



Marine Conservation Alliance

promoting sustainable fisheries to feed the world

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- Adak Fisheries, LLC
- Alyeska Seafoods
- Alaska Crab Coalition
- Alaska Draggers Association
- Alaska Groundfish Data Bank
- Alaska Pacific Seafoods
- Aleutian Islands Brown Crab Coalition
- Aleutian Pribilof Island Community Development Association
Akutan, Atka, False Pass, Nelson Lagoon, Nikolski, St. George
- At-Sea Processors Association
- Bristol Bay Economic Development Corp.
Aleknagik, Clark's Point, Dillingham, Egogik, Ekuk, Ekwok, King Salmon, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, Portage Creek, South Naknek, Togiak, Twin Hills, Ugashik
- Central Bering Sea Fishermen's Association
St. Paul
- City of Unalaska
- Coastal Villages Region Fund
Cheforiak, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipruk, Kongiganak, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nighthute, Oscarville, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tunututlak, Tunurak
- Groundfish Forum
- High Seas Catchers Cooperative
- Icicle Seafoods
- McCarty and Associates
- Mid-Water Trawlers Cooperative
- Mothership Group
PV Excellence
PV Ocean Phoenix
PV Golden Alaska
- Norton Sound Economic Development Corporation
Brevig Mission, Diomedea, Elm, Gambell, Golovin, Koyuk, Nome, Saint Michael, Savoonga, Shaktootik, Stebbins, Teller, Unalakleet, Wales, White Mountain
- Pacific Seafood Processors Association
Alaska General Seafoods
Alyeska Seafoods, Inc.
Golden Alaska Seafoods, Inc.
Peter Pan Seafoods, Inc.
Premier Pacific Seafoods, Inc.
Supreme Alaska Seafoods, Inc.
UniSea Inc.
Wards Cove Packing Company
Western Alaska Fisheries, Inc.
Westward Seafoods, Inc.
- Prowler Fisheries
- Trident Seafoods Corp.
- United Catcher Boats
Akutan Catcher Vessel Assoc.
Arctic Enterprise Assoc.
Mothership Fleet Cooperative
Northern Victor Fleet
Peter Pan Fleet Cooperative
Unalaska Co-op
UniSea Fleet Cooperative
Westward Fleet Cooperative
- U.S. Seafoods
- Waterfront Associates
- Western Alaska Fisheries, Inc.
- Yukon Delta Fisheries Development Association
Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village, Nunam Iqua

April 4, 2008

Mr. Alan Risenhoover
Director
Office of Sustainable Fisheries
1315 East-West Highway, SSMC3
Silver Spring, MD 20910

Attention: EFP Comments

Dear Mr. Risenhoover:

On behalf of the Marine Conservation Alliance (MCA), I want to thank you for the opportunity to comment on the proposed rule (50 CFR Part 600, RIN 0648-AR78) regarding exempted fishing permits (EFPs) and scientific and educational research permits (SRPs). MCA is a coalition of harvesters, processors, coastal communities, and others involved in the groundfish and shellfish fisheries off Alaska. Collectively, MCA members represent approximately 70% of the groundfish and shellfish production off Alaska.

The use of EFPs and SRPs has been critical to the success of many cooperative research efforts in Alaska. Such cooperative research has centered mostly in the area of "conservation engineering", an important priority of the recently reauthorized Magnuson-Stevens Act. The catches authorized under EFPs and SRPs, as well as specific exemptions from certain regulations, have been essential to successful execution of cooperative research programs to develop methodologies or test new fishing techniques to reduce bycatch, minimize habitat effects of fishing, and conduct assessments of the relative precision of observer sampling methods. As such, MCA has a strong interest in making sure these new proposed regulations are both clear and practical.

The proposed rule needs to be clear about the use of EFPs and SRPs under various scenarios. Currently, EFPs and SRPs are used in different ways and under different standards of review in the various management regions of the country. Although the proposed rule makes some progress standardizing how to apply for an EFP and how that application will be noticed for public comment, additional work is needed in the definitions and rules governing the use of the different permits. The provisions regarding compensation fishing are a case in point. There are questions about whether or not an EFP is needed for compensation fishing in instances where there is a research set-aside program in place, or where a vessel is operating under contract. These provisions are confusing and should be clarified.

In our opinion it might be simpler to utilize a research contract or similar mechanism to address this need.

The proposed rule attempts to clarify and distinguish a scientific research activity done for conservation engineering purposes as compared to “gear testing” by industry to improve fishing capability. Unfortunately, the proposed rule implies that making catch rate comparisons for target species classifies the work as “gear testing” as opposed to conservation engineering. We believe this is an inappropriate distinction.

Cooperative research underway in Alaska involves target and bycatch species catch comparisons as a critical part of bycatch reduction device development. The objective of this work is to establish the rate of loss of target catch with a bycatch reduction device in place to assess the selectivity (bycatch reduction rate) of fishing with the device. The proposed rule could be interpreted to mean that conservation engineering that involves catch rate comparisons should not be allowed as part of conservation engineering research. While the preamble is clear that bycatch reduction research falls into the category of conservation engineering, confusion could result when the regulations are read separate from the preamble.

The proposed rule describes the minimum standards for a scientific research activity in a manner that could be interpreted to mean that cooperative research using industry vessel platforms is not “scientific” and is held to a lesser standard than work conducted on other platforms. MCA believes that this will dampen industry interest in cooperative research, thus foreclosing a cost effective tool to conducting important scientific work. Scientific activities under the proposed rule are those that are required to have a testable hypothesis, utilize a scientific research plan, involve work on important management issues, and are conducted on a scientific research vessel. EFPs are often used in Alaska for conservation engineering work on key management issues. Cooperative research involves industry participants working with NOAA scientists or other scientists to address specific research needs. A scientific research plan is strictly followed in this EFP research, including a statistical power analysis designed to ensure that the work addresses a testable hypothesis. These EFPs would meet all the requirements listed in the proposed rule for a scientific research activity except that a “scientific research vessel” is not used. A scientific research vessel is defined as a vessel owned or controlled by a scientific research institution. So with the definitions and descriptions of what is a scientific research activity versus the “other” category (which the rule then suggests is the domain of an EFP), a false distinction is being made relative to the standards for scientific work on conservation engineering with EFPs.

To eliminate this problem, the standards for scientific research activities and for conservation engineering under SRPs or EFPs should be set out equally in the proposed rule. Every application for an EFP or SRP should be reviewed relative to its scientific research plan, the plan for reporting results, and the merits of the work. Permits should not be issued unless the standards for scientific excellence and reporting are sufficiently high. This is important because continued access to EFPs for conservation engineering work should rest in part on high standards for scientific technique, rigor of the analysis, and subsequent scientific review of the results. Approval of applications for EFPs should take these factors into consideration, and in doing so will ensure confidence in the scientific merit of the work conducted under the EFP.

The rules regarding compensatory fishing also need to be simplified and clarified. Research under SRPs and EFPs sometimes involves sampling requirements that result in insufficient catches to pay for the vessel time and other costs. The proposed rule clearly acknowledges this is the case for resource surveys utilizing industry vessels. These surveys, under the constructs of the proposed rule, must apply for an EFP to conduct compensatory fishing. But in practice, catch also often falls short of what is needed to cover the operating costs of an industry vessel during conservation engineering work conducted in cooperative research programs. The proposed rule then makes confusing distinctions between what is allowed under an EFP and an SRP. The rule needs to be more realistic and flexible with regard to sampling and cost recovery, and a better approach might be to admit up front that the sampling requirements for resource surveys and conservation engineering research conducted on fishing industry vessels under EFPs or SRPs may in some cases not provide sufficient catch to compensate for costs. One suggestion is for NMFS to consider creating a new category of permit for compensatory fishing that is separate from conservation engineering EFPs and SRPs. This permit could simply be called a “compensation fishing” permit and the standards of review for this new type of compensatory fishing could then be simplified and more directed at identifying the costs incurred, the amount of resource needed to compensate for those costs, and whether or not the resource can support the use of catch to fund cost recovery.

Review and approval of an application for compensatory fishing would be greatly simplified under this approach. It would not require, as part of compensation fishing, scientific review of such things as a scientific research plan or experimental design which are normal aspects of review of SRPs or EFPs. The review, which should go through the fishery management council process as does the application for an EFP, would need only to account for the compensatory catches. If set up to ensure that such fishing stays within the limits set by the Council and the SSC, such an approach would simplify the review and approval process, requiring only minimal assessments of the impacts to the marine environment. This approach would facilitate cost recovery objectives, reduce the workload on staff, and obviate the need for imposing the standards for a scientific research activity on such compensatory fishing as the rule currently attempts to do.

Thank you in advance for considering the above comments. Please do not hesitate to call me if you have any questions.

Sincerely,



Dave Benton
Executive Director
Marine Conservation Alliance