} \leq a$   
 $F_{OFL} = 0$   
 $F_{ABC} = 0$
- (2) Information available: Reliable point estimates of B,  $B_{MSY}$ ,  $F_{MSY}$ ,  $F_{30\%}$ , and  $F_{40\%}$ .
  - 2a) Stock status:  $B/B_{MSY} > 1$   
 $F_{OFL} = F_{MSY}$   
 $F_{ABC} \leq F_{MSY} \times (F_{40\%}/F_{35\%})$
  - 2b) Stock status:  $a < B/B_{MSY} \leq 1$   
 $F_{OFL} = F_{MSY} \times (B/B_{MSY} - a)/(1 - a)$   
 $F_{ABC} \leq F_{MSY} \times (F_{40\%}/F_{35\%}) \times (B/B_{MSY} - a)/(1 - a)$
  - 2c) Stock status:  $B/B_{MSY} \leq a$   
 $F_{OFL} = 0$   
 $F_{ABC} = 0$
- (3) Information available: Reliable point estimates of B,  $B_{40\%}$ ,  $F_{30\%}$ , and  $F_{40\%}$ .
  - 3a) Stock status:  $B/B_{40\%} > 1$   
 $F_{OFL} = F_{35\%}$   
 $F_{ABC} \leq F_{40\%}$
  - 3b) Stock status:  $a < B/B_{40\%} \leq 1$   
 $F_{OFL} = F_{35\%} \times (B/B_{40\%} - a)/(1 - a)$   
 $F_{ABC} \leq F_{40\%} \times (B/B_{40\%} - a)/(1 - a)$
  - 3c) Stock status:  $B/B_{40\%} \leq a$   
 $F_{OFL} = 0$   
 $F_{ABC} = 0$
- (4) Information available: Reliable point estimates of B,  $F_{30\%}$ , and  $F_{40\%}$ .
  $F_{OFL} = F_{35\%}$   
 $F_{ABC} \leq F_{40\%}$
- (5) Information available: Reliable point estimates of B and natural mortality rate M.
  $F_{OFL} = M$   
 $F_{ABC} \leq 0.75 \times M$
- (6) Information available: Reliable catch history from 1978 through 1995.  
 OFL= the average catch from 1978 through 1995, unless an alternative value is established by the SSC on the basis of the best available scientific information  
 $ABC \leq 0.75 \times OFL$

# BSAI Amendment 57 Pollock Bottom Trawl Gear Prohibition, Reduce Crab and Halibut Prohibited Species Catch Limits

**Dates:** Amendment 57 was adopted by the Council in June 1998. The proposed rule for this amendment was published on December 29, 1999 (64 FR 73003). Effective date of implementation was March 1999.

**Purpose and Need:** The Magnuson-Stevens Act was amended in 1996 by the Sustainable Fisheries Act. The new Act emphasized the importance of reducing bycatch to maintain sustainable fisheries. National Standard 9 of the Magnuson-Stevens Act mandates that conservation and management measures shall minimize bycatch, to the extent practicable, and shall minimize mortality where bycatch cannot be avoided. The objective of Amendment 57 is to reduce bycatch in the BSAI pollock fishery.

**Regulation Summary:** Amendment 57 prohibited the use of non-pelagic trawl gear when participating in the BSAI pollock fisheries. The definition of a pelagic trawl is relatively complex, whereas non-pelagic trawls are all other trawls not meeting the pelagic trawl definition. Regulations that define pelagic trawl gear are listed in the accompanying table. In addition, regulations prohibit any vessel engaged in directed pollock fishing from having 20 crabs larger than 1.5 inches carapace width onboard the vessel at any time. Crabs were chosen for the standard because they inhabit the seabed, and if caught, provide proof that a trawl has been in contact with the bottom. Vessels fishing for CDQ pollock were exempted from the non-pelagic trawl gear prohibition.

Amendment 57 also reduced the bycatch limits for halibut and crab due to the bottom trawl prohibition. Halibut bycatch mortality was reduced by 100 mt, and the PSC allowance for red king crabs was reduced by 3,000 animals, for *C. bairdi* crabs by 50,000 animals, and for *C. opilio* crabs by 150,000 animals. For *C. bairdi* crabs, the limit was lowered by 20,000 in Zone 1 and by 30,000 in Zone 2.

**Analysis:** A 72-page EA/RIR/IRFA (final draft dated November 1999) was prepared for this amendment. Two alternatives including the status quo were considered. In addition, three options for PSC reductions were evaluated. The alternative chosen prohibited the use of bottom trawls for pollock fishing as FMP language, and the option chosen resulted in the most reduced bycatch of halibut and crabs.

**Results:** The trawl fisheries were prosecuted under lower crab and halibut PSC bycatch limits in 1999 and 2000.

## Definition of pelagic and nonpelagic trawl gear. (§ 672.2 Parts 5 and 7)

- (5) Nonpelagic trawl means a trawl other than a pelagic trawl;
- (6) .....
- (7) Pelagic trawl means a trawl that:
  - (I) Has no discs, bobbins, or rollers;
  - (ii) Has no chafe protection gear attached to the foot rope or fishing line;
  - (iii) Except for the small mesh allowed under paragraph (7)(ix) of this definition:
    - (A) Has no mesh tied to the fishing line, head rope, and breast lines with less than 20 inches (50.8 cm) between knots, and has no stretched mesh size of less than 60 inches (152.4 cm) aft from all points on the fishing line, head rope, and breast lines and extending past the fishing circle for a distance equal to or greater than one half the vessel's length overall; or
    - (B) Has no parallel lines spaced closer than 64 inches (162.6 cm), from all points on the fishing line, head rope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm), extending aft for a distance equal to or greater than one half the vessel's LOA;
  - (iv) Has no stretched mesh size less than 15 inches (38.1 cm) aft of the mesh described in paragraph (7)(iii) of this definition for a distance equal to or greater than one half the vessel's length overall;
  - (v) Contains no configuration intended to reduce the stretched mesh sizes described in paragraphs (7)(iii) and (iv) of this definition;
  - (vi) Has no flotation other than floats capable of providing up to 200 pounds (90.7 kg) of buoyancy to accommodate the use of a net-sounder device;
  - (vii) Has no more than one fishing line and one foot rope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle;
  - (viii) Has no metallic component except for connectors (e.g., hammerlocks or swivels) or net-sounder device aft of the fishing circle and forward of any mesh greater than 5.5 inches (14.0 cm) stretched measure;
  - (ix) May have small mesh within 32 feet (9.8 m) of the center of the head rope as needed for attaching instrumentation (e.g., net-sounder device); and
  - (x) May have weights on the wing tips;

## Regulation on Trawl Performance Standard (679.7.14).

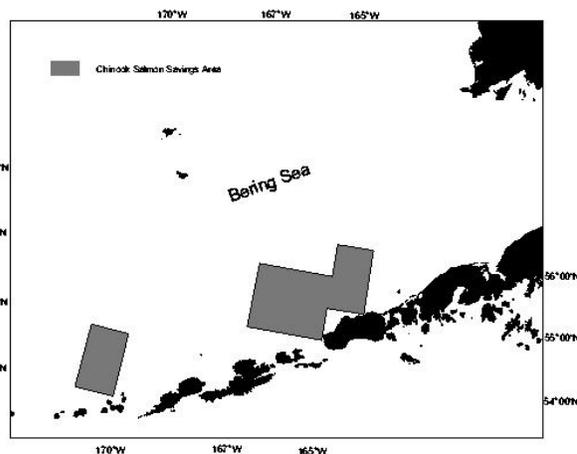
It is unlawful for any person to ... use a vessel to participate in a directed fishery for pollock with trawl gear and have on board the vessel, at any particular time, 20 or more crabs of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension when directed fishing for pollock with nonpelagic trawl gear is closed.

## BSAI Amendment 58 Reduced Chinook Salmon Prohibited Species Catch Limits, Modify Chinook Salmon Savings Area

**Dates:** Amendment 58 was adopted by the Council in February 1999. NMFS published a notice of availability on November 4, 1999 (64 FR 60157) and a proposed rule on December 21, 1999 (64 FR 71390). NMFS gave final approval on February 2, 2000.

**Purpose and Need:** Chinook salmon bycatch control measures, originally implemented under Amendment 21b, were thought to be needed for two reasons. First, many chinook salmon stocks are fully utilized, and uncontrolled bycatch constitutes an additional, unaccounted for allocation of the resources. Second, uncontrolled bycatch levels exceeding recent highs may lead to conservation problems for Alaskan and Canadian chinook salmon populations.

In 1996, the Magnuson-Stevens Act was amended in 1996 by the Sustainable Fisheries Act. The new Act emphasized the importance of reducing bycatch to maintain sustainable fisheries. National Standard 9 of the Magnuson-Stevens Act mandates that conservation and management measures shall minimize bycatch, to the extent practicable, and shall minimize mortality where bycatch cannot be avoided. The objective of Amendment 58 is to reduce chinook salmon bycatch in the BSAI groundfish fisheries.



Location of the chinook salmon savings areas in the BSAI, as modified by Amendment 58.

**Regulation Summary:** Amendment 58 reduced the amount of chinook salmon allowed to be taken as bycatch in BSAI trawl fisheries. Specifically, the adopted alternative did the following (1) reduced the chinook salmon PSC bycatch limit from 48,000 to 29,000 chinook salmon over a 4-year period, (2) implemented year-round accounting of chinook salmon bycatch in the pollock fishery, beginning on January 1 of each year, (3) revised the boundaries of the Chinook Salmon Savings Areas, and (4) set new closure dates. In the event the limit is triggered before April 15, the Chinook Salmon Savings Area closes immediately. The closure would be removed on April 16, but would be reinitiated September 1 and continue through the end of the year. If the limit were reached after April 15, but before September 1, then the areas would close on September 1. If the limit were reached after September 1, the areas would close immediately through the end of the year.

**Analysis:** A 238-page E A/RIR/IRFA (final draft dated September 29, 1999) was prepared for this amendment. Five primary alternatives including the status quo were considered along with several options for seasonal allocation, area closures, and applicable fisheries. The alternatives not chosen would have established a time/area closure but without a PSC limit that triggered a closure, or established a closure based on an annual limit of 36,000 salmon. The preferred alternative was the most conservative in that it reduced the PSC limit to only 29,000 chinook salmon taken in the pollock fisheries.

**Results:** Total number of chinook salmon taken annually as bycatch in BSAI groundfish fisheries is shown in the adjacent table.

### Number of chinook salmon taken as incidental bycatch in BSAI trawl fisheries, 1989-1999.

<u>Year</u>	<u>Chinook Salmon</u>
1989	40,354
1990	13,990
1991	35,766
1992	37,372
1993	45,964
1994	43,636
1995	23,079
1996	63,179
1997	50,218
1998	58,966
1999	12,918
2000	7,497
2001	38,270
2002	37,555

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## BSAI Amendment 59 Moratorium Extensions

**Dates:** On November 13, 1998, NMFS published the proposed rule for Amendment 59 to the Fishery Management Plan (FMP) for the Groundfish of the BSAI, Amendment 57 to the FMP for Groundfish of the GOA, and Amendment 9 to the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI (63 FR 63442). Amendments 59, 57 and 9 were approved jointly by the Council in June 1998. The final rule was published on January 25, 1999 (64 FR 3651). Effective date of implementation was January 19, 1999.

**Purpose and Need:** In 1987, concerned with excess harvesting capacity in the groundfish, crab, and halibut fisheries of the BSAI and GOA, the Council established a committee to examine the problem of overcapitalization. Upon conclusion that allocation conflicts and overcapitalization would worsen under the current open access system, the committee recommended a limited access management approach for these three fisheries. Concerned with the potential for speculative entry into the fisheries during discussions of management alternatives, the Council adopted Amendment 23 to the BSAI FMP and Amendment 28 to the GOA FMP, which required a moratorium permit for vessels within specific vessel categories that harvest groundfish and BSAI crab resources off Alaska. Generally, a vessel qualified for a moratorium permit if it made a legal landing of any moratorium species during the qualifying period of January 1, 1988 through February 9, 1992.

The purpose of Amendments 23 and 28 was to provide for an interim measure to slow significant increases in the harvesting capacity of the groundfish and crab fishing fleets until additional measures, such as the License Limitation Program (LLP) could be implemented. The LLP is part of a developing Comprehensive Rationalization Plan intended to resolve the overall issue of overcapitalization on a long-term basis, and transition the fisheries from an open access management system to a more market-based, limited access system. Without a moratorium, the Council feared that potentially unlimited new entry into the fishery would exacerbate overcapitalization and hinder the ultimate development of a successful Comprehensive Rationalization Plan.

The original amendments instituting the moratorium (Vessel Moratorium Program) were scheduled to expire on December 31, 1998. The License Limitation Program, intended to replace the Vessel Moratorium Program, would not be in effect until January 1, 2000. Therefore, regulatory action was necessary to extend the moratorium in order to eliminate the one year lag time between the expiration of the moratorium and the beginning of the LLP.

**Regulation Summary:** The final rule simply extended the Vessel Moratorium Program and the existing moratorium permits through December 31, 1999. The regulation also provided that no person could apply for a new moratorium permit after the original moratorium program expiration date of December 31, 1998, unless the application was based on a moratorium qualification that was used as a basis for obtaining a moratorium permit issued on or before that date.

**Analysis:** A 10-page RIR (final draft dated August 1998) was prepared for Amendments 59, 57, and 9. Two alternatives were considered: 1) allowing the Vessel Moratorium Program to expire (no action alternative), and 2) extending the program for one year. The analysis determined that although all of the impacts of a one-year lapse between the moratorium program and the LLP were not known, one potentially significant impact could be speculative entry into the affected fisheries by persons who would not qualify to fish under the moratorium program or the LLP. Because allowing new entry would exacerbate overcapitalization and the race for fish, the analysis determined that the no action alternative was inconsistent with the overall intent of comprehensive rationalization. The preferred alternative extended the moratorium for one year, allowing time for NMFS to complete the design and implementation of the LLP.

**Results:** As anticipated, the LLP to limit entry into the groundfish and crab fisheries off of Alaska went into effect January 1, 2000, effectively replacing the Vessel Moratorium Program (The authorization for the LLP is contained in BSAI Amendment 60/GOA Amendment 58/BSAI Crab Amendment 10). For general licenses, the base qualifying period established was January 1, 1988, through June 27, 1992, approximately four months longer than the moratorium qualification period, in order to be consistent with the Council's published cutoff date for qualification under the Comprehensive Rationalization Plan. The LLP also required an area endorsement for the BS, AI or the GOA, to provide for present participation in the fisheries (the qualifying period being January 1, 1992 through June 17, 1995). The moratorium established by Amendments 23 and 28 and extended by Amendments 59, 57, and 9 limited speculative entry into the fisheries while the LLP was being developed and approved, and kept the overcapitalization situation from worsening.

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## **BSAI Amendment 60    Adjustments to License Limitation Program**

**Dates:** Amendment 60 was approved by the Council in October 1998. The final rule implementing the amendment was published in 2001.

**Purpose and Need:** Following the approval of the original LLP program, industry members requested that the Council revise several of the provisions and qualification criteria, including adding a recent participation criteria for crab. BSAI Amendment 60, GOA Amendment 58, and BSAI Crab Amendment 10 encompass a package of changes focusing primarily on further capacity reductions and transferability restrictions, to tighten up the License Limitation Program before implementation.

**Regulation Summary:** Five changes were adopted and approved under these amendments: 1) a requirement that the vessel itself would be a specific characteristic of the license and could not be severed (i.e., the license could not be used on any other vessel); 2) license designations for the type of gear authorized to harvest LLP groundfish as either "trawl" or "non-trawl" gear (or both); 3) rescission of the Community Development Quota (CDQ) exemption and thus the requirement that CDQ vessels hold a crab or groundfish license; 4) the addition of a crab recency requirement which requires one landing during 1/1/96-2/7/98 in addition to the general license and area endorsement qualifications; and 5) allowance of limited processing (1 mt) for vessels <60' LOA with catcher vessel designations. The most significant addition under these amendments was the recent participation requirement of at least one landing in the king and Tanner crab fisheries between January 1, 1996 and February 7, 1998, which applied only to the base qualifying period under the crab LLP.

**Analysis:** A 203-page EA/RIR/IRFA (final draft dated July 1999) was prepared for these amendments. Six proposed actions were analyzed along with the status quo for each alternative, and the five changes outlined above were adopted. The change that was not approved would have clarified the Council's intent that catch history transfers be recognized, except those occurring after June 17, 1995, and where the owner of the vessel at that time was unable to document a vessel under Chapter 121, Title 46, U.S.C. NOAA General Counsel advised the Council that this action may violate foreign reciprocity agreements listed in the Magnuson-Stevens Act; therefore, the Council decided not to proceed with this proposed action.

**Results:** Amendment 60 is expected to reduce the number of vessels eligible to participate in the overcapitalized crab fisheries, and provide further capacity restrictions in the groundfish fisheries.

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## **BSAI Amendment 61 American Fisheries Act Implementation**

**Dates:** Amendment 61 was approved by the Council in June 1999, and implemented by NMFS via two emergency rules: (1) AFA permit requirements published on January 5, 2000, with an effective date of December 30, 1999, and (2) all other provisions of the AFA published on January 28, 2000 with an effective date of January 21, 2000. The amendment was partially approved by the Secretary of Commerce on February 29, 2003. The original language of the amendment included an expiration date of December 31, 2004, which was consistent with the original AFA language. This language has since been revised, and in order to ensure consistency with the Ace, the expiration date was disapproved.

**Purpose and Need:** In October 1998 the U.S. Congress passed the American Fisheries Act to achieve the following primary objectives: (1) remove excess capacity in the offshore pollock sector through the retirement of 9 factory trawlers (through a combination of appropriated funding and a loan to the onshore sector); (2) establish U.S. ownership requirements for the harvest sector vessels; (3) establish specific allocations of the BSAI pollock quota as follows - 10% to the western Alaska CDQ program, with the remainder allocated 50% to the onshore sector, 40% to the offshore sector, and 10% to the mothership sector; (4) identify the specific vessels and processors eligible to participate in the BSAI pollock fisheries; (5) establish the authority and mechanisms by which the pollock fleet can form fishery cooperatives; and, (6) establish specific measures to protect the non-AFA (non-pollock) fisheries from adverse impacts resulting from the AFA or pollock fishery cooperatives.

In addition, the AFA included provisions for the North Pacific Fishery Management Council to enact measures as necessary to further protect non-AFA fisheries from adverse impacts resulting from the AFA and pollock fishery cooperatives. In addition to implementing the prescribed portions of the AFA, Amendment 61 contains various specific protective measures developed by the Council which limit the pollock industry's participation in other fisheries - these are referred to as 'sideboards'.

**Regulation Summary:** Regulations establish the sector allocations of pollock, define the eligible vessels and processors, define the vessel/processor co-op linkages (which vessels are eligible for which co-ops), make allocations of the pollock TAC among each of the co-ops, and define the sideboard amounts of crab and non-pollock groundfish (based on historical share) that can be harvested and processed by the AFA operators, in both the BSAI and the GOA.

**Analysis:** The original analysis for Amendment 61, upon which the emergency rules are based, is 320 pages plus several appendices. That analysis focuses on alternatives for establishing sideboard limits for the AFA harvesters and processors, and also examines alternatives for the structure of inshore sector co-ops (the relationship between harvest vessels and the shore plants to which they deliver pollock). Primarily, the alternatives analyzed cover a wide range of options for determining the amount of the sideboard limits for each sector, whether such sideboards are applied at the sector level vs individual vessel/plant level, and whether and to what extent there may be exemptions from the sideboards. The analysis also examines the ownership structure of the pollock industry to determine the entities and companies to which sideboards will be applied. Implementation and monitoring aspects of the various alternatives are also considered. The EIS will further examine these the prescribed measures of the AFA, including the specific sector allocations and limited entry aspects of the Act.

**Results:** The AFA was fully implemented in 2000 via the emergency rules, with permanent implementing regulations (through at least 2004) in 2002. Several issues continue to consume a significant amount of NMFS and Council resources, with various changes and regulatory amendments in the pipeline. Included are further consideration of the issues of inshore co-op structure, processing sideboards for crab and groundfish, recalculation of sideboard amounts, and consideration of further exemptions from sideboards. One indirect impact of the AFA is that other industry sectors are now pushing for co-op style management in their fisheries, through either Congressional mandate or through the Council process.

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## **BSAI Amendment 62 Single Geographic Location and Inshore/Offshore Language Changes (proposed, approved by Council October 2002)**

**Dates:** As of February 20, 2003, the a proposed rule has not yet been published by NMFS regarding Amendment 62 to the Fishery Management Plan for the groundfish of the Bering Sea/Aleutian Islands. The Council identified the preferred alternatives at the June 2002 and October 2002 meetings.

**Purpose and Need:** Single geographic location restriction originated in Amendment 18/23, the initial inshore/offshore allocation. The restriction applied to floating processors processing targeted pollock and GOA Pacific cod. A processing vessel could leave specified inshore location to process other species of groundfish, but if they processed pollock or GOA Pacific cod, the processing vessel would have to return to its original location were it processed these species at the beginning of the season. In October of 1998, the American Fisheries Act was signed into law. The Act, among other things, established specific allocations of the BSAI pollock quota to onshore, offshore and motherships and established the authority and mechanisms by which the pollock fleet could form fishery cooperatives. As a result of these allocations and allowance for cooperatives, some in the industry approached the Council to revise the single geographic restriction from one year to one week. In October 2001, the Council requested staff to provide an analysis of the single geographic location restriction revision. Revising the single geographic location restriction would provide greater flexibility for AFA-qualified inshore floating processors during a fishing year allowing these floaters to process targeted BSAI pollock in more than one geographic location.

The inshore/offshore portion of this amendment would remove obsolete and inconsistent language in the Groundfish FMP. With the passage of AFA, inshore/offshore language in the FMP was superseded. As a result, inshore/offshore language currently contained in the FMP is obsolete or no longer consistent with AFA.

**Regulation Summary:** The Council selected as a preferred alternative in October 2002 to allow AFA inshore floating processors to relocate in state waters in the Bering Sea directed pollock fishery between reporting weeks, but would be allowed to change locations a maximum of four times per calendar year. In addition, AFA inshore floating processors would be required to process all GOA pollock and Pacific cod in the same location at which they processed these species in 2002. The Council selected preferred alternatives for inshore/offshore revisions in June 2002. The preferred alternatives would remove obsolete inshore/offshore language from the FMP and update the CVOA to accommodate AFA-related changes. At the same time, the Council also selected the preferred alternatives for inshore/offshore language changes for the GOA.

**Analysis:** 61-page EA (draft dated February 14, 2002) was prepared for this amendment. The analysis included options for single geographic location and inshore/offshore revisions. Two options, including status quo, were considered for single geographic location revisions. Five options, including status quo, were considered for the inshore/offshore revisions. Two of these option addressed issues in the Gulf of Alaska Groundfish FMP.

**Results:** The Council took final action on a preferred alternative for single geographic location in October 2002 and inshore/offshore portion of Amendment 73 in June 2002. The amendment package has been submitted for preliminary NMFS review.

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## BSAI Amendment 64 Pacific Cod Fixed Gear Allocations

**Dates:** Amendment 64 was adopted by the Council in October 1999. NMFS published a notice of availability and requested public comment regarding BSAI Amendment 64 to the Fishery Management Plan for the groundfish of the BSAI on April 11, 2000 (65 FR 19354). A proposed rule (65FR34133) was published on May 26, 2000, and a final rule was published on August 24, 2000 (65FR51553). NMFS approved Amendment 64 on July 13, 2000.

**Purpose and Need:** Amendment 64 was developed to further refine the BSAI fixed gear Pacific cod allocation established in BSAI Amendment 46. Amendment 46, approved by the Council in June 1996, effectively allocated the BSAI Pacific cod Total Allowable Catch (TAC) to the jig gear (2%), fixed gear (51%), and trawl gear (47%) sectors.

The fixed gear fishery is fully utilized in the BSAI, and competition has been increasing for a variety of reasons, including increased market value of cod products, a declining cod TAC, and the recent decline of the opilio crab stock. Amendment 64 is based on a problem statement which focuses on the need to stabilize the BSAI fixed gear cod fishery and protect those who have made significant long-term investments and are dependent on the fishery from others who have limited history and wish to increase their participation in the fishery. The action is intended to help stabilize the fixed gear fleet until comprehensive rationalization can be completed for the groundfish fisheries of the BSAI.

Although the fixed gear (hook-and-line or pot gear) fleet has a direct allocation of 51% of the fixed gear Pacific cod TAC, a further split was deemed necessary to stabilize the growing hook-and-line and pot fleets. If approved, the amendment would establish separate Pacific cod directed fishing allowances for different sectors of vessels using hook-and-line or pot gear. Under the proposed amendment, the Pacific cod fixed gear TAC (excluding the amount of BSAI Pacific cod taken as incidental catch in other directed groundfish fisheries by fixed gear vessels) would be allocated as indicated:

The allocation approved by the Council reflects the approximate average harvest of the fixed gear TAC by each sector since the mid-1990s. In effect, hook-and-line and pot vessels less than 60 feet would first utilize the 0.3% and 18.3% allocations open to all length classes of their gear group, respectively, and then utilize the 1.4% allocation when those fisheries close. Managing the allocations in this way is consistent with the Council's desire to provide fishing opportunities for smaller catcher vessels, ensuring that Pacific cod is available to the smaller catcher vessels even after the larger vessels in their gear sector have taken their allocation.

<b>Hook-and-line catcher processors</b>	<b>80%</b>
<b>Hook-and-line catcher vessels</b>	<b>0.3%</b>
<b>Pot gear vessels</b>	<b>18.3%</b>
<b>Catcher vessels (hook-and-line or pot) less than 60 feet length overall</b>	<b>1.4%</b>

**Regulation Summary:** The regulations establish the allocations specified above as well as require that any unharvested portion of the catcher vessel hook-and-line and the <60' pot and hook-and-line vessel quota that is projected to remain unused will be reallocated to the hook-and-line catcher processors in September. In addition, any unused jig and trawl quota will be apportioned among the hook-and-line catcher processors (95%) and pot vessels (5%) according to the actual harvest of rollovers from 1996 - 1998. Bycatch of Pacific cod in other fixed gear fisheries is subtracted from the overall fixed gear allocation before the allocations for the directed fisheries are set. Amendment 64 expires December 31, 2003, based on the reasoning that three years is sufficient time to address the issue of increasing competition in the BSAI cod fishery before reconsidering the issue in light of other proposed impending changes, including proposed BSAI Pacific cod fixed gear and species endorsements on permits issued under the license limitation program (see BSAI Amendment 67).

**Analysis:** A 76-page EA/RIR/IRFA (final draft dated March 2000) was prepared for this amendment. Two alternatives including the status quo were considered. While the specific allocation percentages chosen by the Council were not independently analyzed, the percentages chosen fall within the range of the alternatives considered. Therefore, the Council felt they had sufficient information to judge the relevant impacts of selecting their preferred allocation percentages.

**Results:** The allocations under Amendment 64 became effective September 1, 2000.

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## **BSAI Amendment 65    Habitat Areas of Particular Concern: Harvest Control Measures (postponed)**

**Dates:** NMFS published essential fish habitat (EFH), including habitat areas of particular concern (HAPC) guidelines as an interim final rule on December 19, 1997 (62 FR 66531). Amendment 65 was adopted by the Council in April 2000.

**Purpose and Need:** The Magnuson -Stevens Act was amended in 1996 by the Sustainable Fisheries Act. The new Act mandated that any FMP must include a provision to describe and identify essential fish habitat (EFH) for the fishery, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. Essential fish habitat has been broadly defined by the Act to include “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity”.

Amendment 55 defined EFH as all habitat within a general distribution for a species life stage, for all information levels and under all stock conditions. Habitat areas of particular concern (HAPC) were identified as living substrates in shallow and deep waters, and freshwater habitats used by anadromous fish. Habitat areas of particular concern (HAPC) are those areas of special importance that may require additional protection from adverse effects. HAPC is defined on the basis of its ecological importance, sensitivity, exposure, and rarity of the habitat.

The purpose of amendment 65 is to provide for improved long-term productivity of the fisheries by controlling harvest on invertebrates (corals, sponges, mussels, rockweed and kelp), which provide important habitat for fish, but have the potential to be developed into large-scale commercial fisheries.

**Regulation Summary:** At the February 2000 meeting, the Council reviewed an initial draft of a proposed amendment that would consider identifying additional HAPC, and two management measures to protect HAPC from fishing effects. The first measure considered would potentially prohibit directed fishing for certain HAPC biota (corals, sponges, kelp [including rockweed] and mussels). The second measure would establish several marine protected areas where Gorgonian corals are found in abundance. Gorgonian corals have been shown to be important shelter for rockfish and other fish species, are very long lived, easily damaged by fishing gear, and slow to recover from damage. Based on public testimony, and input from its advisory committees, the Council voted to split the amendment and associated analysis into two parts. Part one, which the Council took final action on in April, would allow for control on the harvest of HAPC biota, based on the following problem statement.

The Council recognizes that some invertebrates (corals, sponges, mussels, rockweed and kelp), which provide important habitat for fish have the potential to be developed into large-scale commercial fisheries. The Council currently has little or no controls on the harvesting of these invertebrates. Adopting management measures as a precautionary approach would allow the Council to control any commercial fishery that might develop.

**Analysis:** A 67-page EA (draft dated March 6, 2000) was prepared for this amendment. Three alternatives including the status quo were considered. The alternatives include establishing HAPC biota as a prohibited species, or establishing a new HAPC category to allow for a controlled fishery to develop. Various options would allow some HAPC species (e.g., coral and sponges) to be prohibited from harvest, while allowing controlled fisheries to occur on the remaining species (e.g., kelp and mussels).

**Results:** The Council took final action on a preferred alternative in April 2000. Sponges and coral were placed in the prohibited species category. Commercial harvest, sale, and processing of coral and sponges will be prohibited. Retention for personal use will be allowed. Due to the court case on Essential Fish Habitat (see Amendment 55), the HAPC amendment was put on hold. Council and Agency staff are currently preparing an analysis of HAPC.

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## BSAI Amendment 67 Pacific Cod Species and Gear Endorsements to License Limitation Program License

**Dates:** Amendment 67 was adopted by the Council in April 2000. NMFS published a proposed rule regarding BSAI Amendment 67 to the Fishery Management Plan for the groundfish of the BSAI on October 1, 2001 (66 FR 49908). A final rule was published on April 15, 2002 (67 FR 18129). The action was effective starting May 15, 2002, except for the provision requiring the cod endorsement, which was effective January 1, 2003.

**Purpose and Need:** In June 1995, the Council approved the License Limitation Program (LLP) for vessels operating in Federal waters off Alaska's coast (BSAI Amendment 39/GOA Amendment 41). Vessels began fishing under that program on January 1, 2000. Since the LLP was approved, changes in the fixed gear fisheries prompted industry to petition the Council to further allocate Pacific cod in the BSAI among the various sectors of the fixed gear fleets. BSAI Amendment 64, adopted at the October 1999 Council meeting, encompassed these changes and established separate Pacific cod directed fishing allowances for different sectors of vessels using hook-and-line or pot gear. The Pacific cod Total Allowable Catch (excluding the amount of BSAI Pacific cod taken as incidental catch in other groundfish fisheries by fixed gear vessels) was allocated as follows: 80% to freezer longline vessels; 0.3% to longline catcher vessels; 18.3% to pot gear vessels; and 1.4% to catcher vessels (longline or pot) less than 60 feet length overall. Amendment 64 was approved by NMFS on July 13, 2000.

Participants in the BSAI fixed gear cod fishery include longline and pot fishermen with extensive catch histories. However, given the economics of the current cod fishery, persons may wish to bring vessels into the fishery that have little or no history in the BSAI cod fishery. Public testimony and implementation of the original LLP has shown that there is considerable latent capacity in the fixed gear Pacific cod fishery, especially in the pot fleet (many vessels are qualified under the LLP but to date have not participated to a great degree in the cod fishery) and freezer longline fleet. This action is in response to concerns that the stability of this fully utilized fishery is threatened by new entrants, driven in part by recent increases in the market value of cod and the decline of the opilio crab resource. At the April 1999 meeting, the Council initiated an analysis to add a Pacific cod endorsement to BSAI fixed gear licenses as a follow-up amendment to the recent allocations.

Amendment 67 establishes participation and harvest requirements for a BSAI cod endorsement for fixed gear vessels in the directed commercial BSAI Pacific cod fishery. It is intended to limit entry into the fishery by substantial numbers of fixed gear vessels that have not participated, or have not participated at a level that could constitute significant dependence on the fishery, in the past. Without the action, a potential of 67 catcher processors and 365 catcher vessels could prosecute the fixed gear Pacific cod fishery under the LLP. This is approximately fifty-seven more vessels than have participated in the fishery to any degree since 1995.

**Regulation Summary:** The preferred alternative identified by the Council consists of different qualification criteria for freezer longliners, longline catcher vessels, pot catcher processors, and pot catcher vessels, as outlined below. Additional provisions addressing the combining of catch histories, hardships, multiple endorsements, and bait landings are detailed in the regulations.

<u>Vessel Type</u>	<u>Participation Years</u>	<u>Harvest Requirement</u>
Freezer longline vessels	Any one year 1996-1999	270 mt in any one year
Longline catcher vessels	No action for vessels <60 feet LOA Vessels >60 feet: any one year 1995-1999	7.5 mt in any one year*
Pot catcher processors	Any two years 1995-1998	300,000 lbs in each two years
Pot catcher vessels	No action for vessels <60 feet LOA Vessels >60 feet: any two years 1995-1999	>100,000 lbs in each two years

\*Jig landings of cod (by vessels of any length) count towards qualification for the endorsement as if they had been made with longline gear.

**Analysis:** A 105-page EA/RIR/IRFA and appendix (public review draft dated March 2000) were prepared for this amendment. The analysis outlined several participation and harvest options for each gear sector of the fixed gear fleet, as well as the no action alternative. The analysis also noted that while the official number of LLP qualified vessels was not yet finalized at the time of review, the analysis presented both the maximum number of qualifying vessels under the recent participation criteria and the estimated number of LLP qualified vessels to provide a comprehensive look at the effect of limiting entry into the fishery. The Council considered a wide range of alternatives, and the chosen alternative was well within the range of alternatives analyzed.

**Results:** The Council took final action on a preferred alternative in April 2000, and the final rule was published April 15, 2002. Beginning in January 2003, a Pacific cod endorsement, specific to the non-trawl gear used by the vessel, must be specified on a person's LLP groundfish license for that person to participate in the hook-and-line or pot gear BSAI Pacific cod fisheries. Hook-and-line and pot vessels <60' LOA are exempt from this requirement.

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## BSAI Amendment 68 Pacific Cod Pot Gear Allocations (withdrawn)

**Dates:** Withdrawn. The Council reviewed the analysis and voted to take no action on Amendment 68 at the June 2002 meeting. Given that decision, the amendment package was not forwarded for Secretarial review.

**Purpose and Need:** In June 1995, the Council approved the License Limitation Program (LLP) for vessels operating in Federal waters off Alaska's coast (BSAI Amendment 39/GOA Amendment 41). Vessels began fishing under that program on January 1, 2000. Since the LLP was approved, changes in the fixed gear fisheries prompted industry to petition the Council to further allocate Pacific cod in the BSAI among the various sectors of the fixed gear fleets. BSAI Amendment 64, adopted at the October 1999 Council meeting, encompassed these changes and established separate Pacific cod directed fishing allowances for different sectors of vessels using hook-and-line or pot gear. The Pacific cod Total Allowable Catch (excluding the amount of BSAI Pacific cod taken as incidental catch in other groundfish fisheries by fixed gear vessels) was allocated as follows: 80% to freezer longline vessels; 0.3% to longline catcher vessels; 18.3% to pot gear vessels; and 1.4% to catcher vessels (longline or pot) less than 60 feet length overall. Amendment 64 was approved by NMFS on July 13, 2000.

At the time the Council approved Amendment 64, it acknowledged that a further split between the pot catcher processor sector and pot catcher vessel sector may be necessary to ensure the historical harvest distribution between the pot sectors in the BSAI Pacific cod fishery. Concern was expressed that the pot sector needed the stability of a direct gear allocation, much like was done for the hook-and-line sector under Amendment 64. However, because the public had not been noticed that this action would be taken under Amendment 64, the Council decided to delay action specific to the pot sector and include the proposal in a follow-up amendment (Amendment 68). The following problem statement was adopted for the analysis of the effects of Amendment 68:

The catcher processor and catcher vessel pot fisheries for Pacific cod in the BSAI are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining ABC/TAC.

Pot catcher processors who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from pot catcher vessels who want to increase their Pacific cod harvest. This requires prompt action to promote stability in the BSAI pot cod fishery until comprehensive rationalization is completed.

**Analysis:** A 79-page EA/RIR/IRFA (public review draft dated June 2002) was prepared for this amendment. The analysis outlined two primary alternatives: 1) no action, or 2) establish separate direct allocations to the pot catcher processor and pot catcher vessel sectors in the BSAI Pacific cod fishery. Six options were provided under Alternative 2 to determine a method by which to determine the split between the pot sectors, based on combinations of years of catch history from 1995-1999. In addition, the analysis contained options to determine whether to also apportion reallocated quota the pot sector may receive annually from the trawl and jig sectors between pot catcher processors and pot catcher vessels. Suboptions were also included to determine how to reallocate any quota projected to remain unused by the pot sectors on an annual basis.

**Results:** The Council voted to take no action on Amendment 68. The amendment would have further split the 18.3% of the fixed gear Pacific cod TAC allocated to the pot fleet under Amendment 64 according to recent catch histories from 1995 - 1999. The Council decided to take no action, partly due to the potential implications of the Pacific cod endorsement required under BSAI Amendment 67 which will be effective January 1, 2003. The Council also noted that BSAI Amendment 64, which established the BSAI Pacific cod allocations to the fixed gear sectors, including the 18.3% allocated to pot vessels, expires December 31, 2003. Therefore, continuing or modifying the allocations of Pacific cod among the hook-and-line and pot gear sectors in the BSAI after that date will require Council and Secretarial approval of a new amendment. This amendment (BSAI Amendment 77) was initiated by the Council in December 2002 and includes alternatives and options to establish separate allocations between the pot sectors. Final action is scheduled for June 2003.

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## **BSAI Amendment 70 Steller Sea Lion Protection Measures (withdrawn)**

**Dates:** The amendment was approved by the Council in October 2001, along with GOA Amendment 70. NMFS published regulations as an emergency rule for 2002 fisheries on January 8, 2002 (67 FR 956) and extended them through December 31 (67 FR 34860). A proposed rule for the permanent regulations has not yet been published. NMFS decided to implement the Steller sea lion protection measures by regulations rather than plan amendment.

**Purpose and Need:** The western population of Steller sea lions declined by over 70% since the 1960s, and was listed as endangered in 1997 (62 FR 24345). One hypothesis to explain the continued decline of the western stock of Steller sea lions was nutritional stress due to competition with fisheries for prey. The 11/30/00 Biological Opinion concluded that fisheries for walleye pollock, Pacific cod and Atka mackerel being managed under the fisheries regulations in effect in the year 2000, jeopardized the survival and recovery of Steller sea lions and adversely modified their critical habitat. The 2000 Biological Opinion included a reasonable and prudent alternative (RPA) that included, among other things, areas closed to trawling, which if implemented in its entirety, would have had substantial adverse impacts to the fishing industry and fishing communities. Federal legislation (Public Law 106-554) allowed for a phase-in of the RPA for the 2001 fisheries while the Council developed an alternative approach which would allow fisheries to operate in such a manner that would not jeopardize the continued existence of Steller sea lion and would prevent adverse modification of their critical habitat.

**Regulation Summary:** The preferred alternative implements the restricted and closed area approach. This alternative is the RPA detailed in the November 30, 2000, Biological Opinion. Essential elements of this approach are: 1) to establish large areas of critical habitat where fishing for pollock, Pacific cod, and Atka mackerel is prohibited, 2) to restrict catch levels in remaining critical habitat areas, 3) seasonally apportion catches, 4) to establish a modified harvest control rule that prohibits directed fishing should pollock, cod, or mackerel stocks fall below 20% of the unfished level, and 5) a vessel monitoring system requirement for all vessels (except jig gear) participating in these fisheries.

**Analysis:** A 2,206 page EIS/RIR/IRFA (final draft dated November 2001) was prepared for this amendment. Five alternatives were considered including no action, a low and slow approach (from draft programmatic SEIS), a restricted and closed area approach (from the 11/2000 RPA), an area and fishery specific approach (from RPA Committee) and a critical habitat catch limit approach (based on measures in place in 2000). A map packet, containing poster sized maps that show the closure areas proposed for each alternative, was also provided. The analysis the preferred alternative would avoid jeopardy and adverse modification while at the same time, have the least negative social and economic impacts to fishermen, processors, and communities.

**Results:** Amendment 70 was implemented as a regulatory amendment, and not a plan amendment. The Biological Opinion on the preferred alternative, dated October 19, 2001, was challenged in US District Court. A list of trailing amendments was proposed when the Council took final action in October 2001. Two of these amendments (prohibition of AI pollock fishery, and pot gear exemptions for Cape Barnabus and Caton Island haulouts) have been analyzed.

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## **BSAI Amendment 71 Community Development Quota Policy and Administrative Changes (proposed, approved by Council June 2002)**

**Dates:** The Council approved a preferred alternative for Amendment 71 in June 2002. The amendment package has not yet been forwarded for Secretarial review.

**Purpose and Need:** In 1992, the Council approved the Community Development Quota (CDQ) Program to provide communities in western Alaska a fair and reasonable opportunity to participate in the BSAI groundfish fisheries, to expand their participation in salmon, herring, and other nearshore fisheries, and to help alleviate the growing social and economic crises within these communities. The CDQ Program is managed jointly by NMFS and the State of Alaska and currently 65 communities participate. Under Federal regulations, the eligible communities have formed six non-profit corporations (CDQ groups). The program is allocated a specific percentage of the total allowable catch for each Bering Sea fishery, which is further allocated among the CDQ groups. The CDQ groups manage and administer the CDQ allocations, investments, and economic development projects for the benefit of their member communities.

At the time the Council approved the CDQ Program, it established that the program was to provide the means for starting or supporting commercial fisheries business activities to support fisheries-related economies in these communities. Since implementation in 1992, the groups have matured significantly and gained valuable experience in managing their fisheries and related investments. This level of experience and the subsequent desire for increased autonomy by the groups spurred concerns with the general administration and government oversight of the program. In addition, recommendations from the National Research Council and proposed Congressional legislation introduced similar issues to be addressed by the Council, including that of relaxing the requirement that all CDQ revenues must be spent on fisheries-related projects. As the Council recognized the program's rapid growth and evolving nature, it determined that an evaluation of some of the general policy issues related to the program was warranted. The Council formed a CDQ Policy Committee to identify issues of concern and propose alternatives for analysis. Based on the committee's recommendations, the following issues were analyzed in Amendment 71:

- Issue 1: Determine the process through which CDQ allocations are made
- Issue 2: Periodic or long-term CDQ allocations
- Issue 3: Define the role of government in oversight of the CDQ Program
- Issue 4: CDQ allocation process - Type of quotas
- Issue 5: CDQ allocation process - The evaluation criteria
- Issue 6: Extent of government oversight (definition of a CDQ project)
- Issue 7: Allowable investments by CDQ groups (fisheries-related restriction)
- Issue 8: Other administrative issues

**Analysis:** A 217-page RIR/IRFA and appendices (public review draft dated May 15, 2002) were prepared for this amendment. The analysis outlined several alternatives, options, and suboptions for each of the eight issues listed above. The analysis of alternatives was guided by the problem statement, which stated that some of the policy and administrative aspects of the program may need to be restructured to adapt to changes, or may need to be clarified in Federal regulations, so that they will best suit the long-term goal of the program. Among the alternatives analyzed were options to modify the original statement of purpose of the CDQ Program, which is "to allocate CDQ to eligible western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally-based fisheries-related economy," to include a secondary purpose of strengthening the non-fisheries related economy in the region.

**Results:** The Council's preferred alternative on Amendment 71 included the following: 1) further define the allocation process in Federal regulations, including an expanded State hearing and public comment process; 2) establish a fixed allocation cycle of 3 years, with a provision allowing the State to reallocate mid-cycle under extraordinary circumstances; 3) amend the BSAI FMP to limit the government's responsibility in the program to six specific elements; 4) revise and condense the evaluation criteria used to make the allocations and publish them in Federal regulations; 5) clarify that government oversight extends to subsidiaries controlled by the CDQ groups, as defined by >50% interest and effective management control; 6) allow each CDQ group to annually invest up to 20% of its previous year's pollock royalties in non-fisheries related economic development projects within the CDQ region; 7) amend the overall purpose of the program to include a secondary purpose of strengthening the non-fisheries related economies in the region; and 8) simplify the quota transfer and alternative fishing plan process. In addition, NMFS added provisions to formally identify in Federal regulations the process for appealing a Federal administrative determination (i.e., a CDQ group's appeal of an allocation decision). The proposed amendment package has not yet been forwarded for Secretarial review.

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## **BSAI Amendment 73 Additional Sideboards Measures for Winter Pacific Cod (postponed indefinitely)**

**Dates:** Amendment 73 was postponed indefinitely by the Council in February 2003.

**Purpose and Need:** The purpose for this amendment is to provide greater protection to non-AFA trawl vessels targeting BSAI Pacific cod during the months of January and February. With implementation of the AFA in 2000, a portion of the AFA trawl fleet that had traditionally fished the pollock 'A' season are now able to shift their pollock shares to more efficient trawlers within the same cooperative. Potentially, this frees up some of the AFA vessels to target other BSAI groundfish such as Pacific cod during January and February. The concern is over impacts to the non-AFA vessels that have traditionally fished Pacific cod during the January and February period and may be subject to increased competition as a result of implementation of the AFA. The potential impacts of this increased level of competition include factors such as decreased catch per unity of effort resulting in longer fishing times per trip, reductions in catch and a need to venture further out into the Bering Sea with resulting increased dangers to smaller vessels during January and February.

**Regulation Summary:** Options under consideration for Amendment 73 are: (1) status quo; (2) limiting access to the directed trawl fishery for Pacific cod in January and February to cod exempt AFA vessels and to open access vessels which have a history of economic dependency upon the fishery; (3) allocate catch to non-AFA vessels which meet the criteria in Alternative 1; (4) require cooperatives to use measures to limit the numbers or size of vessels on the winter cod grounds to ensure non-AFA vessels do not get preempted; and (5) limiting access to the directed trawl fishery in statistical area 655430 to qualified open access catcher vessels, cod exempt AFA vessels, and non-exempt AFA trawl catcher vessels up to a daily average of 10 from January 20 to February 25<sup>th</sup>. Exceeding the daily average would result in non-exempt AFA trawl catcher vessels being restricted from targeting Pacific cod in the NMFS Cod Fishery Interaction Study (Cape Sarichef Test Area) the following year from January 20 to February 25<sup>th</sup>.

**Analysis:** A 68-page EA (draft dated January 16, 2003) was prepared for this amendment. Five alternatives are under consideration including status quo. The analysis examined historical participation of trawl vessels targeting Pacific cod during January and February and throughout the remainder of the year in three areas, statistical area 655430, area 517, and the Bering Sea. The analysis also examined impacts of the alternatives on AFA vessels and non-AFA vessels.

**Results:** Amendment 73 was postponed indefinitely by the Council in February 2003. In its postponement of action, the Council acknowledged that the AFA cooperatives in the years following 2000 have reduced their effort on the winter cod grounds to levels seen before the AFA. Given that the AFA cooperatives have reduced their effort, the Council opted to postpone action until such time as competition from AFA vessels increases on the winter cod grounds to the point of significantly impacting the non-AFA vessels.

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## **BSAI Amendment 75    Repeal of Increased Retention / Increased Utilization Program Flatfish Requirement (proposed, approved by Secretary of Commerce May 2003)**

**Dates:** Amendment 75 was approved by the Council in June 2002, but has not been formally submitted for Secretarial review.

**Purpose and Need:** In September 1996, the Council adopted Amendment 49, which required all vessels fishing for groundfish in the BSAI management area to retail all pollock and Pacific cod beginning January 3, 1998 and retain all rock sole and yellowfin sole beginning January 1, 2003.

The Council adopted an improved retention and utilization program (IR/IU) for all groundfish target fisheries to reduce discards. This action was deemed necessary to address one of the Council's comprehensive fishery management goals, adopted in 1984, to "minimize the catch, mortality, and waste of non-target species and reduce the adverse impacts of one fishery on another." The Council also recognized that fish caught as bycatch in one fishery represent an allocation away from any target fishery for the bycatch species. In addition, a priority objective of the FMP is to "provide for the rational and optimal use, in a biological and socioeconomic sense, of the region's fisheries resources as a whole."

The IR/IU program was intended to improve utilization and effective control/reduction of bycatch and discards in the fisheries off Alaska to address the following problems:

- 1) bycatch and discard loss of groundfish, crab, herring, salmon, and other non-target species;
- 2) economic loss and waste associated with the discard mortality of target species harvested but not retained for economic reasons;
- 3) inability to provide for a long-term, stable fisheries-based economy due to loss of fishery resources through wasteful fishing practices;
- 4) the need to promote improved retention and utilization of fish resources by reducing waste of target groundfish species to achieve long-term sustainable economic benefits to the nation.

Recognizing the potential significant adverse economic impacts on a substantial number of small entities, the Council initiated an analysis of possible mitigating measures which would provide some balance between the NPFMC's original intent of IR/IU and the need to minimize the negative effects of IR/IU regulations on small entities.

**Regulation Summary:** Amendment 75 delays implementation of IR/IU regulations for flatfish until June 1, 2004. In addition, the four trailing amendments will be analyzed with a priority given to Amendments C and D. Amendment A would establish Prohibited Species Bycatch Reduction Cooperatives; Amendment B would create flatfish bycatch (discard) limits for the flatfish fisheries; Amendment C would establish a minimum groundfish retention rate; and Amendment D would establish a regulatory process for the routine review of flatfish discards in the BSAI and GOA fisheries and the exemption of fisheries with less than 5 percent discards of IR/IU flatfish from flatfish retention and utilization rules.

**Analysis:** A 120-page analysis (Secretarial review draft dated February, 2003) was prepared for Amendment 75. Four alternatives were considered: 1) allow the existing IR/IU regulations for flatfish in the BSAI and GOA to be implemented beginning in 2003 (no action alternative); 2) revise IR/IU regulations for flatfish to allow some discards of the IR/IU flatfish species ranging from 50 to 90 percent; and 3) delay implementation of IR/IU regulations for flatfish and includes three trailing amendments—Amendment A (PSC Cooperatives), Amendment B (flatfish bycatch limits) and Amendment C (minimum groundfish retention standards).

The analysis revealed that IR/IU rules for flatfish under the status quo will impact direct operational costs on certain sectors of the groundfish fleet that probably cannot be offset (in whole or in part) by expected revenues generated by the sale of the additional catch required to be retained. For Alternative 2, the analysis found that retention requirements for the head and gut catcher processor fleet would have to be less than 50 percent in the Pacific cod and rock sole fishery to avoid impacts to the sector. In addition, less than 100 retention of IR/IU flatfish species is not enforceable. Alternative 3 would postpone the severe economic effects on the head and gut fleet thus accruing economic benefits from operational activity. Under Alternative 4, the Pacific cod fishery, flathead sole fishery, rock sole fishery and the yellowfin sole fishery would not be exempt from IR/IU rules for flatfish.

**Results:** The Council took final action on a preferred alternative in June 2002, and the amendment package has been submitted for preliminary NMFS review.

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## **BSAI Amendment 77 Pacific Cod Fixed Gear Allocations (proposed)**

**Dates:** The Council completed initial review of the analysis for Amendment 77 in April 2003. Selection of a preferred alternative and final action is scheduled for June 2003.

**Purpose and Need:** Amendment 77 was initiated to retain or modify the allocations of BSAI Pacific cod to the fixed gear sectors that were first established under BSAI Amendment 64. Amendment 64 expires on December 31, 2003. This amendment was developed to further refine the BSAI fixed gear Pacific cod allocation established in BSAI Amendment 46. Amendment 46, approved by the Council in June 1996, effectively allocated the BSAI Pacific cod Total Allowable Catch (TAC) to the jig gear (2%), fixed gear (51%), and trawl gear (47%) sectors.

The fixed gear fishery is fully utilized in the BSAI, and competition has been increasing for a variety of reasons, including increased market value of cod products and the recent decline of the opilio crab stock. Amendment 77 is based on a problem statement similar to that of Amendment 64, which focuses on the need to stabilize the BSAI fixed gear cod fishery and protect those who have made significant long-term investments and are dependent on the fishery from others who have limited history and wish to increase their participation in the fishery. The action is intended to help stabilize the fixed gear fleet until comprehensive rationalization can be completed for the groundfish fisheries of the BSAI. A second problem statement identifies the same concern for protecting the relative catch distribution between pot catcher processors and pot catcher vessels. Under Amendment 64, pot vessels share an allocation of 18.3 percent of the total fixed gear Pacific cod TAC.

Although the fixed gear (hook-and-line or pot gear) fleet has a direct allocation of 51% of the fixed gear Pacific cod TAC, a further split was deemed necessary to stabilize the growing hook-and-line and pot fleets. Amendment 64 established the allocations shown in the box below, based closely on Pacific cod catch histories (excluding discards and cod quota reallocated from the jig and trawl sectors) of each sector from 1995 - 1998, with a separate allocation for hook-and-line and pot vessels <60' LOA.

In effect, hook-and-line and pot vessels less than 60 feet first utilize the 0.3% and 18.3% allocations open to all length classes of their gear group, respectively, and then utilize the 1.4% allocation when those fisheries close. Managing the allocations in this way is consistent with the Council's desire to provide fishing opportunities for smaller catcher vessels, ensuring that Pacific cod is available to the smaller catcher vessels even after the larger vessels in their gear sector have taken their allocation.

<b>Hook-and-line catcher processors</b>	<b>80%</b>
<b>Hook-and-line catcher vessels</b>	<b>0.3%</b>
<b>Pot gear vessels</b>	<b>18.3%</b>
<b>Catcher vessels (hook-and-line or pot) less than 60 feet length overall</b>	<b>1.4%</b>

**Analysis:** A 169-page EA/RIR/IRFA (initial review draft dated March 14, 2003) was prepared for this amendment. Four primary alternatives are proposed: 1) No action; 2) Status quo - continue the allocations as established under Amendment 64; 3) Modified status quo - establish allocations based on catch histories from each sector from 1995 - 1999; and 4) Pot split - establish separate allocations for the pot catcher processor and pot catcher vessel sectors. In addition, there are several options to address Pacific cod quota that is reallocated from the jig and trawl sectors to the fixed gear sector in the fall, as well as quota that is projected to remain unused in one or more of the fixed gear sectors. Also included is an option to sunset the Council's action on this amendment five years from the date of implementation.

**Results:** The Council is scheduled to take final action on this amendment package in June 2003. Implementing regulations are expected to be in place for the 2004 fishing season.

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