

Based on NMFS' priorities, implementation of a TRP for the AK BSAI Pacific cod pot fishery is currently deferred under MMPA section 118 as other stocks/fisheries are a higher priority for any available funding. Accordingly, the requirement under MMPA section 118 to have TRPs in place or in development is satisfied (see determination supporting the permit available on the internet at <https://www.regulations.gov/docket/NOAA-NMFS-2021-0123>).

### Monitoring Program

Under MMPA section 118(d), NMFS is to establish a program for monitoring incidental M/SI of marine mammals from commercial fishing operations. The AK BSAI Pacific cod pot is monitored under the partial coverage category through the North Pacific Fisheries Observer Program. Accordingly, the requirement under MMPA section 118 to have a monitoring program in place is satisfied.

### Vessel Registration

MMPA section 118(c) requires that vessels participating in Category I and II fisheries register to obtain an authorization to take marine mammals incidental to fishing activities. NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program, with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Therefore, the requirement for vessel registration is satisfied.

### Conclusions for Proposed Permit

Based on the above evaluation for the AK BSAI Pacific cod pot fishery as it relates to the three requirements of MMPA section 101(a)(5)(E), we propose to issue a MMPA 101(a)(5)(E) permit to the commercial fishery to authorize the incidental take of ESA-listed species or stocks during commercial fishing operations. If, during the 3-year authorization, there is a significant change in the information or conditions used to support any of these determinations, NMFS will re-evaluate whether to amend or modify the authorization, after notice and opportunity for public comment. NMFS solicits public comments on the proposed permit and the preliminary determination supporting the permit.

### ESA Section 7 and National Environmental Policy Act Requirements

ESA section 7(a)(2) requires federal agencies to ensure that actions they authorize, fund, or carry out do not

jeopardize the existence of any species listed under the ESA, or destroy or adversely modify designated critical habitat of any ESA-listed species. The effects of the AK BSAI Pacific cod pot fishery on ESA-listed marine mammals, were analyzed in the ESA section 7 Biological Opinion for the BSAI Groundfish Fishery Management Plan.

Under section 7 of the ESA, Biological Opinions analyze the effects of the proposed action on ESA-listed species and their critical habitat and, where appropriate, exempt anticipated future take of ESA-listed species as specified in the incidental take statement. Under MMPA section 101(a)(5)(E), NMFS analyzes previously documented M/SI incidental to commercial fisheries through the negligible impact determination process, and when the necessary findings can be made, issues a MMPA section 101(a)(5)(E) permit that allows for an unspecified amount of incidental taking of specific ESA-listed marine mammal stocks while engaging in commercial fishing operations. Thus, the applicable standards and resulting analyses under the MMPA and ESA differ, and as such, may not always align.

The National Environmental Policy Act (NEPA) requires Federal agencies to evaluate the impacts of alternatives for their actions on the human environment. Because the proposed permit would not modify any fishery operation and the effects of the fishery operations have been evaluated in accordance with NEPA, no additional NEPA analysis beyond that conducted for the associated Fishery Management Plan is required for the permit. Issuing the proposed permit would have no additional impact on the human environment or effects on threatened or endangered species beyond those analyzed in these documents.

### References

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[www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives](https://www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives).

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Dated: December 9, 2021.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XB609]

### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Northeast Fisheries Science Center has requested a change to a previously issued exempted fishing permit which would result in new regulatory exemptions for participating vessels. The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has determined that this request is outside the scope of the initially approved exempted fishing permit. As a result, regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested

parties the opportunity to comment on the proposed changes to the exempted fishing permit previously issued to the Northeast Fisheries Science Center.

**DATES:** Comments must be received on or before December 30, 2021.

**ADDRESSES:** You may submit written comments by the following method:

- Email: [nmfs.gar.efp@noaa.gov](mailto:nmfs.gar.efp@noaa.gov).

Include in the subject line

“Modification to Center Study Fleet EFP.”

**FOR FURTHER INFORMATION CONTACT:**

Spencer Talmage, Fishery Policy Analyst, 978–281–9232.

**SUPPLEMENTARY INFORMATION:** On May 6, 2021, NMFS issued an exempted fishing permit (EFP) to the Northeast Fisheries Science Center (Center) in support of the 2021 Study Fleet Program. The Study Fleet Program was established in 2002 to more fully characterize commercial fishing operations and provide sampling opportunities to augment NMFS’s data collection programs. As part of the program, the Center contracts commercial fishing vessels to collect biological data and fish specimens for the Center to use in research relevant to stock assessments

and fish biology. The Center’s Study Fleet Program trains participating captains and crew to conduct at-sea sampling consistent with Center sampling protocols for survey and observer programs. During EFP trips, crew sort, weigh, measure, and collect biological data from fish prior to discarding.

The EFP currently exempts 20 commercial fishing vessels from minimum fish sizes and possession limits for species of interest, as shown in Table 1.

TABLE 1—REGULATORY EXEMPTIONS ORIGINALLY ISSUED FOR THE 2021 STUDY FLEET EFP

Exempted regulations in 50 CFR part 648 .....	<p><i>Minimum fish sizes:</i> § 648.83 Northeast multispecies minimum fish sizes for haddock, yellowtail flounder, winter flounder, and American plaice.</p> <p><i>Possession restrictions:</i> § 648.86(a) Haddock, § 648.86(d) Small-mesh multispecies, § 648.86(g) Yellowtail flounder, § 648.86(o) Possession limits implemented by the Regional Administrator.</p>

On November 4, 2021, the NESFC requested a modification to the EFP which would add an exemption to § 648.86(l), which prohibits the possession of ocean pout, windowpane flounder, and Atlantic wolffish. The modification would allow six of the participating vessels to retain and land Atlantic wolffish when directed by the Center. Ocean pout and windowpane flounder are not target species for this EFP, but their possession is prohibited by the same regulation which prohibits the possession of Atlantic wolffish. As a result, an exemption from the regulation which prohibits possession of Atlantic wolffish would also act as an exemption from the possession prohibition for ocean pout and windowpane flounder. To prevent vessels from harvesting ocean pout or windowpane flounder, the terms and conditions of the EFP would prohibit participating vessels from retaining and landing ocean pout and windowpane flounder.

Participating vessels would not be allowed to collect more than 10 fish total, or an amount over 70 lb (31.75 kg) total, whichever is reached first. In order to ensure that landed fish do not exceed the collection needs of the Study Fleet Program, the Center would issue a formal biological sampling request prior to landing. The captain or crew would deliver landed fish to Center staff or local NMFS Port Agents upon landing.

The Center requested this modification in order to support new research focusing on the osteology and ontogeny of wolffish species, which

requires biological samples of Atlantic wolffish. The study would contribute fundamental data on the morphology of fish in the wolffish family, which would provide a necessary baseline for phylogenetic analysis and future morphological research.

This modification would not alter any other aspect of the EFP, including the remaining exemptions, remaining conditions and requirements, and study period. They do not change the impact of the EFP from what was previously issued.

The applicant may request further minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: December 9, 2021.

**Ngagne Jafnar Gueye,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XB544]

### Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Observer Program Standard Ex-Vessel Prices

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of standard ex-vessel prices.

**SUMMARY:** NMFS publishes standard ex-vessel prices for groundfish and halibut for the calculation of the observer fee under the North Pacific Observer Program (Observer Program). This notice is intended to provide information to vessel owners, processors, registered buyers, and other Observer Program participants about the standard ex-vessel prices that will be used to calculate the observer fee for landings of groundfish and halibut made in 2022. NMFS will send invoices to processors and registered buyers subject to the fee by January 15, 2023. Fees are due to NMFS on or before February 15, 2023.

**DATES:** The standard prices are valid on January 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** For general questions about the observer fee and standard ex-vessel prices, contact Abby Jahn at (907) 586–7445. For questions about the fee billing process,