February 9, 2022

Native Village of Akutan
Joe Bereskin, President
P.O. Box 89
Akutan, AK 99553-0089

Dear President Joe Bereskin:

With this letter, the National Marine Fisheries Service (NMFS) requests initiation of Tribal Consultation with you under Executive Order 13175 (E.O. 13175) on a potential fishery management action on halibut in the Bering Sea and Aleutian Islands management area (BSAI) that may impact your tribal members and communities. This action is commonly referred to as Halibut Abundance-Based Management, or Halibut ABM.

BACKGROUND

The core concept of the action is linking halibut prohibited species catch (PSC) limits in the BSAI Amendment 80 commercial groundfish trawl fleet (A80)\(^1\) to estimated halibut abundance. The reason for the change being considered is that the current PSC limit, set as a fixed amount at 1,745 mt, becomes an increasingly larger proportion of total halibut removals in the BSAI when halibut abundance declines. Over the last 6 years, the North Pacific Fishery Management Council (Council) and its advisory bodies, stakeholders, and the public have considered several approaches for a halibut ABM program consistent with Council fishery management objectives and the Magnuson-Stevens Act. Public testimony on this action over the years has included concerns about the importance of providing flexibility to the A80 fleet to prosecute their quotas as well as concerns that the directed fishery catch has declined as a result of a decline in halibut abundance, compounded by fixed PSC limits that further reduce the proportion of halibut available to the directed halibut fisheries.

In September 2021 a Draft Environmental Impact Statement for the BSAI Halibut ABM of A80 PSC Limit\(^2\) (subsequently referred to as the DEIS) was published for public review and public comment. The DEIS analyzes alternatives intended to achieve the goal of basing BSAI Pacific

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\(^1\) Amendment 80, implemented in 2008, allocates BSAI Pacific cod, yellowfin sole, flathead sole, rock sole, Atka mackerel, and Aleutian Islands Pacific ocean perch to the head and gut trawl Catcher/Processor sector, and allows qualified vessels to form cooperatives.

halibut PSC limits\(^3\) for the A80 fleet on halibut abundance levels. The DEIS was developed under requirements of the National Environmental Policy Act (NEPA) (40 CFR Parts 1500–1508). Public comments on the DEIS were received during the public comment period, which closed on October 25, 2021. NEPA requires federal agencies to involve tribal governments, together with the public, state and local governments, relevant agencies, and any applicants, in development of EISs.

In December 2021, the Council took final action on this issue and selected a preferred alternative that would determine the A80 PSC limit annually based on the most recent values from surveys conducted by the Alaska Fisheries Science Center and the International Pacific Halibut Commission (IPHC) from the following table:

<table>
<thead>
<tr>
<th>IPHC setline survey index in Area 4ABCDE (WPUE)</th>
<th>Low (&lt; 150,000)</th>
<th>High (\geq 150,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>High (\geq 11,000)</strong></td>
<td>1,745 mt (current limit)</td>
<td>1,745 mt (current limit)</td>
</tr>
<tr>
<td>Medium (8,000–10,999)</td>
<td>1,396 mt (20% below current)</td>
<td>1,571 mt (10% below current)</td>
</tr>
<tr>
<td>Low (6,000-7,999)</td>
<td>1,309 mt (25% below current)</td>
<td>1,396 mt (20% below current)</td>
</tr>
<tr>
<td>Very Low (&lt; 6,000)</td>
<td>1,134 mt (35% below current)</td>
<td>1,134 mt (35% below current)</td>
</tr>
</tbody>
</table>

The next steps in this process are publication of proposed implementing regulations for this action and a notice of availability of the Amendment to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. Those publications would be followed by the opportunity for the public to comment on each document. A final Environmental Impact Statement intended to inform decision-makers on this action would be published with the proposed implementing regulations. If approved by the Secretary of Commerce, final implementation of this action would occur in either 2023 (mid-year) or for the beginning of the 2024 fishing year. The DEIS, other documents, and public comments considered by the Council in recommending their preferred alternative are available under item C2 on the December 2021 Council meeting agenda at: [https://meetings.npfmc.org/Meeting/Details/2713](https://meetings.npfmc.org/Meeting/Details/2713).

NMFS has previously reached out on this agenda item (for more information, see items under “Halibut Abundance Based Management” at: [https://www.fisheries.noaa.gov/alaska/consultations/alaska-fisheries-tribal-consultation-documents-and-workgroup](https://www.fisheries.noaa.gov/alaska/consultations/alaska-fisheries-tribal-consultation-documents-and-workgroup):


\(^3\) See December 2021 Council motion here: [https://meetings.npfmc.org/Meeting/Details/2713](https://meetings.npfmc.org/Meeting/Details/2713), see the Council motion link under the heading “C2 BSAI Halibut abundance-based management (ABM)”
Letter sent November 10, 2021 inviting tribal governments and organizations to participate in a halibut bycatch listening session on November 29, 2021, which included the halibut ABM action.

Held tribal Consultations and listening sessions with tribes that expressed interest.

TRIBAL CONSULTATION AND OPPORTUNITIES FOR INPUT

NMFS has special obligations to consult and coordinate with tribal governments on a government-to-government basis pursuant to Executive Order 13175 on “Consultation and Coordination with Indian Tribal Governments” and the Executive Memorandum of April 29, 1994, on “Government-to-Government Relations with Native American Tribal Governments.” NMFS is also required to consult with Alaska Native Claims Settlement Act (ANCSA) corporations on the same basis as tribal governments under E.O. 13175 (Pub. L. 108-199, 118 Stat. 452, as amended by Pub. L. 108-447, 118 Stat. 3267). A recent Presidential memorandum affirms the Federal government's commitment to including Tribal voices in policy deliberations that affect Tribal communities and recognizes that strong communication is fundamental to a constructive relationship. As a result of your tribal or ANCSA corporation status, you have the opportunity to comment to NMFS at any time. And, as mentioned above, NMFS will solicit public comment on the proposed regulations to implement this action and on the notice of availability of the Amendment to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

Therefore, in addition to Tribal consultation obligations under E.O. 13175, and although the public comment period on the DEIS has closed, NMFS is seeking additional input from Alaska Native Tribes that may be affected by this action for the development of the final Environmental Impact Statement. This input is optional, but any additional information that you may wish to provide through a consultation would be considered and summarized in the final EIS.

We will also reach out via phone, and if you would like to discuss scheduling a tribal consultation sooner, please contact Obren Davis at 907-586-7241 or Obren.Davis@noaa.gov. Additionally, you can contact Bridget Mansfield at 907-586-7642 or Bridget.Mansfield@noaa.gov regarding specific questions on this halibut abundance-based management action.

I look forward to working with you through the completion of this project.

Sincerely,

Robert D. Mecum
Acting Administrator, Alaska Region

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