

December 7, 2016

## **Agenda B-2: NMFS Management Report**

### **Status of Actions Report online**

Updated daily at: <https://alaskafisheries.noaa.gov/sites/default/files/reports/amendments.pdf>

### **Progress on Rulemaking**

Highlights on progress since the June 2016 meeting include:

- [Proposed Rule](#) and [Final Rule](#) for revisions to trawl catcher vessel observer coverage in the Bering Sea and Aleutian Islands (BSAI) (voluntary full coverage).  
**Effective: October 31, 2016**
- [Final Rule](#) for Amendment 113 to the FMP for BSAI groundfish – Aleutian Islands Pacific cod delivery requirements.  
**FMP amendment approval: October 17, 2016**  
**Final rule effective: November 23, 2016**
- [Final rule](#) for revisions to tLandings reporting requirements.  
**Effective: January 1, 2017**
- [Proposed Rules](#) for Bering Sea and Aleutian Islands 2017 and 2018 Harvest Specifications for Groundfish & Gulf of Alaska 2017 and 2018 Harvest Specifications for Groundfish  
**Comment Periods End: January 5, 2017**

**See Attachment 1 for additional detail.**

NMFS published a [notice](#) announcing the cost recovery fees and standard prices for the American Fisheries Act (AFA), Amendment 80, and Community Development Quota (CDQ) cost recovery program.

### **Final 2017 Observer Annual Deployment Plan (ADP)**

The ADP describes how observers will be deployed in the partial coverage category of the North Pacific Groundfish and Halibut Observer Program (Observer Program). The draft ADP was released in September 2016, and was reviewed by the Council's Groundfish Plan Teams and

Observer Advisory Committee (OAC). The Council reviewed and expressed its support of the draft ADP during its October 2016 meeting. The Final 2016 ADP is posted at: <https://alaskafisheries.noaa.gov/fisheries/observer-program-reports>.

The key components of the 2017 ADP are summarized here. Within the trip-selection pool the 6 sampling strata will be:

- Hook-and-line vessels greater than or equal to 40 feet (ft) length overall (LOA)
- Hook-and-line vessels greater than or equal to 40 ft LOA delivering to tenders
- Pot vessels greater than or equal to 40 ft LOA
- Pot vessels greater than or equal to 40 ft LOA delivering to tenders
- Trawl vessels
- Trawl vessels delivering to tenders

The allocated sea days, available budget, and amount of projected fishing effort form the basis for the deployment rates in the 2017 ADP. The final ADP sets a 2017 budget of 3,127 observer days based on observer fees that will be collected in January 2017. NMFS projects deployment rates using optimal allocation based on discarded catch for the sampling strata very similar to those presented in the Draft 2017 ADP. Rates include the 31 BSAI trawl catcher vessels that were approved for placement in the full observer coverage category in the 2017 calendar year.

The rates are:

- Hook-and-line - 11%
- Tender hook-and-line - 25%
- Pot - 4%
- Tender Pot - 4%
- Trawl – 18%
- Tender trawl - 14%

The “no-selection pool,” which is the pool of vessels that will have no probability of carrying an observer on any trips for the 2017 fishing season, will be composed of two categories:

- Catcher vessels less than 40 ft LOA and vessels fishing with jig gear.
- Electronic monitoring (EM) selection pool: Fixed gear vessels that have opted-in to the EM selection pool and will participate in the 2017 EM cooperative research described in the 2017 EM Pre-Implementation plan. A total of 96 vessels opted into the EM pool for 2017: 73 vessels primarily fishing with longline gear, 18 vessels fishing with pot gear, and 5 longline vessels with stereo camera systems.

For 2017, NMFS is not proposing any changes to the Observer Declare and Deploy System (ODDS), other than programming different selection rates for different gear types and for different gear types delivering to tenders. Users will continue to be able to log up to three trips in advance. ODDS will automatically release a trip from observer coverage if the two previous trips were observed trips (i.e., if two trips in a row were observed and a third trip was selected, then the third trip will be released from coverage).

NMFS will not grant conditional releases or temporary exemptions to vessels subject to observer coverage and, similar to 2016, will continue to mitigate the impact of observers on vessels

through the 2017 EM Pre-implementation Plan. This Plan specifies that qualifying vessels that volunteered for EM participation have no requirement to carry an observer.

### **Salmon Essential Fish Habitat Maps**

In October 2016, the Council recommended updates to essential fish habitat (EFH) descriptions and maps for most of the Council's fishery management plans based on new information available for the current, ongoing EFH 5 year review. The Council's October 2016 motion recommended replacing the existing EFH maps in the fishery management plan for the Salmon Fisheries in the Exclusive Economic Zone off Alaska (the FMP) with model-based maps for each species and life stage as shown in Appendix H for the October Agenda Item D3. The FMP contains maps of marine and freshwater EFH for each salmon species. Because Appendix H includes only marine EFH for each salmon species and because there are not new model-based maps for EFH for the freshwater salmon stages, NMFS interprets the Council's motion to recommend replacing only the existing marine EFH for salmon in the FMP and to recommend retaining the existing EFH for the freshwater salmon stages in the FMP.

### **Halibut Decksorting Exempted Fishing Permit – Proposed Modifications**

On May 6, 2016 NMFS issued an exempted fishing permit (EFP) to John Gauvin, Alaska Seafood Cooperative, to permit otherwise unauthorized sorting of halibut prohibited species catch (PSC) on the deck of non-pelagic trawl catcher/processor vessels while targeting flatfish in the Bering Sea. The EFP is available on the NMFS Alaska Region webpage: <https://alaskafisheries.noaa.gov/sites/default/files/efp2016-01-050616permit.pdf>

The EFP tests methods for quickly returning halibut to the water to reduce halibut PSC mortality in non-pelagic trawl fisheries. The EFP (EFP 2016-01) is valid through April 30, 2017. To date, twelve vessels have participated in the EFP. The Council will receive an interim report on the EFP activities from Gauvin (the Principle Investigator) under Agenda Item C5. We appreciate the good communication and coordination among the EFP participants, NMFS Observer Program, NMFS Alaska Regional Office, and NMFS Office of Law Enforcement.

This EFP builds on prior halibut decksorting EFPs and we continue to learn about and refine protocols for vessel operators to sort halibut on deck; for observers to monitor the sorting and to collect data on the number, length, and viability of halibut sorted on deck in addition to their other duties, and to integrate data from the EFP into NMFS's catch accounting system. Through the closely-coordinated implementation of this EFP, NMFS and the EFP participants have identified aspects of EFP 2016-01 that warrant modification prior to the start of fishing in January, 2017. Pending consultation with the Council, NMFS will modify EFP 2016-01 to reflect the modifications described in Attachment 2 to this report.

NMFS would modify the EFP to be valid from January 20, 2017 through April 30, 2017. NMFS and the EFP participants are discussing options for renewing EFP 2016-01 prior to the permit's expiration date to permit test fishing under EFP 2016-01 through the end of 2017. NMFS and the participants anticipate a new halibut decksorting EFP for the 2018 fishing year that would contain additional modifications to the methods used in 2017 based on what is learned in the first

half of 2017. NMFS will consult with the Council on each of these future actions prior to renewing EFP 2016-01 or issuing a new EFP for 2018 as required by 50 CFR 679.6.

### **Observer Insurance**

The National Observer Program (NOP) held an informational workshop on November 8-9 in Washington, DC. NMFS staff engaged with observer providers, representatives of the insurance industry and the Department of Labor to discuss current insurance requirements. The NOP will compile the workshop proceedings and provide a future update to the Council about the status of national level guidance on this topic.

### **Seabird Bycatch Technical Memorandum**

In November 2016, NMFS staff completed a NOAA Technical Memorandum on Seabird Bycatch and Mitigation Efforts in Alaska Fisheries (Eich et al., 2016). Eich et al. (2016) provides a comprehensive overview of seabird bycatch mitigation mandates and efforts in Alaska fisheries and a summary of seabird bycatch information from 2007 through 2015. The report is available on the Alaska Region website at: <https://alaskafisheries.noaa.gov/pr/seabird-bycatch-reports>.

### **CDQ Ownership Attribution for Excessive Share Caps**

NMFS intends to revise the BSAI Crab FMP and regulations for the BSAI Crab Rationalization and AFA Programs for consistency with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Coast Guard and Maritime Transportation Act of 2006 (P.L. 109-241) modified the Magnuson-Stevens Act to specify that CDQ groups would be subject to excessive share ownership, harvesting, and processing limitations proportional to their direct and indirect ownership of entities holding such privileges (the “individual and collective rule”). Under the individual and collective rule, a person who holds 100 pounds of IFQ and has a 5 percent interest in a company that holds 100 pounds of IFQ, the amount of IFQ that person would be considered to hold for excessive share calculation is 100 pounds (his personal holdings) plus 5 pounds (5% of 100 pounds - his ownership interest in that company).

Prior to P.L. 109-241, NMFS attributed ownership of CDQ groups using the “AFA 10 percent rule.” Under this rule, if entity A owns or controls 10 percent or more of entity B that holds AFA program or BSAI Crab Rationalization program privileges, then all of the harvesting or processing by entity B is attributed to entity A for the purposes of calculating ownership and use under excessive share limitations. Although NMFS currently uses the individual and collective rule to attribute ownership of CDQ groups consistent with the requirements of the Magnuson-Stevens Act, the BSAI Crab FMP and AFA program and BSAI Crab Rationalization program regulations have not been modified since the passage of P.L. 109-241. NMFS is preparing an analysis for an FMP and regulatory amendment to make these changes and intends to provide this analysis for review at the February 2017 Council meeting.

### **Guided Angler Fish Update**

Leasing of commercial halibut Individual Fishing Quota (IFQ) for use in the charter halibut fishery as Guided Angler Fish (GAF) increased in 2016, relative to 2015. For 2016:

- NMFS processed 158 transfers for 57,506 pounds of IFQ to 43 different charter halibut permit holders.
- These transfers authorized the potential harvest of up to 1,012 additional halibut as GAF by charter vessel anglers.
- Charter vessel anglers harvested 749 GAF from both IPHC areas in 2016.
- The remaining unused GAF were returned to IFQ holder's accounts.
- The average weight of harvested GAF increase to 73.7 pounds in 2C, and 42.4 pounds in 3A.
- The conversion factors will increase for 2017 to reflect these average weights. (Starting in 2017, NMFS will round the conversion factor to the nearest pound.) The conversion factors will be 74 pounds/GAF in 2C and 42 pounds/GAF in 3A.
- Additional information is available in the NMFS Annual Report available on the Council and NMFS websites.

### **Staff Changes**

The Sustainable Fisheries Division is advertising for up to three fishery management specialists. The positions are located in Juneau. We have vacancies in our catch share and limited access program and ecosystem and bycatch branches. The recruitment period closes on Monday, December 12, 2016. Additional information can be found at USAJobs at:

**Job Announcement # (MAP):** NMFS-AKR-2017-0004  
<https://www.usajobs.gov/GetJob/ViewDetails/457607200>

**Job Announcement # (DE):** NMFS-AKR-2017-0007  
<https://www.usajobs.gov/GetJob/ViewDetails/457607300>

The MAP (merit assignment plan) announcement is available for current Federal employees and the DE (delegated examining) is available for all qualified U.S. citizens or U.S. nationals. Qualified applicants may apply under either announcement or both. See the announcements for more information about eligibility. Please contact Glenn Merrill ([glenn.merrill@noaa.gov](mailto:glenn.merrill@noaa.gov)) or Sally Bibb ([sally.bibb@noaa.gov](mailto:sally.bibb@noaa.gov)) if you have any questions about these positions.

Patsy Bearden, who has been with the Sustainable Fisheries Division for 26 years, will be retiring on December 30, 2016. Patsy has been the Alaska Region's recordkeeping and reporting and Paperwork Reduction Act coordinator for most of these 26 years. In that capacity, she has ensured OMB approval for the Alaska Region's approximately 30 information collections. The Alaska Region has one of the most complex and comprehensive recordkeeping and reporting programs in the nation. Patsy has been instrumental in maintaining the regulations, forms, instructions, and approvals for these information collections. She contributes to every rulemaking that includes an information collection and manages the 3-year renewals of approval for these collections. For many years, she worked with NMFS Enforcement and the U.S. Coast Guard to host recordkeeping and reporting workshops. She also has managed the formatting and printing of our paper logbooks and assisted in the process of moving from paper to electronic logbooks. Patsy will be very missed by the Alaska Region and we wish her well in her much deserved retirement.

### Attachment 1 -- Status of Regulatory Actions

Action Status	Lead Council, SF, and GCAK Staff	Date of Council Final Action	Start Regional Review	Received by GCAK	Transmittal Date of Action to NMFS HQ for Review	Notice of Availability (FMP) Published in Federal Register	Proposed Rule Published in Federal Register	Final Rule or Notice of Approval Published in Federal Register
<b>FMP Amendments</b>								
Amendment 47 (KTC) Establish custom processing exemption for Tanner crab fisheries <b>Approved: December 6, 2016</b>	Cunningham Kent Smoker	June 2016	PR: 6/28/16 <b>FR: 11/14/16</b>	PR: 7/5/16 <b>FR: 11/14/16</b>	PR: 9/6/16 <b>FR: 12/2/16</b>	Sep 13, 2016 81 FR 62850 EOC: 11/14/16	Sep 23, 2016 81 FR 65615 EOC: 10/24/16	
Amendment 101 (GOA) Allow pot longline gear in GOA sablefish IFQ Fishery <b>Approved: November 4, 2016</b>	Cunningham Baker Meyer	April 2015	PR: 5/25/16 <b>FR: 10/17/16</b>	PR: 6/2/16 <b>FR: 11/9/16</b>	PR: 8/2/16	Aug 8, 2016 81 FR 52394 EOC: 10/7/16	Aug 19, 2016 81 FR 55408 EOC: 9/19/16	
Amendment 113 (BSAI) Aleutian Islands Pacific cod shoreplant delivery requirements <b>Approved: October 17, 2016</b>	McCracken Scheurer Smoker	October 2015	PR: 3/24/16 FR: 9/23/16	PR: 4/4/16 FR: 9/26/16	PR: 7/13/16 <b>FR: 11/2/16</b>	Jul 19, 2016 81 FR 46883 EOC: 9/19/16	Aug 1, 2016 81 FR 50444 EOC: 8/31/16	<b>November 23, 2016</b> <b>81 FR 84434</b> <b>Effective: 11/23/16</b>
<b>Regulatory Amendments</b>								
Revisions to Landings requirements	Kent Robinson Meyer	- NMFS - February 2016	PR: 5/25/16 FR: 9/8/16	PR: 5/26/16 FR: 9/9/16	PR: 07/15/16 FR: 9/22/16	N/A	Aug 1, 2016 81 FR 50436 EOC: 08/31/16	<b>October 13, 2016</b> <b>81 FR 70599</b> <b>Effective: 1/1/17</b>
Bering Sea and Aleutian Islands 2017 and 2018 Harvest Specifications for Groundfish	Stram Whitney Sullivan	- NMFS -	<b>PR: 10/25/16</b>	<b>PR: 10/28/16</b>	<b>PR: 11/23/16</b>	N/A	<b>Dec 6, 2016</b> <b>81 FR 87863</b> <b>EOC: 1/5/17</b>	
Gulf of Alaska 2017 and 2018 Harvest Specifications for Groundfish	Armstrong Davis Sullivan	- NMFS -	<b>PR: 10/20/16</b>	<b>PR: 10/26/16</b>	<b>PR: 11/18/16</b>	N/A	<b>Dec 6, 2016</b> <b>81 FR 87881</b> <b>EOC: 1/5/17</b>	

Changes since October 2016 are noted in **Bold Red Text**, EOC = End of Comment [period]

## Attachment 2

### **Proposed modifications to EFP 2016-01, Halibut Deck Sorting on Bering Sea non-pelagic Trawl Catcher/Processor Vessels**

1. Update the list of designated representatives to replace Jason Anderson with Maria Jacob.
2. Amend the EFP to make optional, the requirement to carry more than two observers. Under the current EFP, participating vessels must carry three observers for each EFP trip. Under the modified permit a vessel operator would have the discretion of carrying more than two observers (up to four) depending on the needs and goals of the vessel. Based on feedback from observers and EFP participants, in almost all instances to date, three observers are not needed to complete deck sorting sampling in addition to other observer duties. There may be cases where it would be helpful for a vessel to have a “relief” observer for tasks related to deck sorting in addition to the two observers required by regulation. For example, a vessel may want to have a relief observer augment the other observer on duty during times of the day with large hauls. The relief observer could conduct sampling of deck sorting operations while the other observer conducted sampling in the factory. This modification would allow the vessel operator to choose whether to carry additional observers depending on the needs of the vessel.
3. Include a discussion of the communication protocols for establishing shift schedules and duties for each observer for those cases in which there are more than two observers on a vessel. This plan shall describe the twelve hour shift for the extra observer(s) and the notification plan for modifying the plan during a trip.
4. Amend the EFP to clarify exemptions from § 679.21(b)(2)(ii), which requires the return of prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition. The purpose of the modification is to clarify that the exemption is to allow for halibut to be provided to the observer for scientific sampling or to be tagged by a technician prior to release. For all other purposes, prohibited species must be returned to sea with a minimum of injury.
5. Amend the EFP to include specifications (e.g. table height, etc.) for observer deck-sampling stations. This amendment is intended to clarify the existing deck-sampling station approval process which has caused confusion and some vessel delays to date.
6. Amend the EFP to rename various pre-cruise briefings so that the purpose and requirements of each are clear.
7. Modify Appendix B to make optional, the use of project forms and to include the option for the observer to use systematic random sampling based on random starting at randomly selected  $n^{\text{th}}$  fish. The goal is to maintain a 20 percent sampling rate. Include the option for vessels to use additional observers to employ alternate sampling methods for comparison with the primary sample information.