

Final
Finding of No Significant Impact for a Regulatory Amendment to Limit Access by
Federally Permitted Pot and Hook-and-Line Catcher/Processors to the Bering Sea and
Aleutian Islands Pacific Cod Parallel State Waters Fishery
RIN 0648-AY65

National Marine Fisheries Service
July 2011

This action would reduce Bering Sea and Aleutian Islands (BSAI) parallel fisheries catches of Pacific cod by pot and hook-and-line catcher/processers (C/Ps) by preventing any of these vessels that hold a federal fishing permit (FFP) from participating in parallel fisheries for Pacific cod without the appropriate FFP and license limitation program (LLP) licenses and endorsements required for participating in the corresponding federal fisheries. All pot or hook-and-line catcher/processers fishing for groundfish in the BSAI would be required to adhere to seasonal closures of Pacific cod. These regulations would also preclude pot or hook-and-line catcher/processers from reactivating a surrendered FFP within the 3-year term of the permit.

National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ’s context and intensity criteria as follows:

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

Response: No. The proposed action applies primarily to Pacific cod fisheries in the BSAI. The total annual catch limits for Pacific cod caught or affected by the proposed action are authorized under the annual harvest specifications for the BSAI groundfish fisheries and the BSAI and GOA Harvest Specifications for 2009-2010, the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (2007), and the Alaska Groundfish Harvest Specifications Supplementary Information Report (2009). The Final Environmental Impact Statement is described in Chapter 3 of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this proposed action. The proposed action is intended to reduce recent entry of pot or hook-and-line C/Ps into BSAI Pacific cod fisheries, by operators who do not hold the required FFP and LLP endorsements for fishing in the federal fishery. Limiting vessels without these endorsements has the potential to reduce catch of Pacific cod catches in the parallel fisheries by pot and hook-and-line C/Ps. However, the total catch of Pacific cod by vessels fishing in the parallel and federal fisheries will continue to be limited by the total allowable catches established for the fishery as a whole, and this action is not anticipated to increase the total combined amount of Pacific cod caught in the federal and parallel fisheries. The primary reason this action would not change combined catch of Pacific

cod is because any reduction in a sector's catch of Pacific cod in the parallel fishery is likely to be offset by an equal amount of Pacific cod that would be available in the federal fishery, as annual allocations of Pacific cod to any given sector may be caught in either the parallel or federal fishery. Any increase in the amount of Pacific cod caught in federal waters and reduced in parallel waters could be extremely small or indistinguishable from catches without this action. Therefore, the proposed action would not jeopardize the sustainability of Pacific cod (EA/RIR/IRFA section 3.2.1).

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

Response: No. Total catch of groundfish caught incidentally or prohibited species caught in target fisheries under the proposed action would continue to be limited by the total allowable catch of groundfish and prohibited species catch limits authorized for the groundfish fisheries as a whole. The proposed action is not expected to change the total amount of groundfish caught in the BSAI fisheries, but the time and location of some incidental species caught in the Pacific cod directed fishery may change, if parallel fishery catch of Pacific cod are reduced by this action. As noted in the response to question 1, any increase in the amount of Pacific cod caught in federal waters and reduced in parallel waters could be extremely small or even indistinguishable from catches without this action. While a possibility exists that a reduction in the catch of Pacific cod in the parallel fisheries might result from this action, bycatch of groundfish other than Pacific cod are very low in this directed fishery, and non-target groundfish species are unlikely to be impacted by this action. All management measures that apply to the catch of non-target species in the groundfish fisheries would continue to apply. Therefore, no impacts on the amount of non-target species caught are expected in the combined federal and parallel fisheries, beyond those described and authorized under the EIS for the Alaska Groundfish Harvest Specifications.

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

Response: No. The proposed action would reduce fishing effort of pot and hook-and-line catcher/processors in the BSAI parallel waters Pacific cod fishery. The proposed action is not expected to change the total amount of groundfish caught in the BSAI fisheries, the time or location of harvest, gear types used, or disturbance to habitat. In addition, all fishing by the non-American Fisheries Act trawl catcher/processors will continue to be conducted according to the Essential Fish Habitat and Habitat Areas of Particular Concern protection measures under 50 CFR part 679. Therefore, the proposed action is not expected to have any impact on ocean or coastal habitats or essential fish habitat beyond that described and authorized under the EIS for the Alaska Groundfish Harvest Specifications. (EA/RIR/IRFA Section 3).

4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

Response: No. This action is limited to a focused restriction on pot and hook-and-line catcher/processors fishing for Pacific cod in the BSAI. These restrictions would not alter the amount of time spent exposed to potentially dangerous conditions onboard the fishing vessels. Therefore, public health and safety is not likely to be affected in any way that is not described and authorized under the EIS for the Alaska Groundfish Harvest Specifications.

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

Response: No. The only ESA-listed animal that may be impacted is the Steller sea lion (SSL) in the western distinct population segment of the BSAI. The only groundfish species affected by the proposed action (Pacific cod) is a prey species for the Steller sea lion. It is possible that this proposed action may shift some catch of Pacific cod to federal Pacific cod fisheries and away from parallel fisheries. However, the proposed action provides continued protection to Steller sea lions and is likely to reduce fishing pressure on Pacific cod from pot and hook-and-line C/Ps in the BSAI. The SSL protection measures are not changed by this action. Implementation of this action would facilitate the seasonal management, monitoring, and collection of catch data that insures implementation of the SSL protection measures. (EA/RIR/IRFA Section 3).

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: No. The proposed action would implement several regulations to restrict entry of pot and hook-and-line C/Ps into parallel waters from zero to three nautical miles (nm) during the directed fishery for Pacific cod. These restrictions would not have any effect on biodiversity or the ecosystem.

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. The proposed action is expected to be beneficial to pot and hook-and-line C/Ps operating in the BSAI that have historically depended on the Pacific cod resource, by constraining new entry into this fishery by vessels that have little or no history of participation. These vessels may have slightly reduced catches of Pacific cod compared with the no action alternative, if this action is implemented. (EA/RIR/IRFA Section 4).

8) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No. The proposed action would apply long standing management tools for restricting new entry into the Pacific cod fishery. It will only apply to pot and hook-and-line C/P sectors in the diverse BSAI groundfish fishing industry. These are minor revisions to the groundfish regulations and are not controversial. (EA/RIR/IRFA Sections 1, 2, and 4).

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

Response: No. This action takes place in the geographic area of the BSAI, generally from 0 to 3 nm offshore. Most of these vessels offload unprocessed fish on shore where product is processed and shipped overseas, so no historic or cultural resources, park land, prime farmlands, wetlands, or wild and scenic rivers would be impacted. Essential fish habitat could be considered ecologically critical areas. The proposed action is not expected to have any impact on ocean or coastal habitats or essential fish habitat beyond that described and authorized under the EIS for the Alaska Groundfish Harvest Specifications. (EA/RIR/IRFA Section 3).

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The impacts of this action are relatively minor and focused on constraining new entry and fishing for Pacific cod in the parallel waters fisheries. These impacts are not highly uncertain and do not pose unique risks (EA/RIR/IRFA Section 3.2.1).

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. Cumulative impacts of the alternatives on each of the environmental resource components are analyzed in Section 3 of the EA/RIR/IRFA for this proposal. When added to past, present, and reasonably foreseeable future actions these cumulative impacts are insignificant and do not go beyond those identified for the BSAI groundfish fisheries as a whole, which were analyzed in the EIS for the Alaska Groundfish Harvest Specifications and the Alaska Groundfish Harvest Specifications Supplementary Information Report (2009).

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. This action applies to the groundfish fisheries and more specifically to the Pacific cod fishery of the BSAI which does not affect any of these areas, sites, or resources. (EA/RIR/IRFA Section 1.0).

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

Response: No. The proposed action restricts entry of some pot and hook-and line C/Ps into the parallel waters Pacific cod fishery. The impacts of this action would have no impact on introduction of, or change to, nonindigenous species. (EA/RIR/IRFA Section 3)

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

Response: No. The proposed action is a stand alone action to restrict pot and hook-and-line C/Ps from increasing fishing pressure in parallel waters. There is existing precedence for using these types of license and permit restrictions in parallel waters for achieving management objectives, and this action would not impact future decisions to use or not use these tools. Because revisions to regulations that constrain groundfish fishing in parallel waters have not been found to have significant impacts on the human environment in the past, approving this proposed action would not establish a precedent for a future action that is expected to have significant effects. (EA/RIR/IRFA Section 3)

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. This action poses no known violation of Federal, State, or local laws or requirements for the protection of the environment. (EA/RIR/IRFA Section 4).

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No. The proposed action is expected to result in minimal impacts on target species by restricting entry of pot and hook-and-line C/Ps into parallel waters from zero to three nautical miles (nm) during the directed fishery for Pacific cod. The proposed action is expected to have minimal impacts on the location of non-target species catch and no impact on the amount of non-target species catch.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the proposed action, I have determined that a regulatory amendment to limit access by federally permitted pot and hook-and-line catcher/processors to the BSAI Pacific cod state fishery will not significantly impact the quality of the human environment as described above and in the Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

for Robert P Mecum 11/2/11
James W. Balsiger Date
Administrator, Alaska Region