

NMFS REVIEW DOCUMENT

Proposal to Amend Regulations Implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska

Exempt Groundfish Fishing Vessels from Fishing Restrictions in Four Steller Sea Lion Rookery or Haulout Protection Areas and Implement New or Increase Existing Protection Areas Around Other Steller Sea Lion Haulouts

and

Change Regulations for Pacific Cod Total Allowable Catch Apportionment, Pollock Rollover Procedures, and Pollock Fishery Stand-Down Periods

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INTRODUCTION

In April 2003, the North Pacific Fishery Management Council instructed its Steller Sea Lion Mitigation Committee (SSLMC) to examine the existing Steller sea lion (SSL) protection measures in the Gulf of Alaska. The purpose of this review was to develop a proposed suite of measures to change the SSL protection measures in the Gulf that could provide economic relief to Gulf groundfish fisheries and local communities. These measures were to include, if practicable, components of an adaptive management experiment recommended by the National Research Council's committee report on the SSL decline in Alaska.

The SSLMC met several times during May through August, and at its August 27-28, 2003 meeting agreed to submit to the Council a group of proposed changes to the Gulf of Alaska groundfish fishery SSL protection measures. These proposed changes are summarized in this document. At its October 2003 meeting, the Council reviewed the SSLMC's proposed measures, and approved forwarding this package to the National Marine Fisheries Service (NMFS) for review and informal consultation as required by the Endangered Species Act. After NMFS review and discussion with the SSLMC, the amendment package, as modified if necessary to avoid jeopardy to SSLs and adverse modification of SSL habitat, would be developed by NMFS and Council staff into an EA/RIR/IRFA. This EA would be presented to the Council at its February 2004 meeting. After public review of the Council-approved amendment package, the Council would take final action on the package in April 2004. Regulations implementing any approved measures would be in effect for the 2005 fishing season.

BACKGROUND

The SSLMC reviewed proposals for changes in regulations in the Gulf of Alaska groundfish fisheries. A variety of proposals was received, many of which proposed relaxing fishing restrictions around certain SSL haulouts or rookeries, while others proposed changes in fishing seasons, TAC apportionment, and other measures that affect how the fisheries are prosecuted. The committee grouped the proposals into two types: those that proposed changing geographic area restrictions and those that proposed changing other kinds of regulations. For those proposals asking for changes in sizes of SSL protection areas, the committee used a zero sum process. For most of the proposals, this process involved recommending a countermeasure to the proposed change that would provide a similar level of protection to SSLs in a nearby area. For the other proposals, the committee attempted to preserve the intended seasonal apportionment of groundfish quota to spread out harvests in time and geographic area.

The objectives of the committee's recommended changes in GOA groundfish fishing regulations are to provide for access to fisheries while (1) maintaining protection for the western distinct population segment (DPS) of SSLs (i.e., avoid jeopardy to the western DPS of SSL or avoid destruction or adverse modification of its critical habitat), and (2) avoid unnecessary burdens on the fishing industry. NMFS advised the committee that any changes to the Gulf groundfish fisheries must not erode Steller sea lion protection measures in order to provide economic benefits to the fishing industry without having reasonable mitigation measures (such as other closure areas).

The committee was assisted in its deliberations by NMFS scientists and legal and regulatory experts. The committee also was provided economic and biological data including information on SSL counts and trends at haulouts and rookeries in the Gulf, SSL telemetry data, groundfish fishery catch statistics by area and sector, killer whale counts, and general reference materials on SSL biology.

Fifteen proposals for changes in Gulf fishing regulations were received and reviewed by the SSLMC. This group of proposals was reduced in number through a process of data analysis, committee debate, and compromise, all of which included consideration of impacts on SSLs. The committee approved seven proposals for Council review and further analysis.

PROPOSED REGULATORY CHANGES AND RATIONALE

The committee presumes that NMFS must review these proposed regulatory changes in terms of their potential adverse impacts on SSLs. NMFS also will review these measures in light of the Steller sea lion protection measures supplemental environmental impact statement (SSL SEIS) (NMFS 2001a) and the associated draft and final biological opinions and the 2003 BiOp Addendum. Further, NMFS also will conduct an informal consultation on these actions. The objective of the NMFS review is to determine that the implementation of the preferred alternatives would fall under the umbrella of actions that have already been analyzed and comport with both the ESA and NEPA. The committee presumes that analysis of the alternatives will conclude that the alternatives considered in the EA would have incremental effects that are sufficiently minor on the spatial and temporal harvest of groundfish so as to not deviate from the conclusions of the cumulative impact assessment presented in the SSL SEIS.

Implicit in this package of proposed measures to change fishing regulations in the Gulf is a No Action alternative. The EA/RIR/IRFA prepared for the proposed suite of measures would include a status quo/no action/baseline alternative for each measure that proposes a change in fishing regulations

The following are the measures recommended by the SSLMC for implementation in the Gulf groundfish fisheries. Each of these proposed changes would be considered an alternative within a single regulatory action.

- 1. Open to groundfish fishing additional area around three GOA Steller sea lion haulouts and one rookery, and close to groundfish fishing areas around four GOA Steller sea lion haulouts.**
 - A. Open the closed area around the Marmot Island SSL rookery to 10 n mi for pollock trawling during the A and B seasons. All other fishing restrictions around Marmot Island remain as is. Close the area around the SSL haulout on Sea Otter Island to 20 n mi to pollock trawling during the A and B seasons.**

Background

Gulf pollock fishermen have traditionally fished around Marmot Island. Currently the area around Marmot Island is closed to the pollock trawl fishery to within 15 n mi of the island's SSL rookery. This proposal seeks to provide pollock trawl fishing opportunities to within 10 n mi of the Marmot rookery. As a countermeasure the proposal includes closing to the pollock trawl fishery an extended area around the Sea Otter Island SSL haulout to 20 n mi (currently closed to 10 n mi). The opening at Marmot and closure at Sea Otter would be only during the pollock A and B seasons.

Rationale

The SSL closure measures instituted under the SSL protection measures have adversely impacted trawl fisheries in the Central Gulf by closing fishing grounds that local vessels have traditionally fished. The closure has forced these vessels further offshore. This has created some economic hardships because of longer distances traveled.

Also, the Marmot closure has created unsafe fishing conditions. During the 2002 and 2003 A and B seasons, more than 30 vessels fished along the 15 n mi closure line, resulting in tangled gear in the open strip between the Triplets and Spruce Island. Relaxing the closure around Marmot Island would provide fishermen some economic gain and improve safety. The additional closure at Sea Otter Island would provide additional SSL protection for animals using that haulout.

- B. Open the closed area around the Puale Bay SSL haulout to 3 n mi for pollock trawl fishing during January 20 through June 10. All other fishing restrictions around Puale Bay remain as is. Close the area around the Cape Douglas/Shaw Island SSL haulout to 20 n mi to pollock trawling during January 20 through June 10.**

Background

Gulf pollock fishermen have traditionally fished the area in and around Puale Bay on the west side of Shelikof Strait. The Puale Bay area is currently closed to the pollock trawl fishery to within 10 n mi of the island's SSL haulout. This proposal seeks to provide pollock trawl fishing opportunities to within 3 n mi of the Puale haulout. As a countermeasure the proposal includes closing to the pollock trawl fishery an extended area around the Cape Douglas/Shaw Island SSL haulout to 20 n mi (currently closed to 10 n mi). The opening at Puale and closure at Cape Douglas/Shaw would be only during the January 20 to June 10 fishing season.

Rationale

The SSL protection measures at Puale Bay have adversely impacted fishermen in the central Gulf by closing fishing grounds that local vessels have traditionally fished. The closure has forced these vessels further offshore, which has not only created some economic hardships because of longer distances traveled, but also has fairly serious safety issues as well. Fishermen would benefit from fishing closer to the bay during periods of harsh weather that is often experienced in the Shelikof Strait area.

The trawl fleet is having difficulty meeting the pollock quota apportioned to Area 620 (Chirikof). Fishermen note that there is a large spawning biomass in the 3 to 10 n mi zone around the Puale haulout that would benefit the fleet fishing in Area 620. The additional closure at Shaw Island (Cape Douglas) would provide additional SSL protection for animals using that haulout.

C. Open the closed area around the Kak Island SSL haulout to 3 n mi for Pacific cod pot fishing. All other fishing restrictions around Kak Island would remain as is. Close the area around the Kilokak Rocks SSL haulout to 10 n mi to Pacific cod pot fishing.

Background

Fishermen from the Chignik area are unable to fish for Pacific cod using pot gear within 20 n mi of several haulouts and rookeries in this region because of the current SSL protection measures. In effect, most of the cod fishing areas near Chignik are closed. This proposal seeks to open an area around the Kak Island SSL haulout to Pacific cod pot fishing to 3 n mi. As a countermeasure, a closure to Pacific cod pot fishing is proposed to 10 n mi offshore from the Kilokak Rocks SSL haulout.

Rationale

The small boat fleet at Chignik and adjacent areas is unable to effectively participate in the pot Pacific cod fishery near port because of the current SSL closures, particularly around Kak and Sutwik Islands. This has caused some adverse economic impact on local fishermen and the Chignik area communities. Fishermen in this area traditionally fished around Kak and Sutwik and other nearby areas, and opening even part of this currently-closed area would provide the flexibility for the local fleet to shift to the Federal Pacific cod pot fishery when other fishing opportunities are unavailable. Fishermen believe that by providing even a small opportunity for a local cod pot fishery would have a large positive economic impact on Chignik, surrounding area communities, and local fishermen. Since only a few fishermen would likely fish in this newly opened area, and only with pot gear, the impacts on SSLs would likely be minimal, and more than offset by the proposed countermeasure.

Implementing a closure to pot fishing in an area around the SSL haulout at Kilokak Rocks would afford more protection to SSLs using this haulout. Currently, Kilokak is unprotected under the SSL protection measures.

D. Open an area around the Castle Rock SSL haulout to the shoreline for Pacific cod pot fishing. An alternative action is to open an area near Castle Rock from 3 to 10 n mi to cod trawl fishing. Changing the SSL protection measures around Atkins Island, which Overlaps Castle Rock, would effect this latter opening. Also, to implement this latter measure, allow NMFS

discretion to design an enforceable open area that is equivalent to a wedge or approximately a quarter circle north of Atkins Island (preserving the 0 to 10 n mi closure at Atkins Island).

Background

Sand Point area Pacific cod pot fishermen have traditionally fished the area near Castle Rock. Castle Rock is currently closed to any fishery within 3 n mi of the island's SSL haulout. This proposal seeks to provide for a Pacific cod pot fishery within 3 n mi and to the shoreline, where practicable.

An alternative measure desired by local fishermen is to provide an area near Castle Rock for Pacific cod trawl fishing. Because the current SSL protection measures require a 0 to 20 n mi closure to cod trawl fishing around Atkins Island, this closure overlaps the area around Castle Rock. Several methods could be used to describe an open area for cod trawl fishing around Castle Rock, including delineating a wedge in the Atkins closed area on the north side of Atkins, with the sides of the wedge tangent to the circle describing a 0 to 3 n mi closure (to cod trawl fishing) around Castle Rock.

Rationale

Because of the unique bathymetric features around Castle Rock, fish tend to occur very near shore, and fishermen traditionally fished up to the beach in some areas around Castle Rock. But this area is now unavailable to the local cod pot fleet because of the 3 n mi closure around Castle Rock. Sand Point fishermen would benefit economically from the opportunity to fish cod at this site. Since only a few vessels would likely participate, impacts on the SSL population at the Castle Rock haulout would likely be minimal.

Similarly, fishermen from the Sand Point area are unable to fish for Pacific cod using trawl gear in a previously fished area around Castle Rock. While Castle Rock itself is not specifically closed outside of 3 n mi to cod trawl gear, the area south of Castle Rock is effectively closed because of the 0 to 20 n mi closure for cod trawl gear around Atkins Island. Providing fishing opportunity in this area would give needed economic relief to cod fishermen living in communities in this area, particularly small vessel fishermen. An area open to fishing near Castle Rock would also be a safety measure since fishermen would have an option during poor weather conditions to fish closer to port.

2. Amend regulations implementing the GOA groundfish FMP to provide changes in procedures for Pacific cod TAC apportionment and pollock TAC rollover in the Pacific cod and pollock fisheries, and eliminate the required stand-down periods between seasons in the pollock fishery.

- A. This proposal has two options: 1) Change the season dates and apportion the annual Pacific cod TAC in the GOA so that 60 % of the TAC can be fished in the A season (January 1 through March 31), 20 % in the B season (April 1 through August 31), and 20 % in the C season (September 1 through November 1 for trawl gear, September 1 through December 31 for fixed gear). This recognizes that in the B season, Pacific cod TAC would be first apportioned to non-Pacific cod directed fishery bycatch needs, with the remainder of the B season TAC, if any, apportioned to a B season directed Pacific cod fishery. Or 2) Retain the current season dates and apportionment but change regulations so that 60 % of the Pacific cod TAC in the GOA (both directed cod fisheries and cod bycatch in other fisheries) is taken in the A Season (January 1 through June 10). Between-season harvest of cod TAC (bycatch in other fisheries) would be subtracted from the B season TAC.**

Background

Two problems have been observed that are the consequences of the current Pacific cod seasons and TAC apportionment scheme. One, NMFS has been unable to precisely manage the directed cod fishery harvests such that only 60 % of the TAC is taken in the A season; in recent years the A season harvest has been closer

to 75 %. A second problem is that in recent years, Gulf cod fishermen have experienced a *de facto* reallocation of the cod TAC among gear groups because of several issues (see below).

To mitigate these problem areas, it is proposed that two options be considered. Option 1 would specify that the Pacific cod fishing season periods, and the TAC apportioned to each, would be changed so that, after a set-aside for bycatch in other fisheries, 60 % of the TAC is harvested in an A season (January 1 through March 31), 20 % in a B season (April 1 through August 31), and 20 % in a C season (September 1 through October 31 for trawl, through December 31 for fixed gear). Option 2 would retain the *status quo* seasons and apportionments but change regulations to allow NMFS to manage the fishery to limit the A season harvest to 60 % of the annual TAC. [Note: NMFS has determined that the agency has authority under existing regulations to manage this fishery for a 60 % total harvest in the A season; no change in regulations would be required under Option 2.]

Rationale

The above changes in fishing season dates and TAC apportionment would still provide for a temporal spread in the harvest of Pacific cod, which is the intent of the SSL protection measures in the Gulf. Under Option 1, the A season would be shorter, but would be provided a 60 % TAC apportionment, and part of the “early season” needs of foraging SSLs would still be met by the closure of the cod trawl fishery in November and December, winter months when cod start aggregating and become more available to foraging SSLs.

Currently, the SSL protection measures include a provision for temporally spreading the Pacific cod catches in the Gulf such that no more than 60 % of the annual TAC is harvested early in the year (during the A season which is January 1 [nontrawl] or January 20 [trawl] through June 10). The remaining 40 % of the TAC can be taken during the B season from June 10 through November 1 [trawl] or December 31 [nontrawl] with a directed fishery occurring on September 1. NMFS Sustainable Fisheries generally closes the cod A season around the beginning of March because the 60 % of the TAC is harvested by then; but cod are taken as bycatch in other fisheries from then until the B season starts, and this bycatch is considered part of the A season cod harvest. The result is an A season cod harvest well over the target 60 % level. Option 2 would change this so that NMFS could manage the fishery to limit the harvest to 60 % in the A season.

Fishermen have noted that there has been an increase in the hook and line fleet fishing for Pacific cod in the Central Gulf because cod CPUEs have been higher than in areas to the east, thereby attracting vessels to areas where catch rates are higher. Also cod prices have been higher in recent years, which has increased cod trawl fishing effort in the A season. Also the annual TAC for cod has decreased 43 % for 2002 compared with quotas during 1995-1999; this has resulted in an increase in the percentage of cod quota reserved to meet bycatch needs in other fisheries. These changes have resulted in a decrease in fishing opportunity for fixed gear, and within the fixed gear group there has been a greatly reduced opportunity for pot fishermen.

By adjusting the fishing seasons (Option 1), and the apportionment of TAC into each season, fishing effort would likely occur in proportion to the availability of aggregated cod (early in the year). The A season would be closed by NMFS when the directed catch plus bycatch amounts from other fisheries reach the 60 % target, which currently occurs around the beginning of March. It is likely that a small amount of TAC would be available in the B season (anticipated bycatch needs for other fisheries could use most, if not all, of the B season TAC). Option 2 would provide NMFS management authority to maintain the 60 % cod TAC harvest in the A season as specified in the SSL 2001 BiOp.

- B. Remove the two-week stand-down period periods between the A and B seasons and between the C and D seasons in the GOA pollock trawl fishery. Allow continuous fishing from the A season into the B season (and from the C season into the D season) until either the quarterly TAC is reached in the A season (and C season) or the B season (and D season) ends.**

Background

Regulations require fishermen to stop fishing for pollock for two weeks (a “stand-down”) between each of the four (A,B,C,D) seasons. These periods of no fishing are inefficient and are causing economic hardships to the fleet, particularly in Area 620. NMFS indicates there is no SSL conservation issue in removing the stand-down periods. This proposal asks that the two-week stand-down requirement between the A and B seasons and between the C and D seasons be removed.

Rationale

By removing the current stand-down provision, fishermen could fish continuously from the A season through the B season. Fishing also could occur from the C season through the D season. Fishermen would not be required to stop at the end of the A season (and the C season), reducing the economic costs of returning to port and then gearing up again two weeks later.

- C. Change the method for rolling over underharvested pollock TAC in the Western/Central Regulatory Areas in the GOA pollock trawl fishery. Roll over any unharvested TAC within the same region and up to the 20 % limit of the seasonal apportionment so that any unharvested TAC apportioned to an area may be further rolled over into the remaining open areas in proportion to the projected pollock biomass in those areas (as estimated by the Plan Teams at the beginning of each year).**

Background

An adjustment is needed in the method used to roll over underharvested pollock TAC to subsequent seasons. Currently industry does not always have the full opportunity to harvest the available TAC in the Western and Central Regulatory Areas in the Gulf. A new method is suggested that would provide for the above opportunities, and would also ensure that the seasonal harvest of TAC is in proportion to the estimated amounts of biomass occurring seasonally in an area.

Rationale

Current regulations state that the underharvest of pollock in the Gulf may be rolled over “provided that any revised seasonal apportionment does not exceed 30 % of the annual TAC apportionment for a GOA Regulatory Area”. This language does not account for the use of biomass projections to establish seasonal apportionments by Regulatory Area, as intended by the SSL protection measures. By restricting TAC apportionment to a GOA Regulatory Area, NMFS managers are given less flexibility in distributing the underharvested pollock TAC to subsequent seasons.

A recommended method for rolling over unused TAC would first limit the amount of TAC that could be rolled over to 20 % of the seasonal apportionment in that area as specified in the final harvest specifications. The amount that could be rolled over into the next season would be applied to that same area such that the combined quota is less than 120 % of the seasonal apportionment to that area. Any amount over that limit would be apportioned to other areas in the W/C Area in proportion to the estimated seasonal biomass for those areas – with a maximum amount available in any one quarter for all areas combined limited to 30 % of the annual quota.

3. Maps

The following maps illustrate the geographic areas discussed in the above four proposed regulatory changes (I.A-I.D) that deal with opening/closing protection zones around SSL rookeries or haulouts in the GOA.





