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**UNITED STATES DEPARTMENT OF COMMERCE**  
**Office of the Under Secretary for**  
**Oceans and Atmosphere**  
Washington, D.C. 20230

JAN 15 1999

To All Interested Government Agencies and Public Groups:

Under the National Environmental Policy Act, an environmental review has been performed on the following action.

**TITLE:** Emergency Rule to Implement Measures Necessary to Monitor and Manage 1999 Harvest Limitations Established for Pollock Catcher/Processors under the American Fisheries Act

**LOCATION:** Federal Waters of the Bering Sea and Aleutian Islands

**SUMMARY:** The emergency rule would establish additional observer coverage requirements for the 20 catcher/processor vessels listed under section 208(e)(1)-(20) of the American Fisheries Act, Public Law 105-277 (AFA). It would also establish inseason authority to manage the non-pollock harvest limitations required under the AFA for the 20 vessels.

**RESPONSIBLE OFFICIAL:** Steven Pennoyer  
Administrator  
Alaska Region  
National Marine Fisheries Service  
P.O. Box 21668  
Juneau, AK 99802  
Phone: 907-586-7221

The environmental review process led us to conclude that this action will not have a significant impact on the environment. Therefore, an environmental impact statement was not prepared. A copy of the finding of no significant impact, including the environmental assessment, is enclosed for your information. Also, please send one copy of your comment to me in Room 5805, PSP, U.S. Department of Commerce, Washington, D.C. 20230.

Sincerely,

Susan Fruchter, Director  
Director of the Office of Policy  
and Strategic Planning

Enclosure





UNITED STATES DEPARTMENT OF COMMERCE  
 National Oceanic and Atmospheric Administration  
 NATIONAL MARINE FISHERIES SERVICE  
 1335 East-West Highway  
 Silver Spring, MD 20910  
 THE DIRECTOR

JAN 12 1999

MEMORANDUM FOR: Susan B. Fruchter  
 Director of the Office of Policy  
 and Strategic Planning

FROM: Rolland A. Schmitten *[Signature]*

SUBJECT: Transmittal of the Environmental Assessment for  
 an Emergency Rule to Implement Measures  
 Necessary to Monitor and Manage 1999 Harvest  
 Limitations Established for Pollock  
 Catcher/Processors under the American Fisheries  
 Act--DECISION MEMORANDUM

Based on the subject environmental assessment, I have determined that no significant environmental impacts will result from the emergency action. I request your concurrence in this determination by signing below. Please return this memorandum for our files.

1. I concur. Susan Fruchter 1/14/99  
 Date

2. I do not concur. \_\_\_\_\_  
 Date

Attachments

THE ASSISTANT ADMINISTRATOR  
 FOR FISHERIES



Environmental Assessment/Regulatory Impact Review

(EA/RIR)

for an Emergency Interim Rule to Implement Measures Necessary  
for Monitoring and Managing  
1999 Catcher/Processor Harvest Limitations  
Established under the American Fisheries Act

Prepared by

National Marine Fisheries Service  
Alaska Region  
Juneau, Alaska

December 1998

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## 1.0 Introduction

The groundfish fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) of the Bering Sea and Aleutian Islands management area (BSAI) are managed under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and became effective in 1982.

Actions taken to amend FMPs or implement other regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations. In addition to the Magnuson-Stevens Act, the most important of these are the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), Executive Order (E.O.) 12866, and the Regulatory Flexibility Act (RFA). A recently enacted law affecting fisheries off Alaska is the American Fisheries Act (AFA).

This Environmental Assessment/Regulatory Impact Review (EA/RIR) analyzes the impact of an emergency interim rule amending 50 CFR part 679 to establish additional observer coverage requirements for the 20 catcher/processor (C/P) vessels listed under section 208(e)(1)-(20) (listed C/Ps) of the AFA. NMFS also is establishing inseason authority to manage the non-pollock harvest limitations required under the AFA for these 20 vessels. These actions are necessary to monitor and manage the non-pollock harvest of the listed C/Ps so that the intent of the statutory provisions promulgated under the AFA for these vessels in 1999 are met.

### 1.1 Purpose of and Need for the Action

On October 21, 1998, the President signed into law the AFA, which changed the allocation scheme for pollock in the BSAI beginning in 1999. Under the AFA, 10 percent of the pollock TAC is allocated to the Community Develop Quota (CDQ) program and the remaining TAC, after subtraction of an allowance for incidental catch in other fisheries, is allocated 50 percent to vessels delivering to shoreside processors, 40 percent for processing by catcher/processors, and 10 percent to catcher vessels delivering to motherships. The AFA also contains a number of additional measures that affect the BSAI pollock fisheries, including:

- Creating a closed class of vessels eligible to participate in the BSAI pollock fishery by identifying vessels and processors eligible to participate in this fishery.

- Authorizing participants in the catcher/processor, mothership, and inshore sectors to form harvesting cooperatives under which the various participants may agree to divide up the allocated pollock among themselves; and
- Establishing various limits on the ability of BSAI pollock vessels and processors to participate in other fisheries. These limits are designed to prevent pollock vessels and processors from using the flexibility of a cooperative to increase their level of participation in other fisheries.

Section 208(e) (1)-(20) of the AFA lists catcher/processors that are subject to specific harvest limitations for pollock and non-pollock species starting in 1999 (listed C/Ps). These limitations will be established for 1999 as part of the 1999 groundfish specification process authorized under regulations at 50 CFR section 679.20. NMFS must implement by emergency rule increased observer coverage and inseason management authority necessary to monitor and manage these harvest limitations at the start of the 1999 trawl fishing season. The Council concurred in these emergency rule provisions at its November 1998 meeting. The justification for and a description of these provisions are discussed below.

#### 1.1.1 Observer Coverage for Listed C/Ps

For the 1999 fishing year, section 211(b) (6) of the AFA requires all listed C/Ps that are approved to participate in the 1999 multispecies groundfish CDQ (MSCDQ) program to carry two observers and weigh catch onboard using a scale approved by NMFS. The statutory provisions for observer coverage and scale weight measurements of catch in the 2000 fishing year state that each listed C/P shall (A) have two observers onboard at all times while groundfish is being harvested, processed, or received from another vessel in any fishery under the authority of the Council; and (B) weigh its catch on a scale onboard approved by NMFS while harvesting groundfish in fisheries under the authority of the Council.

Twelve of the 20 listed C/Ps have been proposed by CDQ groups for participation in the multispecies CDQ program in 1999. To the extent these 12 vessels are approved to do so, each vessel would be required under the AFA to have two observers aboard and weigh its catch on NMFS-approved scales at all times the vessel is used to fish for groundfish in 1999. These additional observer coverage requirements for listed C/Ps do not change observer coverage requirements for these vessels during their participation in the 1999 MSCDQ fisheries. Under current regulations, the remaining 8 listed C/Ps are required to have only one observer aboard at all times in 1999. NMFS believes this level of observer coverage is insufficient to adequately monitor the harvest limitations specified for the listed C/Ps.

Furthermore, if these vessels form a fishery cooperative as authorized under Section 210 of the AFA, the reliance on observer data for compliance monitoring becomes increasingly important.

A synopsis of the North Pacific Groundfish Observer Program and a summary of existing observer coverage requirements is discussed in the RIR/Final Regulatory Flexibility Analysis (FRFA) prepared for the extension of the Interim Groundfish Observer Program through the year 2000 (NMFS, 1998a).

### **1.1.2 Inseason Authority to Manage Listed C/P harvest limits**

Section 211(b) of the AFA establishes limitations on fishing activities of the listed C/Ps to protect non-pollock fisheries from redistributed fishing effort by these vessels that might otherwise occur under the AFA. Limitations under section 211(b)(2) establish harvest limitations for non-pollock groundfish and prohibited species based on historical catch amounts. These harvest limits will be specified in the 1999 proposed, interim and final groundfish specifications under 50 CFR part 679.20 and are intended to protect non-pollock groundfish fisheries from major and non-traditional fishing effort being directed at these fisheries. These limits alone, however, do not solve the potential problem and emergency interim rulemaking is required to implement necessary regulatory authority to carry out Congressional intent. This regulatory framework is necessary to ensure that the management of specified harvest limitations will minimize the potential of a limit being exceeded while optimizing the opportunity to harvest the pollock directed fishing allowance allocated to vessels for processing by the listed C/Ps under section 206 (b)(2) of the AFA. Such management will require that directed fishing for specified species be closed to the 20 listed C/Ps even though some or all of these species may be available to directed fishing by other vessels. Similarly, regulatory authority is required to close directed fishing for groundfish by the listed C/Ps, except for pollock with pelagic trawl gear, if NMFS determines that these vessels have reached a specified limitation for a prohibited species.

## **1.2 Description of the Alternatives**

**Alternative 1: No Action.** Do not amend 50 CFR part 679 to provide for the monitoring and management of listed C/P non-pollock harvest limitations.

Under this alternative, NMFS would lack the regulatory authority to carry out the statutory intent of the AFA with respect to

maintaining the harvest of non-pollock by listed C/Ps within traditional harvest levels.

**Alternative 2 (Preferred):** Implement an emergency interim rule that would:

- (1) Require two observers onboard each listed C/P all times the vessel is used to fish for groundfish off Alaska. One of the two observers must be MSCDQ certified; and
- (2) Establish inseason management authority to allow NMFS to open and close fisheries to the listed C/Ps so that specified non-pollock harvest limitations mandated under the AFA are not exceeded.

#### Increased observer coverage for listed C/Ps

Under Alternative 2, an emergency interim rule would establish a requirement that two NMFS-certified observers must be aboard each of the 20 listed C/Ps at all times the vessel is used to fish for groundfish in the EEZ off Alaska. Furthermore, at least one of the observers aboard each listed C/P must be certified to observe in the MSCDQ fisheries. This requirement for at least one MSCDQ-trained observer is necessary to ensure that the compliance monitoring role of the observers aboard the listed C/Ps can be successfully accomplished. MSCDQ observers receive special additional training in sampling for species composition in situations where bycatch may be limiting, in working with vessel personnel to resolve access to catch and other sampling problems, and in the use of flow scales for catch weight measurements. Monitoring by MSCDQ certified observers is essential for accurate catch accounting, given the small number of vessels involved, the likelihood that a cooperative will be established<sup>1</sup>, and the potential for fishing to be curtailed when either groundfish or prohibited species harvest limits specified for these vessels are reached.

Under this alternative, only one of the two observers would be required to be MSCDQ trained so that the supply of these observers to the MSCDQ program is not jeopardized in 1999. NMFS notes that subsequent rulemaking establishing observer coverage requirements for listed C/Ps after 1999 could require both observers to be MSCDQ-certified. A fuller discussion on the justification for additional observer training and certification criteria for individual vessel monitoring programs was provided in the proposed (62 FR 43866, August 15, 1997) and final (63 FR

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<sup>1</sup> A contract implementing a fishery cooperative under section 210 of the AFA among listed C/Ps and catcher vessels eligible to deliver pollock to listed C/Ps was filed with the North Pacific Fishery Management Council and the Secretary of Commerce on December 20, 1998.



30381, June 4, 1998) rules implementing the MSCDQ program.

Inseason management authority

Under Alternative 2, the attainment of a groundfish or prohibited species harvest limitation established under section 211(b)(2) of the AFA will not prohibit the listed C/Ps from participating in the directed fishery for pollock with pelagic trawl gear. However, these restrictions could limit the listed C/Ps' opportunity to participate in non-pollock groundfish fisheries. For example, the opportunity for the listed C/Ps to participate in a directed fishery for a non-pollock groundfish species will be prohibited under the emergency rule unless the specified harvest limit for this species is sufficiently large to support a directed fishery by these vessels. Once NMFS determines that remaining amounts of a species' harvest limit is needed to support bycatch in other fisheries that the listed vessels may participate in, directed fishing for that species will be closed. The listed vessels may continue to retain amounts of these species up to the maximum retainable bycatch amounts established under regulations at 50 CFR section 679.20(e) and (f).

The attainment of a prohibited species harvest limit specified for listed C/Ps while fishing for non-pollock groundfish species will result in the applicable closure of an area to directed fishing for groundfish except for pollock with pelagic trawl gear. Bycatch or bycatch mortality of prohibited species taken by the listed vessels while participating in the pollock fishery will be credited against the respective prohibited species bycatch allowances specified for the pollock fishery. Consistent with existing regulations, attainment of a bycatch allowance specified for this fishery will result in closure of a specified area to directed fishing for pollock with non-pelagic trawl gear.

**2.0 NEPA REQUIREMENTS: ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES**

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact statement (EIS) must be prepared for major Federal actions significantly affecting the human environment.

An EA must include a brief discussion of the need for the proposal, the alternatives considered, the environmental impacts of the proposed action and the alternatives, and a list of

document preparers. The purpose and alternatives were discussed in Sections 1.1 and 1.2, and the list of preparers is in Section 6. This section contains the discussion of the environmental impacts of the alternatives including impacts on threatened and endangered species and marine mammals.

## **2.1 Environmental Impacts of the Alternatives**

The environmental impacts generally associated with fishery management actions are effects resulting from (1) harvest of fish stocks which may result in changes in food availability to predators and scavengers, changes in the population structure of target fish stocks, and changes in the marine ecosystem community structure; (2) changes in the physical and biological structure of the marine environment as a result of fishing practices, e.g., effects of gear use and fish processing discards; and (3) entanglement/entrapment of non-target organisms in active or inactive fishing gear.

A supplemental environmental impact statement dated December 1998, summarizes the impacts of fishing in the BSAI over a range of TAC specifications (NMFS, 1998b). The SEIS assesses the impacts of different TAC levels on groundfish, prohibited species, habitat, marine mammals, and seabirds. Socioeconomic impacts of different TAC levels also are assessed. A subsequent environmental assessment (EA) was prepared that describes the impact on the human environment that would result from the implementation of the 1999 BSAI groundfish catch specifications (NMFS, 1998c).

The emergency interim rule addressed in this analysis under Alternative 2 would establish observer requirements for the 20 catcher/processor vessels listed under section 208(e)(1)-(20) of the AFA. NMFS also would establish inseason authority to manage the non-pollock harvest limitations required under the AFA for these 20 vessels. These actions are necessary to monitor and manage the harvest of the listed C/Ps so that the intent of the statutory provisions promulgated under the AFA for these vessels in 1999 are met.

These measures will not change the overall catch of pollock, other groundfish or prohibited species. The total catch of groundfish and prohibited species will continue to be managed to ensure that catch remains within the TACs and does not exceed the overfishing limit. The effect of these emergency regulations is to provide the measures necessary to monitor and manage listed C/P harvest limitations mandated in 1999 under the AFA. Therefore, this emergency rule does not have additional environmental impacts that are not considered in the SEIS or previous environmental assessments for the BSAI groundfish fisheries.

## 2.2 Impacts on Endangered or Threatened Species

**Background.** The ESA provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The program is administered jointly by NMFS for most marine species, and the US Fish and Wildlife Service (FWS) for terrestrial and freshwater species.

The ESA procedure for identifying or listing imperiled species involves a two-tiered process, classifying species as either threatened or endangered, based on the biological health of a species. Threatened species are those likely to become endangered in the foreseeable future [16 U.S.C. § 1532(20)]. Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range [16 U.S.C. § 1532(20)]. The Secretary of Commerce, acting through NMFS, is authorized to list marine mammal and fish species. The Secretary of Interior, acting through the FWS, is authorized to list all other organisms.

In addition to listing species under the ESA, the critical habitat of a newly listed species must be designated concurrent with its listing to the "maximum extent prudent and determinable" [16 U.S.C. §1533(b)(1)(A)]. The ESA defines critical habitat as those specific areas that are essential to the conservation of a listed species and that may be in need of special consideration. The primary benefit of critical habitat designation is that it informs Federal agencies that listed species are dependent upon these areas for their continued existence, and that consultation with NMFS on any Federal action that may affect these areas is required. Some species, primarily the cetaceans, listed in 1969 under the ESA and carried forward as endangered under the ESA, have not received critical habitat designations.

**Listed Species.** The following species are currently listed as endangered or threatened under the ESA and occur in the BSAI:

### Endangered

Northern Right Whale	<i>Balaena glacialis</i>
Bowhead Whale	<i>Balaena mysticetus</i>
Sei Whale	<i>Balaenoptera borealis</i>
Blue Whale	<i>Balaenoptera musculus</i>
Fin Whale	<i>Balaenoptera physalus</i>
Humpback Whale	<i>Megaptera novaeangliae</i>
Sperm Whale	<i>Physeter macrocephalus</i>
Snake River Sockeye Salmon	<i>Oncorhynchus nerka</i>
Short-tailed Albatross	<i>Diomedea albatrus</i>

Steller Sea Lion<sup>2</sup>

*Eumetopias jubatus*

**Threatened**

Snake River Fall  
Chinook Salmon

*Oncorhynchus tshawytscha*

Snake River Spring/Summer  
Chinook Salmon

*Oncorhynchus tshawytscha*

Steller Sea Lion<sup>3</sup>

*Eumetopias jubatus*

Spectacled Eider

*Somateria fishcheri*

Steller Eider

*Polysticta stelleri*

Pursuant to section 7 of the Endangered Species Act, NMFS has completed a consultation on the effects of the pollock and Atka mackerel fisheries on listed and candidate species, including the Steller sea lion, and designated critical habitat. The biological opinion prepared for this consultation, dated December 3, 1998, and revised December 16, 1998, concludes that the pollock fisheries in the BSAI and the GOA jeopardize the continued existence of Steller sea lions and adversely modify their designated critical habitat (NMFS, 1998d). The biological opinion contains reasonable and prudent alternatives (RPAs) to mitigate the adverse impacts of the pollock fisheries on Steller sea lions. Specific measures necessary to implement the RPAs will be implemented by NMFS through emergency rulemaking prior to the start of the 1999 BSAI pollock fishery.

NMFS also has completed consultation on the effects of other 1999 BSAI groundfish fisheries on listed and candidate species, including the Steller sea lion and listed seabirds, and on designated critical habitat. The US Fish and Wildlife Service has extended its 1997-1998 Biological Opinion on groundfish fishery impacts on short-tailed albatross until it is superseded by a subsequent amendment to that opinion. Based upon current information, USFWS does not anticipate the final Biological Opinion will determine that the 1999 groundfish specifications will place short-tailed albatross in jeopardy of extinction.

None of the alternatives under consideration would affect the prosecution of the groundfish fisheries of the BSAI in a way not previously considered in the above consultations or the SEIS (NMFS 1998b). The proposed alternatives are administrative in nature and are designed to improve the inseason management of harvest limitations specified for the listed C/Ps. None of the alternatives would affect TAC amounts, PSC limits, or takes of

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<sup>2</sup>listed as endangered west of Cape Suckling.

<sup>3</sup>listed as threatened east of Cape Suckling.

listed species. Therefore, none of the alternatives are expected to have impacts on endangered, threatened, or candidate species that are significantly different from those analyzed in the SEIS.

### 2.3 Impacts on Marine Mammals

Marine mammals not listed under the ESA that may be present in the BSAI include cetaceans, [minke whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon spp.*)] as well as pinnipeds [northern fur seals (*Callorhinus ursinus*), and Pacific harbor seals (*Phoca vitulina*)] and the sea otter (*Enhydra lutris*).

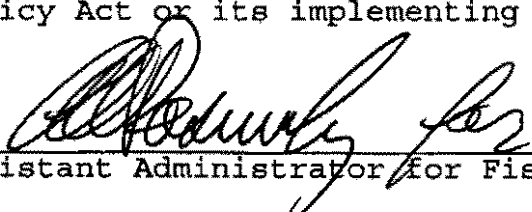
The proposed alternative 2 deals with observer coverage and with managing sector-specific harvest limitations which are designed to avoid redistribution of fishing effort. Therefore, none of the alternatives are expected to have impacts on marine mammals that are significantly different from those analyzed in the SEIS (NMFS 1998b).

### 2.4 Coastal Zone Management Act

Implementation of each of the alternatives would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Management Program within the meaning of section 30(c)(1) of the Coastal Zone Management Act of 1972 and its implementing regulations.

### 2.5 Conclusions or Finding of No Significant Impact

None of the alternatives is likely to significantly affect the quality of the human environment, and the preparation of an environmental impact statement for the proposed action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

  
Assistant Administrator for Fisheries, NOAA

JAN 12 1999  
Date

### 3.0 Regulatory Impact Review: Economic and Socioeconomic Impacts of the Alternatives

This section provides information about the economic and socioeconomic impacts of the alternatives including identification of the individuals or groups that may be affected by the action, the nature of these impacts, quantification of the economic impacts if possible, and discussion of the trade offs between qualitative and quantitative benefits and costs.

The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E. O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant". A "significant regulatory action" is one that is likely to:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

A regulatory program is "economically significant" if it is likely to result in the effects described above. The Regulatory Impact Review (RIR) is designed to provide information to determine whether the proposed regulation is likely to be "economically significant." None of the alternatives is expected to result in a "significant regulatory action" as defined in E.O. 12866.

### **3.1 Economic Effects of Requiring Increased Observer Coverage and Limiting Non-pollock Directed Fishing by Catcher/Processors**

#### Increased observer coverage requirements

The emergency action proposed under Alternative 2 would affect the 20 catcher/processors eligible to fish for pollock under section 208(e)(1)-(20) of the AFA. Twelve of the 20 listed C/Ps have been proposed by CDQ partners for participation in the 1999 MSCDQ program. Under section 211(b)(6) of the AFA, these 12 vessels already are required in 1999 to have two observers onboard at all times while groundfish is being harvested, processed or received from another vessel and would not be impacted from the two observer requirement under the emergency rule. Each of the remaining 8 listed C/Ps is required to have one observer onboard at all times under existing regulations at 50 CFR section 679.50. Under the emergency rule, these vessels would be required to obtain and pay for a second observer and have that observer onboard at all times in 1999 the vessel is used to fish for groundfish off Alaska.

All 20 listed C/Ps would be impacted by the additional requirement that at least one of the two required observers be MSCDQ-certified. The additional training requirements for MSCDQ-certified observers and the possibility that the number of these specially trained observers will be limited may require that listed C/Ps pay an additional amount to observer contractors to assure that these specially trained observer are available when needed.

To estimate the cost of the additional observer coverage requirements under Alternative 2, the following assumptions are made:

1. All 8 vessels not participating in the 1999 MSCDQ program again fish for the offshore component's share of the pollock allocation;
2. Fishing activity by these vessels as measured by weeks of pollock fishing in the future will be the same as it was

in 1998; and

3. The cost of an observer will be \$263 per day (Estimate supplied by the NMFS Observer Program Office.)

According to NMFS records, the 8 vessels not proposed to participate in the 1999 MSCDQ program fished for groundfish a total of 145 weeks. Assuming vessel owners paid for an observer each day of each week, or 1,015 days at a cost of \$263 per day, the total estimated cost of the additional observer coverage for those 8 listed C/Ps would be \$266,945. If the cost per observer day were to increase to \$330--a figure that has been mentioned in connection with union negotiations--the additional cost would rise to \$334,950.

NMFS does not have information available on differences in price paid by vessel owners for MSCDQ-certified observers. If the cost for these specially trained observers is higher than for observers without this training, then all 20 listed C/Ps would be required to pay higher costs per observer day for at least one of the two required observers.

#### Non-Pollock Groundfish Limitations

The harvest limitations established for listed C/Ps under the AFA are intended to constrain the opportunity for listed C/Ps to participate in non-pollock fisheries they traditionally have not participated in. Under Alternative 2, emergency rule authority would be provided to NMFS to allow for the management of the listed C/Ps so that the potential for exceeding specified harvest limitations is minimized. This effect comports with the AFA and minimizes potentially adverse impacts on other non-pollock fishery participants that otherwise might occur under the status quo alternative.

The emergency rule would impose few harvest constraints on the listed C/Ps that do not already exist under the AFA. The groundfish limitations specified for listed C/Ps and mandated by the AFA in 1999 and the resulting closures to directed fishing for specified species by these vessel should not result in significant changes to traditional harvest levels for non-pollock species by the listed C/Ps. Attainment of prohibited species harvest limitations would limit the listed C/Ps to fishing for pollock with pelagic trawl gear. This limitation, however, does not differ from the status quo alternative under which the directed fishery for BSAI pollock in 1999 will be limited to the use of pelagic trawl gear by all vessels under the annual groundfish harvest specifications using the regulatory authority at § 679.20(a)(5)(i)(B). This authority was used in the 1999 specifications to allocate zero amounts of the BSAI pollock TACs to the directed fishery for pollock using non-pelagic trawl gear for proposes of reducing bycatch of crab and halibut in the



pollock fisheries.

For the above reasons and based on the criteria listed in section 3.0, NMFS determines that the emergency interim regulatory amendments to implement Alternative 2 are not significant for purposes of E.O. 12866.

#### **4.0 References**

National Marine Fisheries Service. 1998a. Regulatory Impact Review/Final Regulatory Flexibility Analysis to Extend Beyond 2000 the Interim Groundfish Observer Program for the Gulf of Alaska and the Bering Sea and Aleutian Islands. Alaska Region, NMFS. October 1998.

NMFS. 1998b. Groundfish total allowable catch specifications and prohibited species catch limits under the authority of the Fishery Management Plans for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Groundfish of the Gulf of Alaska. Final Supplemental Environmental Impact Statement. Alaska Region, NMFS. December 1998.

NMFS. 1998c. Environmental Assessment of the 1999 Groundfish Specifications for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Groundfish of the Gulf of Alaska. Alaska Region, NMFS. December 1998.

NMFS. 1998d. Biological Opinion prepared for the authorization of the Bering Sea and Aleutian Islands Atka mackerel and pollock fisheries and the gulf of Alaska pollock fishery between 1999 and 2002. Alaska Region, NMFS. December 3, 1998.

#### **5.0 Agencies and Individuals Consulted**

Shannon Fitzgerald and Bill Karp  
NMFS Observer Program Office  
Alaska Fisheries Science Center  
7600 Sand Point Way, NE  
Seattle, WA 98115

**6.0 Prepared by**

William Bellows  
Sustainable Fisheries Division  
NMFS  
1315 East West Highway  
Silver Spring, MD 20910

Sue Salveson  
Sustainable Fisheries Division  
NMFS  
Alaska Region  
P.O. Box 21668  
Juneau, AK 99802