



SEP 11 2012

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: Environmental Assessment for a Final Rule to Implement a Second Fishing Capacity Reduction Program in the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-Pollock Groundfish Fishery

LOCATION: Alaska

SUMMARY: This is an analysis of the environmental, economic, and social effects of implementing a fishing capacity reduction program for the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-Pollock Groundfish Fishery occurring in Alaska. The capacity reduction program would be implemented pursuant to authorizing legislation and applicable provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b-e)).

Two alternatives have been considered: (1) no buyback program and (2) an industry funded buyback program. The environmental issues associated include: the biological environment including the water column and substrate; amount of fish removed, environmental impacts of the gear used to fish, and any incidental taking of a marine mammal, seabird, or prohibited species by the non-pollock groundfish fishery.

Under the buyback program potential impact to the physical and biological environment would not change from the status quo because the amount of fish harvested and gear used to harvest fish would not change.

RESPONSIBLE

OFFICIAL: Gary C. Reisner
Director, Office of Management and Budget
National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA)
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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 (FONSI), including the environmental assessment, is enclosed for your information.



Although NOAA is not soliciting comments on this completed EA/FONSI we will consider any comments submitted that would assist us in preparing future NEPA documents. Please submit any written comments to the Responsible Official named above.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia A. Montanio', with a large, stylized flourish at the end.

for Patricia A. Montanio
NOAA NEPA Coordinator

Enclosure



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**Environmental Assessment,
Regulatory Impact Review,
and Final Regulatory Flexibility Analysis
for a Second Fishing Capacity Reduction Program
in the Longline Catcher Processor Subsector
of the Bering Sea and Aleutian Islands
Non-Pollock Groundfish Fishery**

Abstract: This is an analysis of the environmental, economic, and social effects of a second administration of the fishing capacity reduction program for the longline catcher processor subsector of the non-pollock groundfish fishery occurring in waters of the Bering Sea and the Aleutian Islands off the State of Alaska. This capacity reduction program will be implemented pursuant to applicable provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b-e)).

Two alternatives have been considered: (1) no buyback program and (2) an industry-funded buyback program. The environmental issues associated include: the biological environment including the water column and substrate; amount of fish removed, gear used to fish, and any incidental taking of a marine mammal, seabird, or prohibited species by the longline fishery.

Under the buyback program the biological environment would not be differentially impacted because the amount of fish harvested and gear used to harvest fish would not be affected. The same number of vessels would be harvesting fish, and each vessel participating would be using the same gear and would be spending the same amount of time at sea. This program will remove a latent permit from potential future use.

The economic impact to communities where non-pollock groundfish are landed and processed would be minimal because the harvest quotas and allocations would not be altered. No change in the number of vessels in the catcher processor fleet may mean no change to the on-shore fleet support services would be required in Seattle and in Dutch Harbor. The communities would see little or no change because total landings of non-pollock groundfish would remain at current levels. This program will only remove a latent permit from potential future use.

Prepared by United States Department of Commerce
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September 2012

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1.0 Introduction

The National Marine Fisheries Service (NMFS) was directed by Congress to implement a fishing capacity reduction programs for the Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish fishery (Reduction Fishery) which NMFS completed in 2007. NMFS now proposes regulations to implement a second fishing capacity reduction program and an industry fee system to repay a \$2.7 million loan for a single latent permit within the longline catcher processor subsector of the Reduction Fishery. Congress has provided funding and guidance under the Consolidated Appropriations Act of 2005 (Public Law 108-447) and Consolidated Appropriations Act of 2004 (Public Law 108-199). NMFS will implement this program pursuant to the applicable provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b-e)).

Provisions of the National Environmental Policy Act (NEPA) require the agency to examine the impacts of the proposed action and its alternatives on the human environment and make that information available to public officials and citizens before decisions are made and before actions are taken. For actions not otherwise excluded, the agency generally prepares an Environmental Assessment (EA) to assess whether the proposed action will have significant impacts on the human environment, and if not, uses a finding of no significant impact to conclude the analysis. If significant impacts are expected, the agency would prepare an Environmental Impact Statement (EIS).

The other planning and environmental review procedures required by law or by agency practice include a Regulatory Impact Review (RIR) to assess the economic and socioeconomic impacts of the proposed action, and its alternatives, on all those with an interest in the resource, including the fishing industry, fishery dependent communities, consumers, and the American public at large. Likewise a Final Regulatory Flexibility Analysis (FRFA) to assess the impacts of the proposed action, and its alternatives, on small entities, including small businesses, non-profit organizations, and/or government jurisdictions has been prepared, as required by the Regulatory Flexibility Act, and integrated with the requirements of NEPA so that other required planning and environmental review procedures can run concurrently.

This EA/RIR/FRFA, therefore, contains analysis of the environmental, economic, and social effects of the proposed action and its alternatives. This integrated document provides information about the economic impacts of the proposed action and its alternatives by identifying those affected by the action, the nature and distribution of the effects, a discussion of the benefits and costs of each alternative, and an assessment of the “net benefit to the Nation” attributable to each. It also serves to meet the applicable analytical requirements of other statutes and Executive Orders (E.O.), including, but not limited to, E.O. 12866.

The purpose and need for the proposed action and general background information are included in Section 1 of this document. Section 2 describes alternative actions that may be taken including the requisite “no action” alternative, as well as the preferred alternative. In accordance with NEPA requirements, Section 3 contains a description of the physical, biological, and socioeconomic characteristics of the affected environment. Section 4 examines the physical,

biological, and socio-economic impacts of the alternatives including the preferred alternative. The RIR analysis associated with E.O. 12866 is found in Section 5. Section 6 includes the IRFA as required by the Regulatory Flexibility Act. Section 7 addresses the consistency of the proposed action with other regulatory considerations such as the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), Coastal Zone Management Act (CZMA), Paperwork Reduction Act (PRA), E.O. 12898, E.O. 13132, and E.O. 13175. A list of agencies contacted and a list of preparers is found in Section 8. Section 9 provides a list of references and Section 10 a list of acronyms used in this document. The NEPA conclusions or a Finding of No Significant Impact (FONSI) will be prepared as a separate memorandum after completion of the analysis if it is determined the proposed action will not have a significant effect on the human environment.

1.1 Proposed Action

Section 219 of Public Law 108-447 (Section 219) directs the Secretary of Commerce (the Secretary) to implement the fishing capacity reduction programs. Under the regulations, each proposed reduction loan will undergo a NMFS review for approval as a financed program (“program”). Under this financed program, NMFS would buy back a fishing permit from the owner(s) in order to reduce overall fishing capacity. The purchase of the permit would be financed by a loan to the entire fishing subsector. The fishing subsector would pay back the purchase price of the permit through a federal loan program administered by NMFS.

Public Law 108-199 provided the initial \$500,000 Federal Credit Reform Act (FCRA) subsidy cost to fund a \$50 million loan and Section 219 provided an additional \$250,000 subsidy cost to fund \$25 million more (in addition to providing for the buyback program itself). The legislation authorized a capacity reduction loan (Reduction Loan) of up to \$75 million and authorizes specific amounts for four subsectors in the fishery. The loan authorities include up to: \$36 million for the longline catcher processor subsector, \$6 million for the American Fisheries Act (AFA) trawl catcher processor subsector, \$31 million for the non-AFA trawl catcher processor subsector, and \$2 million for the pot catcher processor subsector.

In 2007 NMFS approved and implemented a \$35.7 million fishing capacity reduction program specifically for the longline catcher processor subsector. A provision in the Act permitted the Secretary to make available any of the remaining unused aggregate fishing capacity loan amounts after January 1, 2009. A separate capacity reduction plan could be developed for each subsector if and when the members of each industry subsector approached NMFS with a proposal. The remaining amounts have been reduced due to across the board rescissions in later appropriations bills. None of the other subsectors have shown any interest in the \$39,105,450 of remaining loan funds.

The Freezer Longline Conservation Cooperative (FLCC) has submitted a second fishing capacity reduction plan for the purchase of LLP 2085, a latent permit owned by Permit Holding LLC. The previously attached vessel was destroyed over 10 years ago. Likewise, the permit has been inactive for over 10 years. The permit allows a potential capacity for a 280 gross ton vessel and therefore, if utilized, represents the largest possible fishing vessel in the subsector fleet. The subsector has requested to remove LLP 2085 through the buyback program for \$2,700,000,

because it represents the biggest threat to the subsector stabilization if utilized at the lowest cost.

The objective of this program is to achieve a permanent reduction of capacity in the longline catcher processor subsector of the non-pollock groundfish fishery (reduction fishery). This should have no effect on post-reduction harvesters' per vessel productivity and by default should stabilize future gross revenues for the remaining vessels. By preventing an increase in vessels, fishery managers could better conserve and manage the fishery. The longline catcher processor subsector fishing capacity reduction program (program) is designed to reduce the fishing capacity in the longline catcher processor subsector of the non-pollock groundfish fishery by permanently reducing the number of permits issued pursuant to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea/Aleutian Islands (BSAI) Management Area. Removal of LLP 2085 represents the largest potential vessel within the fleet, and removal would make the permit permanently ineligible to fish in the United States. The established fleet reduction analysis does not apply, because this permit has been inactive for over ten years and is not associated with a vessel.

This program will be implemented under Public Law 108-447 and section 312 (b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). 50 CFR Part 600 Subpart L, which became effective June 18, 2000, contains the framework regulations for fishing capacity reduction programs. Section 312 and 50 CFR Part 600 Subpart L apply only to the extent they are consistent with the specific provisions of Public Law 108-447.

1.2 Background

The non-pollock groundfish fisheries are managed by NMFS, pursuant to provisions of the Fisheries Management Plan (FMP) in the Exclusive Economic Zone (EEZ) (3 to 200 miles off shore) off the Alaska coast. The FMP and later amendments were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Act. The FMP was approved by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA) and became effective in 1982.

The BSAI Pacific cod resource is targeted commercially by multiple gear types, primarily trawl gear and hook-and-line catcher processors, and to a lesser degree by hook-and-line catcher vessels, jig vessels, and pot gear. This is a fully subscribed fishery, with a 2006 Total Allowable Catch (TAC) of 194,000 metric tons. Excluding the 7.5 percent allocated to the Community Development Quota (CDQ) program reserve, the 2006 non-CDQ TAC (or Initial TAC) was 179,450 metric tons. The BSAI Pacific cod TAC has been apportioned among the different gear sectors since 1994 and the CDQ program has received a BSAI Pacific cod allocation since 1998.

A series of amendments have modified or continued the allocation system, and the current BSAI Pacific cod allocations were established using a step-wise approach. Currently, Federal regulations at 50 CFR 679.20(a)(7) authorize distinct BSAI Pacific cod allocations by gear and operation type. Those receiving allocations hold License Limitation Permits (LLP) with Pacific Cod endorsements. This buyback concerns those LLP holders further designated as longline catcher processors.

Currently there are 36 active vessel permits in the BSAI Non-pollock groundfish fishery. There is one latent permits with no vessel attached.

1.3 Purpose and Need for Action

Under the Magnuson-Stevens Act, the Secretary may conduct a fishery capacity reduction program if, among other things, the Secretary finds that the program “is necessary to prevent or end overfishing, rebuild stocks, or achieve measurable and significant improvements in the conservation and management of the fishery.” Reducing capacity has been a major desire of both the industry and fishery managers.

From a narrow perspective, the purpose and need for action is to implement a fishing capacity reduction program according to Congressional intent. From a broader perspective, the purpose and need for this action is to reduce excess capacity in one of the major non-pollock groundfish subsectors and help achieve the conservation and economic objectives of the FMP.

2.0 Description of Alternatives

Two alternatives have been considered: (1) no buyback program and (2) an industry-funded buyback program. Section 219 prescribes that each catcher processor subsector develops an appropriate buyback program that would later be approved by NMFS.

2.1 No Buyback Program (Alternative 1 – the ‘No Action’ Alternative)

Under this alternative there will be no buyback program undertaken for the longline catcher processor fishery and there will be no further capacity reduction.

2.2 Industry-Funded Buyback Program (Alternative 2 - Proposed Action)

Under this alternative, a second fishing capacity reduction program will be implemented by the industry through the FLCC. The FLCC successfully voted on a financed program in 2007. That program removed three permits with attached vessels, and one latent permit from the fishery. The FLCC, based upon that availability of funds and success of their first financed program, has voted to implement an additional financed program.

The program will be financed through a 30-year reduction loan made under sections 1111 and 1112 of Title XI of the Merchant Marine Act of 1936. A recent assessment by the industry indicates that the subsector members can afford to repay the proposed \$2.7 million loan without hardship. The industry based their opinion upon the previous annual reduction loan payment rate of \$0.16 per pound. This rate decreased to \$0.145 per pound as of January 1, 2012. Therefore, the industry participants are confident that an increase of one penny per pound will not adversely affect subsector catch revenues.

Two documents have been submitted to NMFS by FLCC in compliance with 50 CFR § 600.1003:

- (1) The Capacity Reduction Agreement – This document presents the offering process to the individual subsector members for consideration and adoption. The Agreement is between the FLCC and each subsector member.
- (2) The Capacity Reduction Contract - This document forms the contractual agreement between the subsector member whose offer was accepted and the U.S. Government.

Collectively the two documents (plus an Executive Summary) comprise the parts of the Plan prepared and agreed upon by more than 70 percent of the subsector members needed to begin the offering process. These documents, the results of the consequent offering process and a rationale proving compliance with the provisions of the statute constitute a Final Plan for the Secretary's consideration.

The longline catcher processor subsector has developed a detailed process for implementing the program. The reduction plan's express objective is to permanently reduce harvesting capacity in the longline catcher processor subsector of the BSAI non-pollock groundfish fishery (reduction fishery) by removal of LLP 2085. No right, title and/or interest to harvest, process or otherwise utilize individual fishing quota (IFQ) share in the halibut, sablefish and/or crab fisheries shall be included as Reduction Fishing Interests pursuant to 50 CFR §§ 679 and 680.

The Reduction Loan shall be repaid by fees collected from the longline catcher processor subsector. The fee amount will be based upon the following formula:

- (a) the principal and interest due over twelve months;
- (b) divided by the product of the longline catcher processor portion of the Bering Sea/Aleutian Islands Pacific cod ITAC (in metric tons) recommended by the Council in December of each year and multiplied by 2205.

The Council has proposed a longline catcher processor subsector portion of the ITAC for the 2011-2012 season based upon the previous season's catch. The proposed fee is \$0.001 per pound round weight. The 2007 buyback was originally set at \$0.02 per pound. The repayment schedule was subsequently reduced in 2009 to \$0.016 per pound, then in 2010 to \$0.015 per pound, and in 2011 to \$0.0145 per pound due to the success of the harvest as the least burdensome rate to achieve repayment within 30 years. An additional \$0.01 to repay the newly proposed loan would result in a fee rate under which the industry has already demonstrated can be paid while remaining below the five percent (5%) annual harvest value threshold.

Fees must be assessed and collected on all harvested Pacific cod, including those used for bait or discarded. Although the fee could be up to five percent (5%) of the ex-vessel production value of all post-reduction longline catcher processor subsector non-pollock groundfish landings, the fee will be less than five percent (5%) if NMFS projects that a lesser rate can amortize the fishery's reduction loan over the reduction loan's 30-year term.

In the event that the total principal and interest due exceeds five percent of the annual harvest

revenue, a penny per pound round weight fee will be calculated based on the latest available revenue records and NMFS conversion factors for pollock, arrowtooth flounder, Greenland turbot, skates, yellow-fin sole and rock sole.

The additional fee will be limited to the amount necessary to amortize the remaining twelve months principal and interest in addition to the five percent fee assessed against Pacific cod. The additional fee will be a minimum of one cent per pound. In the event that collections exceed the total principal and interest needed to amortize the payment due, the principal balance of the loan will be reduced.

To verify that the fees collected do not exceed five percent of the fishery revenues, the annual total of principal and interest for each loan due will be compared with the latest available annual longline catcher processor subsector revenues to ensure it is equal to or less than five percent of the total ex-vessel production revenues. This means that a total fee collection would not exceed ten percent, since two separate loans are subject to the five percent cap. This will be based on State of Alaska's Commercial Operator Annual Report (COAR report) produced annually in the March following the close of the previous season. If any of the components necessary to calculate the next year's fee are not available, or for any other reason NMFS believes the calculation must be postponed, the fee will remain at the previous year's amount until such time that new calculations are made and communicated to the post reduction fishery participants.

NMFS will conduct a referendum to determine whether eligible voters authorize this additional capacity reduction. The referendum is deemed successful if a majority of the permit holders vote in favor of the additional reduction. NMFS will mail, by U.S. certified mail, return receipt requested, a ballot and voting instructions to each eligible voter. The ballot will contain a 5-digit number assigned to each voter, a summary of the referendum's purpose, a place for the voter to vote for or against the industry fee system, a place for the groundfish LLP permit holder's signature, and will specify the date NMFS must receive the ballot for it to be counted. A postage paid, addressed envelope will also be enclosed to return the ballot to NMFS.

Each non-offering person who is the holder of a groundfish LLP permit will be entitled to one vote for each such permit. NMFS will mail each person a separate referendum ballot for each permit. Offerors that hold more than one permit may vote under the non-offered permit. Thus, a person with eight total permits who is only offering one permit may vote in the referendum seven times.

NMFS will tally all responsive votes then notify, by U.S. mail, all eligible voters of: the number of potential voters; the number of actual voters; the number of qualified returned ballots; the number of votes for and the number of votes against the additional capacity reduction; and whether the referendum passed or failed. The referendum is deemed to have passed if the total of votes approving the referendum represents a majority of all voters within the fishery. If the industry fee system is approved, NMFS will remind the accepted bidder that they must perform in accordance with the reduction contracts.

NMFS will also send notification, by U.S. mail, to each affected longline catcher processor. Late charges of 1.5 percent per month for the total amount of the fee not paid, collected, deposited,

and/or disbursed would be assessed. NMFS may take appropriate action against each fish seller and/or buyer responsible for non-payment, non-collection, non-deposit, and/or non-disbursement.

When the reduction loan is repaid, NMFS would publish a Federal Register notice that the fee is no longer in effect and send notification by U.S. mail to each affected fish seller and buyer.

2.3 Alternatives Considered and Eliminated From Detailed Consideration

There are many possible ways to structure and implement a fishing capacity reduction program including different mechanisms for accepting, sorting and selecting among offers. However, Section 219 provides that each subsector develop a buyback program. NMFS involvement in the process begins when industry submits the plan as outlined in section 2.2 above. Thus the consideration of other alternatives is restricted by the authorizing legislation.

3.0 Affected Environment

The environment of the area(s) to be affected or created by the alternatives under consideration include the physical and biological environment of waters from three to two hundred miles off the coast of Alaska in the Bering Sea, and, social, and economic environments of fishing industry participants in the North Pacific Fishery Management Council BSAI Groundfish Fishery Management Plan.

“The Bering Sea is a semi-enclosed, high-latitude sea. Of its total area of 2.3 million km², 44 percent is continental shelf, 13 percent is continental slope, and 43 percent is deep-water basin. Its broad continental shelf is one of the most biologically productive areas of the world. In contrast, the Aleutian Island shelf is very narrow. The EBS contains approximately 300 species of fish, 150 species of crustaceans and mollusks, 50 species of seabirds, and 26 species of marine mammals (Livingston and Tjelmeland 2000).”¹

Extensive descriptions of the area are provided in the FMP, species profiles, and sector profiles on the Council’s website (<http://www.fakr.noaa.gov/npfmc>) as well as in numerous other NEPA documents produced on this fishery in the past (<http://www.fakr.noaa.gov/analyses>). The species of fish harvested by the longline catcher processor subsector include Pacific cod, sablefish, and Greenland turbot.²

3.1 Description of the Harvesting and At-Sea Processing Gear Subsectors

Six harvesting and four processing subsectors participate in the non-CDQ BSAI Pacific cod fisheries.

Catcher vessels may be distinguished from one another by the type of fishing gear they use, operation type, and vessel length, although the AFA trawl catcher vessel subsector is also

¹ Excerpt from Final Environmental Impact Statement (EIS) for Essential Fish Habitat (EFH) in Alaska, 2005.

² See also Id. at 3.2.1.2: BSAI Groundfish

defined by statute. It is important to note that these subsectors are not necessarily exclusive—vessels may have made landings with more than one gear type and may therefore be counted in more than one subsector. The six catcher vessel subsectors are as follows:

1. AFA trawl catcher vessel
2. Non-AFA trawl catcher vessel
3. Longline catcher vessel $\geq 60'$
4. Pot catcher vessel $\geq 60'$
5. Longline/pot catcher vessel $< 60'$
6. Jig catcher vessel

Catcher processors are distinguished from one another by the type of fishing gear used and specific processing capability. Each subsector is also defined by statute. It is important to note that these subsectors are not necessarily exclusive—vessels may have made landings with more than one gear type and may therefore be counted in more than one subsector. The four catcher processor subsectors are as follows:

1. AFA trawl catcher processor
2. Non-AFA trawl catcher processor
3. Pot catcher processor
4. Longline catcher processor

3.2 Longline Catcher Processor Subsector

The proposed action would establish a program that includes vessels operating as catcher processors using longline gear. As of January 1, 2003, longline catcher processors must have a 'Pacific cod longline catcher processor' endorsement on their LLP license to target BSAI Pacific cod with longline gear and process it onboard. Section 219 recently defined eligibility in the longline catcher processor subsector as the holder of an LLP license that is transferable, or becomes transferable, and that is endorsed for BS or AI catcher processor fishing activity, C/P, Pacific cod, and longline gear. As of December 2011, 37 LLP licenses have this endorsement, associated with 33 vessels. One license is inactive, and three vessels carry two licenses. The proposed action will solely affect this subsector.

These vessels, also known as freezer longliners, use longline gear and focus their effort primarily on BSAI Pacific cod. Sablefish and Greenland turbot are secondary targets. Sablefish longlining requires IFQ for participation. Most longline catcher processors are limited to headed and gutted products. The vessels in this subsector generally begin fishing for Pacific cod on January 1 and continue until the allocation is fully harvested by February, March or April. They start fishing Pacific cod again on August 15 (when the halibut bycatch allowance becomes available) and fish through November or December. Most vessels in this subsector undergo maintenance and repair in the summer months, although several vessels process and custom freeze salmon during this period. The number of longline catcher processors has previously been averaging 40 vessels; however stacking of licenses on vessels has reduced the total number to 33 vessels in 2011.

3.2 Eligibility Requirements

This section provides a discussion of the participants and varying level of requirements currently in place to participate in the Federal directed BSAI Pacific cod fisheries. Note that no new eligibility requirements are proposed in this program, thus, the following requirements would not be modified by this action.

3.2.1 License Limitation Program Requirements

The LLP Program was implemented in 2000, and with few exceptions all sectors proposed to receive Pacific cod allocations under this amendment are subject to the LLP requirement when fishing BSAI Pacific cod in Federal waters. Those exceptions include: 1) vessels <32' length overall (LOA) in the BSAI, and 2) jig vessels <60' LOA in the BSAI (using no more than 5 jig machines, one line per machine, and 15 hooks per line). In addition to the general LLP license, all sectors subject to the LLP requirement must also have a BS and/or AI area endorsement and the proper operation and gear designations in order to fish BSAI Pacific cod with a particular gear and operation type.³

Thus, in the current trawl Pacific cod fisheries, the only eligibility requirement is having the appropriate LLP license, including a BS and/or AI endorsement and trawl designation. Most jig vessels actively fishing BSAI Pacific cod are <60' LOA, thus an LLP is not required. In the BSAI fixed gear (longline and pot) Pacific cod fisheries, however, additional LLP eligibility requirements were developed under Amendment 67. Under Amendment 67, vessels that are ≥60' LOA engaged in directed fishing for BSAI Pacific cod using fixed gear in the Federal fisheries using fixed gear must qualify for a Pacific cod endorsement in addition to their area endorsement, non-trawl endorsement, and general LLP license. This requirement was intended to provide a mechanism that would further limit entry into the fishery by fixed gear vessels that have not participated, or have not participated at a level that would constitute significant dependence on the fishery.

Given the fixed gear requirements for the Pacific cod endorsement and the general LLP license, there are a limited number of vessel licenses that are eligible to participate in the Federal BSAI Pacific cod fishery with fixed or trawl gear.

3.2.2 AFA Eligibility Requirements

Section 208(e) of the AFA establishes vessel and processor eligibility to harvest and process the BSAI pollock directed fishing allowance designated for each sector under the AFA. Section 208(e) lists the 20 fishing vessels that are eligible to participate as trawl catcher processors under the AFA, as well as the criteria used to qualify other catcher processors that are not listed (only

³A vessel's groundfish license is assigned an operation type designation of catcher processor or catcher vessel, and a gear designation of trawl and/or non-trawl.

one additional vessel qualifies under the criteria). Section 208(a)-(c) establishes the eligibility criteria and list for catcher vessels eligible under the AFA. As of December 2009, the NMFS data indicates that 89 catcher vessels were issued AFA permits.

In addition to determining eligibility for participation in the BSAI pollock fisheries, the implementing regulations for the AFA established “sideboards” (i.e., strict catch limits) on the participation by AFA-qualified vessels in the non-pollock BSAI groundfish fisheries and GOA groundfish fisheries, including Pacific cod. The 20 listed AFA catcher processors are currently subject to an annual Pacific cod sideboard limit. The one additional catcher processor that qualifies under 208(e)(21) of the AFA is limited to a small percentage of the AFA catcher processor allocation of pollock, and is not sideboarded in other fisheries.

3.2.3 Eligibility Requirements under Section 219

Section 219 establishes catcher processor subsector definitions for participation in the catcher processor subsectors of the BSAI non-pollock groundfish fisheries⁴ and the fishing capacity reduction program authorized by Congress. The following subsectors are defined under Section 219(a): AFA trawl catcher processor, non-AFA trawl catcher processor, longline catcher processor, and pot catcher processor.

With the exception of the non-AFA catcher processor subsector, Section 219 does not establish new eligibility requirements for participating in the BSAI Pacific cod fishery as part of the catcher processor subsectors. Section 219 defines the AFA trawl catcher processor subsector as the owners of each catcher processor listed in 208(e)(1)-(20) of the AFA. Under the Consolidated Appropriations Act, only the 20 listed AFA catcher processors are considered part of the AFA catcher processor subsector for continued participation in the BSAI non-pollock groundfish fisheries, which includes Pacific cod. The additional trawl catcher processor that qualifies under 208(e)(21) is thus considered part of the non-AFA trawl catcher processor subsector for purposes of this action.

Under the Act, the longline catcher processor and pot catcher processor subsectors are defined as the holders of an LLP license that is (or becomes) transferable, and that is endorsed for the BS and/or AI, catcher processor, Pacific cod, and the respective gear type (longline gear or pot gear).

The longline catcher processor subsector has 36 active LLPs, eligible for use on a vessel to harvest BSAI Pacific cod in the directed Federal fishery. Note that an LLP license is not necessary to fish BSAI Pacific cod in the parallel fishery that occurs in State waters (0 – 3 miles from shore). In addition, 32 of those LLPs also have a Gulf (Southeast, Central Gulf, or Western Gulf) endorsement and 7 are linked to a crab license.

3.3 Catch History and Participants in the BSAI Pacific Cod Fisheries

⁴ The non-pollock groundfish fishery is defined as ‘target species of Atka mackerel, flathead sole, Pacific cod, Pacific Ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI.’

This section provides retained catch history information for the ten subsectors. As noted earlier, these subsectors are not necessarily exclusive—vessels can be eligible to participate in more than one subsector and may have made landings with more than one gear type, and may therefore be counted in more than one subsector. It is also important to note that no attempt has been made to distinguish between landings made in the directed Pacific cod fisheries and incidental catch of Pacific cod in other target fisheries.

In 2009, Pacific Cod made up 15% of the entire Alaska groundfish catch, accounting for 16% of the total product value.⁵ During the period 2004-2010, the longline catcher processor subsector harvested the largest share (about 83%) of the BSAI Pacific cod TAC allocated to the non-CDQ fishery. The number of participating vessels averaged about 38 during this time period.⁶ The trawl catcher vessel subsector harvested almost 48% Pacific cod during the same time period.⁷ The pot catcher vessels subsector harvested almost 73% Pacific cod. The hook and line subsector harvested 57%.

The below table estimates the median gross revenues for BSAI Pacific Cod for the BSAI Freezer Longline Fleet. Revenues appear to have risen steadily from 2004 until they dropped in 2009.

Table -1 Nominal Grosse Revenue for BSAI Pacific Cod for the BSAI Freezer Longline fleet.⁸

Nominal dollars					
year	Number vessels	Mean revenues	25 th percentile revenues	Median revenues	75 th percentile revenues
2004	39	4,006,034	2,971,296	3,953,326	4,891,963
2005	39	4,845,300	3,598,740	4,763,962	5,317,366
2006	39	5,551,425	3,786,009	5,117,406	6,545,946
2007	37	5,662,278	3,958,537	4,656,793	7,177,941
2008	39	6,258,223	3,723,166	5,298,018	8,721,451
2009	38	4,260,433	3,005,830	3,814,570	5,781,316
2010	36	5,027,225	2,726,720	4,100,440	6,596,485
Source: AKFIN data evaluated by NMFS AKR.					

The table below provides the most recent total catch data by subsector for 2002 to 2009 as reported from the NMFS catch accounting database, which utilizes observer data, shoreside processor landings data, and fishtickets. Note that these data are broken out by types of gear and represent all groundfish caught, including Pacific cod.

⁵ Alaska Fishery Science Center, NOAA

⁶ Table 4 of Regulatory Amendment to Modify Monitoring and Enforcement Requirements in the BSAI Freezer Longline Fleet, p 18.

⁷ Table 46 of Economic SAFE Report 2010, p 88-89.

⁸ Table 12 of Draft Regulatory Amendment to Modify Monitoring and Enforcement Requirements in the BSAI Freezer Longline Fleet, p 27.

Table - 2 Number of vessels that caught caught groundfish off Alaska by area, tonnage caught, and gear 2002-09⁹

		Gulf of Alaska			Bering Sea and Aleutians			All Alaska		
		Tonnage caught			Tonnage caught			Tonnage caught		
		Less than 2t	2t to 25t	More than 25t	Less than 2t	2t to 25t	More than 25t	Less than 2t	2t to 25t	More than 25t
Hook & Line	2002	150	301	234	24	37	61	150	305	266
	2003	310	291	224	22	28	59	311	303	255
	2004	270	272	224	12	26	52	277	278	257
	2005	239	255	203	17	25	54	249	259	236
	2006	156	204	199	11	23	52	161	211	225
	2007	107	175	213	11	19	44	112	179	235
	2008	138	200	206	9	24	53	141	213	233
	2009	112	220	200	10	16	53	118	223	229
Pot	2002	7	19	108	2	5	61	8	22	149
	2003	41	19	81	3	11	74	41	27	134
	2004	35	18	97	1	10	72	31	24	149
	2005	40	22	90	6	5	63	43	27	133
	2006	41	14	90	4	13	58	45	25	130
	2007	23	20	94	3	4	66	20	21	146
	2008	24	32	89	3	4	64	25	27	138
	2009	32	16	77	1	7	47	30	21	113
Trawl	2002	1	11	113	0	3	163	1	9	224
	2003	4	3	107	0	1	160	1	3	205
	2004	0	0	93	2	2	152	0	2	192
	2005	0	4	90	0	1	147	0	2	189
	2006	0	0	90	0	2	145	0	0	193
	2007	0	2	85	0	1	152	0	0	190
	2008	0	1	86	0	3	146	0	0	191
	2009	1	2	86	0	1	145	1	1	183
All gear	2002	146	309	417	24	44	284	145	314	600
	2003	327	292	395	21	37	288	324	310	570
	2004	283	281	390	14	35	273	285	290	570
	2005	255	264	363	17	29	262	265	268	535
	2006	177	209	363	12	32	252	183	222	527
	2007	120	190	374	14	24	260	122	193	550
	2008	156	224	361	10	28	260	161	227	535
	2009	130	225	347	11	22	240	134	231	502

3.4 Participation Patterns

In addition to the number of vessels and their aggregate retained catch by subsector, information on participation is important to consider.

⁹ Table 45 Economic SAFE Report 2010, p 86.

Several important issues are being considered by the Council that would affect Pacific cod harvesting vessels during 2011-2012. New regulations may alter participation with the fishery.

An increase in the monitoring and catch accounting is proposed to ensure compliance with total catch harvest reporting.

In the longline catcher processor subsector, there are currently an estimated 32 LLPs endorsed for the directed BSAI Pacific cod fishery using hook and line gear. No new LLP licenses may be issued, and the remaining fishing operation within the fleet has established a cooperative. The cooperative has determined how to apportion the quota amongst members based upon their historical catch. Therefore, NMFS has presented a plan to the Council to increase oversight of these catch quotas. The plan is still in the draft presentation stage and no decision has been made.

3.5 Ex-vessel prices and revenues

Ex-vessel BSAI Pacific cod prices in the non-CDQ fixed gear sector ranged from \$0.312 (2005) to \$0.3256 (2009) per pound round weight during 2005-2009. During this same time period, prices for the trawl sectors ranged from \$0.204 – \$0.187 per pound round weight.¹⁰ Prices paid to pot and longline vessels were similar; some years pot catcher vessels received slightly more per pound than longline vessels, and other years longline vessels were paid a slightly higher price. The 2008 season created the highest prices per pound.

The estimated average equivalent ex-vessel value of BSAI Pacific cod by longline catcher processors, during 2005–2009 was \$109 million, with a low of \$67.9 million (2009) and a high of \$147.4 million (2008). Overall, the total ex-vessel value of BSAI Pacific cod caught by all gear types averaged \$147 million during 2005–2009. Note that ex-vessel value is calculated using the prices provided above, and the value added by at-sea processing is not included in these estimates of ex-vessel value.¹¹

It is possible that the fishery may not open during some years and thus no longline catcher processor subsector portion of the TAC will be granted. Consequently, the fishery will not produce fee revenue with which to service the reduction loan during those years. However, interest will continue to accrue on the principal balance. When this happens, if the fee rate is not already at the maximum 5 percent, NMFS will increase the fisheries' fee rate to the maximum 5 percent of the revenues for Pacific cod and the other species mentioned above, apply all subsequent fee revenue first to the payment of accrued interest, and continue the maximum fee rates until all principal and interest payments become current. Once all principal and interest payments are current, NMFS will make a determination about adjusting the fee rate.

¹⁰ Table 18, Economic SAFE Report 2010, p. 52

¹¹ Table 19, Economic SAFE Report 2010, p. 53

Table - 3 Real ex-vessel value of the catch in the domestic commercial fisheries of Alaska by species group, 1984-2009 (\$ millions, base year = 2009)¹²

	Shellfish	Salmon	Herring	Halibut	Groundfish	Total
1984	189.1	627.3	37.3	35.8	51.0	940.6
1985	190.3	693.4	65.7	66.7	77.2	1,093.3
1986	318.4	703.2	66.8	122.0	115.9	1,326.3
1987	363.6	799.2	70.5	128.9	231.6	1,593.8
1988	383.8	1,213.6	91.2	107.7	394.6	2,191.0
1989	439.2	797.0	29.4	132.8	532.1	1,930.5
1990	537.0	826.8	36.3	131.4	679.8	2,211.3
1991	440.3	438.9	41.8	134.0	683.0	1,737.9
1992	479.6	779.2	38.6	68.7	877.7	2,243.8
1993	460.0	547.7	19.7	75.1	570.9	1,673.4
1994	440.3	581.7	29.6	116.1	681.9	1,849.6
1995	380.1	666.3	52.5	79.9	778.3	1,957.2
1996	231.2	457.3	59.1	97.9	673.1	1,518.7
1997	223.1	321.3	20.6	138.1	749.8	1,453.0
1998	280.3	311.1	13.8	120.6	493.3	1,219.1
1999	342.5	436.6	17.9	147.6	597.5	1,542.2
2000	176.1	304.5	11.9	166.5	758.0	1,416.9
2001	149.2	227.7	12.6	144.1	718.2	1,251.8
2002	177.0	154.5	10.8	153.3	717.0	1,212.7
2003	204.2	195.7	10.4	193.1	722.6	1,326.0
2004	188.3	288.2	15.8	190.7	723.9	1,406.9
2005	174.2	320.8	14.6	185.9	821.3	1,516.9
2006	131.7	292.6	7.9	204.2	877.0	1,513.5
2007	186.6	358.5	15.3	224.2	842.3	1,626.8
2008	253.0	370.3	23.0	210.2	974.8	1,831.3
2009	195.5	344.7	29.3	134.6	639.7	1,343.8

3.8 Products Produced from Pacific cod

The product mix information for 2009 catcher processors for all gear types suggest that these operations produce mostly eastern and western cut headed and gutted (H&G) products and a few ancillary products. H&G accounts for 75% of all Pacific Cod product. Shorebased processors produce fillets, salted and split, and H&G products, along with a wide variety of ancillary products. The following section provides the production and gross value of Pacific cod products in the BSAI by at-sea and shoreside processors for the 2009 season.

3.9 First Wholesale Prices and Revenues

This analysis provides 2009 production season patterns and prices, and gross value for at-sea processors and shoreside processors of BSAI Pacific cod products. Data from the 2009 COAR

¹² Table 16, Economic SAFE Report 2010, p 50.

reports were used to estimate first wholesale price by product form for at-sea or shoreside processing sector. The per unit amount paid to the initial processors of fish for the resulting product is first wholesale price.

The 2009 first wholesale prices are estimated in the 2010 SAFE report as follows: \$2,000 per round metric ton of retained BSAI Pacific cod for at sea trawl catcher processors, \$2,700 per round metric ton for at sea fixed catcher processors, and \$3,300 per round metric ton of retained BSAI Pacific cod for shoreside processors.¹³

Table 4 indicates that for all BSAI cod products created by at-sea processors, prices average \$1.20 per pound. For all BSAI Pacific cod products from shoreside processors, prices average \$1.44 per pound. The 'all products' price estimate is a weighted average, indicating the total first wholesale value of all products taken together and divided by the total net weight of all products. Confidential data are excluded before calculating the totals.

Table 5 indicates that headed and gutted fish products make up the largest product mix for shoreside processors and at-sea processors combined. Head & Gut product account for 72% of the overall share in 2009. The highest prices per pound, however, are attributed to fillets, which have a generally low overall part of the production. The fillet share reduced from 17% to 11% in 2009.¹⁴

Table 4 - Price per pound of Pacific cod products in the fisheries of the BSAI of Alaska by species and processing mode, 2007-2009 (dollars).

		2007		2008		2009	
		At Sea	Shoreside	At Sea	Shoreside	At Sea	Shoreside
Pacific Cod	Whole Fish	\$0.66	\$0.79	\$0.56	\$0.65	\$0.54	\$0.61
	H&G	\$1.86	\$1.55	\$1.91	\$1.69	\$1.22	\$0.91
	Salted/split	-	\$2.22	-	\$1.43	-	\$1.19
	Roe	\$1.53	\$1.50	\$1.23	\$1.42	\$0.64	\$0.72
	Fillets	\$2.74	\$3.68	\$4.05	\$3.99	\$2.91	\$2.62
	Other products	\$1.09	\$0.82	\$0.92	\$0.75	\$0.76	\$0.83
	All Products	\$1.83	\$1.78	\$1.87	\$1.89	\$1.20	\$1.44

Note: These estimates are based on federal and state of Alaska fisheries. Prices based on confidential data have been excluded.
Source: Weekly production reports and Commercial Operators Annual Reports (COAR), NOAA Fisheries. National Marine Fisheries Service, P.O. Box 15700, Seattle, WA 98115-0070.¹⁵

¹³Table 35 of the Economic SAFE Report 2010, p. 151.

¹⁴Economic SAFE Report 2010, p. 147.

¹⁵Table 26 of Economic SAFE Report 2010, pg 62

Table 5 – Production and gross value of BSAI Pacific cod in Alaska fisheries, 2007-2009 (1,000 metric tons product weight and million dollars)

		2007		2008		2009	
		Value	Quantity	Value	Quantity	Value	Quantity
Pacific Cod	Whole Fish	\$1.60	.97	\$3.10	2.29	\$4.70	3.83
	Head & Gut	\$344.10	88.29	\$334.70	82.00	\$187.90	72.33
	Salted/split	\$10.70	2.18	\$5.00	1.58	\$0.00	.02
	Fillets	\$64.20	7.90	\$81.10	9.24	\$63.20	10.99
	Other products	\$35.80	15.03	\$33.60	15.55	\$25.60	13.17
	All products	\$456.40	114.37	\$457.50	110.65	\$281.60	110.34

Note: These estimates include production resulting from catch from federal and state of Alaska fisheries. Confidential data was included.

Source: Weekly processor report and commercial operators annual reports. National Marine Fisheries Service, P.O. Box 15700, Seattle, WA 98115-0070.¹⁶

Table 6 provides the relative distribution of total first wholesale revenues across three categories of groundfish fisheries in the catcher processor sectors during 2009, in order to compare the percentage of estimated first wholesale revenues attributed to BSAI Pacific cod and all other *groundfish* fisheries. Thus, the data provide a general assessment of the relative dependence on BSAI Pacific cod as a part of total first wholesale revenues attributed to *groundfish* by sector, during 2009. Data indicating the percentage of first wholesale revenues from BSAI Pacific cod compared to all other fisheries (including non-groundfish) are not available at this time.

Table 6- Estimated first wholesale value by catcher processor sector, groundfish fishery, 2009.

Sector	Total estimated first wholesale value, all species	Percent total estimated first wholesale value			Number of industry vessels		
		% BSAI Pcod	% Other BSAI Groundfish	% Gulf Groundfish	BSAI PCod	BSAI other Groundfish	Gulf Groundfish
All Trawl CP	\$457,500,000	5.10%	85.10%	9.80%	70	76	89
Hook-and-line CP	\$150,000,000	37.20%	7.70%	55.10%	55	24	532
Pot CP	\$16,000,000	55%	0%	45%	47	0	125

Source: Weekly production reports and first wholesale product prices from Economic SAFE, 2010.¹⁷

¹⁶ Table 25 of Economic SAFE Report 2010, pg 60

¹⁷ Data compiled from Table 19 and Table 41 of Economic SAFE report 2010, p 53 and p 78.

The majority of estimated first wholesale revenue from BSAI groundfish products in the longline catcher processor subsector is from Pacific cod (37.2%), with lower amounts from other BSAI groundfish. The Gulf groundfish percentage includes Pacific Cod numbers. There were 79 industry vessels in the longline catcher processor subsector during this time period, with 24 of those vessels also participating in BSAI other groundfish and the majority also participating in Gulf groundfish.

4.0 Environmental Consequences

Council on Environmental Quality regulations for implementing the procedural provisions of NEPA require the agency to examine the impacts of the proposed action (industry-funded buyback) and its alternatives on the human environment. Accordingly this EA discusses this action and its alternatives by examining the factors contained in Section 6.01 of NOAA Administrative Order 216-6 and the environmental provisions of the ESA. If the action is determined not to have a significant impact on the human environment based on an analysis of relevant considerations, the EA and resulting FONSI are sufficient to meet NEPA requirements.

The environmental issues associated with this capacity reduction proposal include: the biological environment including the water column and substrate; amount of fish removed, gear used to fish, and any incidental taking of a marine mammal, seabird, or prohibited species by the longline fishery.

4.1 Alternative 1 Impacts

The longline catcher processor subsector of the non-pollock groundfish fishery will continue to fish in the BSAI fishery management area under defined quotas and seasons. The impacts to the biological environment include harvest of fish using gear that has some contact with the substrate and occasional incidental interaction with marine mammal, seabird, and prohibited species. These impacts have been disclosed in the Essential Fish Habitat EIS (NMFS 2005) and Alaska Groundfish Programmatic EIS (NMFS 2004), which are hereby incorporated by reference. These EIS's determined that prey species, productivity, and biodiversity would be negatively impacted by this alternative. These EIS's also determined that spatial concentration of catch may be positively impacted. Therefore, this alternative does not meet the legal mandates imposed by Section 219 and discussed under Alternative 2.

4.2 Alternative 2 Impacts

The proposed program, Alternative 2, is an industry-funded buyback program.

The biological environment would not be differentially impacted because the amount of fish harvested and gear used to harvest fish would not be affected by this program. The same number of vessels would be participating in the fishery, using the same gear, and spending similar time at sea, therefore, no differential impact to the physical environment is anticipated.

This program will not affect shoreside processors. Compared to the ‘no action’ Alternative 1, total harvest and revenue will not decrease and total revenue may increase due to stabilization of fishery.

Prospective crew members for fishery vessels will see no change in job opportunities. This permit is currently not being fished thus no jobs are being destroyed or created.

The proposed action’s impact would be positive for both the owner whose offer NMFS accepts and post-reduction catcher processors whose landing fees repay the reduction loan because the Offeror and catcher processors would have voluntarily assumed the impact:

1. The Offeror would have volunteered to make an offer at a dollar amount of its own choice. Presumably, no Offeror would volunteer to make an offer with an amount that is inconsistent with the Offeror’s interest; and

2. Reduction loan repayment landing fees would be authorized, and NMFS could complete the Reduction Program, only if at least two-thirds of subsector members voting in a post-offer referendum voted in favor of the Reduction Plan. Presumably, the subsector members who are not Selected Offerors would not vote in favor of the reduction plan unless they concluded that the program’s prospective capacity reduction was sufficient to enable them to increase their post-reduction revenues enough to justify the fee.

NMFS believes that this proposed action would affect neither authorized BSAI Pacific cod ITAC and other non-pollock groundfish harvest levels nor harvesting practices. The FLCC and other fishing industry components deemed the first reduction program successful. It enabled the longline catcher-processor subsector to develop a fishing cooperative which has reduced the race for fish, increased the use of the resource through additional processing, and increased the economic efficiency of the fishery.

4.3 Impacts Upon Communities

Fishing communities, as defined in the Magnuson-Stevens Act, include not only the people who actually catch the fish, but also those who share a common dependency on directly related fisheries-dependent services and industries. Many of the coastal communities participate in the non-pollock groundfish fishery in one way or another, whether it be processing, support businesses, port facilities, or as home to fishermen and processing workers.

National Standard 8 of the Magnuson-Stevens Act mandates that conservation and management shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and the rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to provide for the sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities.

If this permit is not removed the longline catcher processor subsector of the non-pollock

groundfish fishery could be increasingly overcapitalized. Although too many vessels compete to catch the current subsector TAC allocation, fishermen remain in the fishery because they have no other means to recover their significant capital investment. Overcapitalization reduces the potential net value that could be derived from the non-pollock groundfish resource, by dissipating rents, driving variable operating costs up, and imposing economic externalities. At the same time, excess capacity and effort diminish the effectiveness of current management measures (e.g. landing limits and seasons, bycatch reduction measures). Overcapitalization has diminished the economic viability of members of the fleet and increased the economic and social burden on fishery dependent communities. This alternative does not meet the legal mandates discussed under Alternative 2.

Overall, the economic impact to communities where non-pollock groundfish is landed and processed would be minimal because the harvest TACs and allocations would not be altered with the implementation of this program. A stable number of vessels in the catcher processor fleet should not affect on-shore support services for the fleet in Seattle and in Dutch Harbor. The communities would most likely see no change because total landings of non-pollock groundfish would remain at current levels. Some beneficial impacts may occur because this program would provide up to \$2.7 million to the successful bidder. Often, employment opportunities for crew members can be reduced when vessels are removed from the fishery through the buyback program. However, this buyback involves a latent permit that has not provided crew member jobs in over 10 years, thus there is no anticipated job loss. Those vessels remaining in the fishery will likely experience no change in fishing opportunities or per capita incomes. The fishery would be adversely affected by reentry of this permit into the fishery because of its overall capacity in reducing other vessel's catch.

4.4 Essential Fish Habitat

None of these alternatives is expected to have an adverse impact on essential fish habitat (EFH) because the alternatives do not result in any change between fishing operations and the essential fish habitat for BSAI non-pollock groundfish. Specifically, none of the alternatives are expected to result in a change in amount of fish harvested, fishing methodology, gear usage, or fishing area. Consequently, neither EFH consultation nor further consideration of potential impacts on EFH is necessary.

4.5 Cumulative Effects

Cumulative effects must be considered when evaluating the alternatives. Cumulative impacts are those combined effects on the quality of the human environment that result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what Federal or non-Federal agency or person undertakes such other actions.

The area that would be affected by implementing the industry sponsored buyback is the marine area associated with the non-pollock groundfish fisheries off the Alaska coast. The potential

direct and indirect effects of Alternative 2 are discussed above.

Of the past, proposed, and foreseeable future actions that could affect these same waters and fishermen, the most notable action is the annual non-pollock groundfish specifications and management measures process. To support this process, related actions include observer and enforcement monitoring; the implementation of a vessel monitoring system (VMS); the development of rebuilding plans for overfished species; future plans to reduce bycatch, capacity, and negative effects on EFH; and changes in economic and socio-economic conditions.

Implementation of the industry-funded buyback would not have a negative effect on the BSAI non-pollock groundfish specifications and management measures process. The impact, however slight, may in fact be positive because the largest permit in the fleet will no longer be available. In order to utilize this permit a new vessel would need to be built to accommodate its available gross ton capacity. Maintaining the number of vessels may allow for the adoption of less restrictive (i.e., less costly) management measures that yield equivalent or increased conservation benefits compared with the status quo.

Implementing an industry-funded buyback would have potential long-term economic and socio-economic effects. Some harvesters would immediately leave the fishery. Those remaining in the BSAI non-pollock groundfish fishery would be responsible for repaying the industry loan over a 30-year period. However, those remaining in the fishery would directly benefit by ensuring a stable access to the available quotas, maintaining lower costs, and therefore may prevent a decrease in per capita incomes.

Compared to the status quo, total harvest and revenue will not decrease and revenue may increase. Therefore, the total amount of income that flows to Washington and Alaska fishing communities should not decrease and may increase. Some fishing communities may benefit from the sudden cash infusion to the local economy generated by the subsequent expenditures by the winning bidders in the program. Shore-based processors would not be affected because this program involves only longline catcher processors.

Implementation of the Proposed Action (industry-funded buyback) would not have a negative effect on foreseeable State management actions and may, for many of the same reasons discussed immediately above, have a potential positive effect. Should states participate in the fee-collection aspects, the costs incurred would be minor and incremental to existing state fee collection activities.

5.0 Regulatory Impact Review

E. O. 12866, signed in October of 1993, requires Federal agencies, including NMFS, to assess all costs and benefits of available regulatory alternatives, including both quantitative and qualitative measures. Such economic and social impacts should include the 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. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits, unless a statute requires

another regulatory approach.

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory actions 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 “significant” if it is likely to result in any of the effects described above. The RIR is designed to provide information to determine whether the proposed action is likely to be “economically significant”. The Office of Management and Budget made a determination of “no significance” under E.O. 12866 for this program.

Under 50 CFR 600.1000 a “program” is defined as each proposed individual reduction loan. This program will provide \$2.7 million to reduce fishing capacity in the longline catcher processor subsector of the BSAI non-pollock groundfish fishery. The discussion of the impacts in Section 4 serves as a qualitative review of the benefits and costs of the program.

6.0 Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA), first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either ‘certify’ that the action will not have a significant adverse impact on a substantial number of small entities, and support that certification with the “factual basis” for the decision; or it must prepare and make available for public review an Initial Regulatory Flexibility Analysis

(IRFA) that describes the impact of the proposed rule on small entities. When an agency publishes a final rule, it must prepare a Final Regulatory Flexibility Analysis (FRFA). Analytical requirements for the IRFA are described below in more detail.

The IRFA must contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:
 1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
 2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
 3. The use of performance rather than design standards;
 4. An exemption from coverage of the rule, or any part thereof, for such small entities.

In determining the scope, or ‘universe’, of the entities to be considered in an IRFA, NMFS includes only those entities, both large and small, that are directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. NOAA currently interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.

6.1 Definition of a small entity

Section 601(3) of the RFA defines a ‘small business’ as having the same meaning as ‘small business concern’ which is defined under Section 3 of the Small Business Act (SBA). ‘Small business’ or ‘small business concern’ includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the U.S., and which operates primarily within the U.S. or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor... A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the U.S. including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4.0 million criterion for fish harvesting operations. Finally, a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. The SBA size standards applicable to RFA analyses increased from \$3.5 million to \$4.0 million on January 5, 2006, to adjust for inflation (70 FR 72577, 12/6/05).

6.2 Description of Reasons for Action and Statement of Objective and Legal Basis

A description of why the agency is considering this action as well as a statement of objectives and legal basis is included in section 1.1.

6.3 Number and description of affected small entities

For purposes of the IRFA, all small businesses with annual receipts of less than \$4.0 million can be considered small businesses. In 2010, the most recent year for which the necessary gross revenues information is available, 17 of the 36 active vessels had less than \$4 million in gross revenues from fishing for Pacific cod.

Even though small numbers of directly regulated vessels and entities may be described as small with respect to their own gross revenues, when affiliations among entities are considered, as

required under the RFA, there are no small entities in this fishery. As described in the RIR prepared for this action, the directly regulated vessels in this fleet have formed a fisheries cooperative that effectively allocates to each vessel a share of the Pacific cod TAC, and of the available halibut PSC. These vessel-specific individual quotas are enforced under a private contract among the entities. (NMFS 2011) Therefore, for the purpose of this analysis, the directly regulated entities are all affiliated, with all the entities that would otherwise be characterized as small, having affiliations with larger entities. Thus, there are no directly regulated small entities under this action.

6.4 Description of Small Entities to Which the Rule Applies

The Small Business Administration (SBA) has defined small entities as all fish harvesting businesses that are independently owned and operated, not dominant in its field of operation, and with annual receipts of \$4 million or less. In addition, processors with 500 or fewer employees for related industries involved in canned and cured fish and seafood, or preparing fresh fish and seafood, are also considered small entities. According to the SBA's definition of a small entity, an estimated 17 of the 36 active longline catcher processors would be considered small entities. However, there are no disproportionate impacts between large and small entities.

6.5 Description of Recordkeeping and Compliance Costs

Implementation of the buyback program would not change the overall reporting structure and recordkeeping requirements of the vessels in the BSAI Pacific cod fisheries. This action contains collection of information requirements subject to the Paperwork Reduction Act and which have been approved by OMB under control number 0648-0376.

6.6 Duplication or Conflict with Other Federal Rules

This rule does not duplicate or conflict with any Federal rules of which NMFS is aware.

6.7 Measures taken to reduce impacts on small entities

Most firms operating in the fishery regulated by the proposed action have expected annual gross revenues greater than \$4.0 million; this analysis estimates that 17 of 36 vessels that participated in 2009 are considered small entities. Moreover, participation in this program is voluntary. The ownership characteristics of vessels operating in the fishery are not available and therefore it is not possible to determine with certainty, if they are independently owned and operated, or affiliated in one way or another with a larger parent company. Furthermore, because analysts cannot quantify the exact number of small entities that may be directly regulated by this action, a definitive finding of non-significance for the proposed action under the RFA is not possible. However, because the proposed action would not result in changes to allocation percentages, net effects would be expected to be minimal relative to the status quo.

7.0 Consistency With Other Applicable Laws

This rule is consistent with other applicable Federal rule of which NMFS is aware.

7.1 Endangered Species Act Considerations

The ESA provides for the conservation of endangered and threatened species of fish, wildlife, and plants. Consultations under Section 7 of the ESA are administered by the NMFS for most marine mammal species, marine and anadromous fish species, and marine plant species and by the U.S. Fish & Wildlife Service (FWS) for bird species, and terrestrial and freshwater wildlife and plant species.

Endangered and threatened species present in the action area include Steller sea lion, listed great whales, and short-tailed albatross. Consultation on these listed species is conducted annually at the time of Environmental Assessments for proposed rules (most recently North Pacific 2009). This action will continue existing fishery management regulation of BSAI non-pollock groundfish to the various industry sectors, based on the historical harvest distribution among sectors. No adverse impacts on endangered or threatened species are anticipated as a result of implementing the alternatives under consideration.

7.2 Marine Mammal Protection Act Considerations

Fisheries that interact with species listed as depleted, threatened, or endangered may be subject to management restrictions under the MMPA and ESA. NMFS publishes an annual list of fisheries in the Federal Register separating commercial fisheries into one of three categories, based on the level of serious injury and mortality of marine mammals occurring incidentally in that fishery. The categorization of a fishery in the list of fisheries determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. This action will continue regulation of specific allocations of BSAI Pacific cod to the various industry sectors, based on the historical harvest distribution among sectors. No adverse impacts on marine mammals are anticipated as a result of implementing the alternatives under consideration.

7.3 Coastal Zone Management Act Considerations

Implementation of any of the alternatives would be conducted in a manner consistent with the Alaska Coastal Zone Management Program in accordance with Section 307(c)(1) of the CZMA of 1972 and its implementing regulations. However, Alaska's Coastal Management Program ceased as of July 1, 2011 as the legislature adjourned without passing legislation to extend the program.

7.4 Executive Order 13132 Federalism

Any Federalism implications arising from this notice are highly unlikely, however consultations with the State of Alaska are ongoing.

7.5 Executive Order 13175 Consultation and Coordination with Indian Tribal Governments

E.O. 13175 is intended to ensure regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the U.S. government to government relationships with Indian tribes, and to reduce the imposition of unfunded mandates on Indian tribes. This program will not have substantial direct effects on Indian tribes and is therefore not applicable.

7.6 Executive Order 12898

Executive Order (E.O.) 12898 focuses on environmental justice in relation to minority populations and low-income populations. The EPA defines environmental justice as the: "fair treatment for people of all races, cultures, and incomes, regarding the development of environmental laws, regulations, and policies." This executive order was spurred by the growing need to address the impacts of environmental pollution on particular segments of our society. The order (Environmental Justice, 59 Fed. Reg. 7629) requires each Federal agency to achieve environmental justice by addressing "disproportionately high and adverse human health and environmental effects on minority and low-income populations." The EPA responded by developing an Environmental Justice Strategy which focuses the agency's efforts in addressing these concerns.

In order to determine whether environmental justice concerns exist, the demographics of the affected area should be examined to determine whether minority populations and low-income populations are present, and if so, a determination must be made as to whether implementation of the alternatives may cause disproportionately high and adverse human health or environmental effects on these populations. Environmental justice concerns typically embody pollution and other environmental health issues, but the EPA has stated that addressing environmental justice concerns is consistent with NEPA and thus all Federal agencies are required to identify and address these issues.

Overall, the population structures of these regions vary considerably, but in the Aleutian Islands and Kodiak regions there are areas with substantial Alaska Native and other minority populations. The city of Kodiak has about 6,130 persons (2010 U.S. Census) and about 40 percent of its population is white. The predominant minority in the city and its surrounding area is Asian/Pacific Islanders (37%), followed by American and Alaska Native (9%). The ethnic composition of the Kodiak Island Borough (population 13,049), which includes the city of Kodiak, Kodiak Station, the unincorporated population, and all named places on Kodiak Island, is similarly structured: 55% white; 19% Asian/Pacific Islander; and 13% Native

American/Alaskan Native.

In King Cove (2010 pop. 938), Alaska Natives make up about 47% of the population, with Asian and Pacific Islanders the next largest minority population (27%). In Unalaska, the 2010 U.S. Census reports a population of 4,376 persons, the majority of which (39.2%) are white. The remaining composition is about 32% Asian/Pacific Islander; 6% Native American/Alaskan; and 7% African American. Akutan's population (2010 pop. 1,027) remains dominated by minority populations: 43% Asian/Pacific Islander, and 5% Alaska Native. About 23% of the Akutan population in 2010 was white.¹⁸

While the relationship of Washington to the Alaska non-pollock groundfish fishery is more involved than some regions of Alaska (in terms of absolute number of jobs), it has been asserted that the fishery is generally less important to or vital for these states than for the Alaskan communities involved. For example, the size of Seattle dilutes the overall impact of the Alaska groundfish fishery jobs, whereas in Alaskan communities such jobs represent a much greater proportion of the total employment in the community (NMFS 2004a, Appendix F). Thus, while the majority of vessel owners that appear eligible to fish BSAI cod report residency in Washington, there are relatively more individual catcher vessels, specifically in the fixed gear fisheries, that are attributed to Alaskan communities than there are catcher processors. It is this distinction, and the minority populations associated with these communities, that would determine whether this action may have any environmental justice impacts.

The effects of the action under consideration are discussed in Section 5.0 (RIR) and Section 6.0 (IRFA). It is assumed that each sector would continue to harvest its relative historical share of the BSAI Pacific cod ITAC, meaning substantial reallocations of Pacific cod quota would continue to be necessary among gear sectors to ensure there is no foregone harvest. In addition, because the action would reflect historical harvests by sector, it is not expected that this action would significantly affect historical delivery patterns by vessels delivering to shoreside processing plants.

It has been determined that the proposed actions do not appear to have any significant individual or cumulative environmental or human health effects. Thus, no distinct population, minority or otherwise, should be affected in this regard.

8.0 List of Agencies Consulted in Formulating the Notice

Other agencies consulted in formulating the rule and this EA/RIR/IRFA include:

- Alaska Department of Fish and Game
- NMFS-Alaska Regional Office
- NMFS-Alaska Fishery Science Center
- NMFS- Office of Sustainable Fisheries, Domestic Fisheries/Regulatory Services Division
- NMFS-Management and Budget Financial Services Division
- NMFS-Northwest Regional Office
- NOAA-Office of General Counsel

¹⁸In the 2010 U.S. Census as reported on Alaska Community Database available at <http://www.dced.state.ak.us/>

8.1 List of Preparers

This EA/RIR/IRFA was prepared by staff from the National Marine Fisheries Service:

Michael A. Sturtevant, Office of Management and Budget, Financial Services Division

9.0 References

Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act 40 CFR Parts 1500-1508.

Council on Environmental Quality, Washington, D.C. Environmental Justice, Guidance Under the National Environmental Policy Act. December 10, 1997.

NMFS, Office of Sustainable Fisheries, Silver Spring, MD. Guidelines for Economic Analysis of Fishery Management Actions. August 16, 2000.

NMFS, Final Programmatic Supplemental EIS for Alaska Groundfish Fisheries, June 2004

NMFS, Economic and Social Sciences Research Program, Seattle, WA. Stock Assessment and Fishery Evaluation (SAFE) Report for the Groundfish Fisheries of the Gulf of Alaska and Bering Sea/Aleutian Islands Area: Economic Status of the Groundfish Fisheries off Alaska, 2009. December 2010.

NMFS, Office of Sustainable Fisheries, Ben Muse, Juneau, AK. Draft Regulatory Amendment to Modify Monitoring and Enforcement Requirements in the BSAI Freezer Longline Fleet, September 2011.

NOAA, Silver Spring, MD. Environmental Review Procedures for Implementing the National Environmental Policy Act. (NOAA Administrative Order 216-6) May 20, 1999.

North Pacific Fishery Management Council, Anchorage AK. Draft Environmental Assessment and Regulatory Impact Review, March 25, 2009.

10.0 List of Abbreviations and Acronyms

ADFG - Alaska Department of Fish and Game
AFA - American Fisheries Act
BSAI - Bering Sea and Aleutian Islands
CDQ - Community Development Quota
CFR - Code of Federal Regulations
Council – North Pacific Fishery Management Council

CZMA - Coastal Zone Management Act
EA - Environmental Assessment
EEZ - Exclusive Economic Zone
EFH - Essential Fish Habitat
EIS - Environmental Impact Statement
E.O. - Executive Order
ESA - Endangered Species Act
FLCC – Freezer Longline Conservation Cooperative
FMP - Fishery Management Plan for Bering Sea and Aleutian Islands Groundfish
FONSI - Finding of No Significant Impact
FWS - U.S. Fish & Wildlife Service
IFQ - Individual Fishing Quota
IRFA – Initial Regulatory Flexibility Analysis
LLP – License Limitation Program
LOA - Length Overall
Magnuson-Stevens Act – Magnuson-Stevens Fishery Conservation and Management Act
MMPA - Marine Mammal Protection Act
NEPA - National Environmental Policy Act
NMFS - National Marine Fisheries Service
NOAA - National Oceanic and Atmospheric Administration
OMB - Office of Management and Budget
RFA - Regulatory Flexibility Act
PRA – Paperwork Reduction Act
RIR - Regulatory Impact Review
Secretary – Secretary of Commerce
SBA - Small Business Administration
VMS – Vessel Monitoring System

National Marine Fisheries Service Finding of No Significant Impact for an Environmental Assessment for a Second Fishing Capacity Reduction Program in the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-Pollock Groundfish Fishery

The 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 regulations at 40 C.F.R. '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. These include:

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

Response: This program will not jeopardize the sustainability of any target species because the amount of fish harvested and gear used to harvest fish would not change from the status quo. Under the proposed program no change would occur in the number of vessels harvesting fish nor the gear used, so the total amount of fishing effort would not change.

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

Response: This program will not jeopardize the sustainability of any non-target species because the amount of fish harvested and gear used to harvest fish would not change from the status quo.

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: This program will not cause substantial damage to the ocean habitats and/or essential fish habitat because the amount of fish harvested and environmental impacts from the gear used to harvest fish would not change from the status quo.

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

Response: This program will not cause a substantial adverse impact on public health or safety because the amount of fish harvested and gear used to harvest fish would not change from the status quo. Under the proposed program potentially fewer total vessels would be harvesting fish which could result in improved public safety.

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

Response: This program is not expected to adversely affect endangered or threatened species, marine mammals, or critical habitat because the amount of fish harvested and gear used to harvest fish would not change from the status quo.

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: This program is not expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area because the amount of fish harvested and gear used to harvest fish would not change from the status quo.

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

Response: The economic impact to communities where salmon are landed and processed would be minimal because the harvest levels would not be altered. Some beneficial impacts may occur because this program would provide up to \$2.7 million to the successful offeror, and much of this may be reinvested in the various communities which serve as home ports to the vessels.

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

Response: The program effects on the quality of the human environment are not likely to be highly controversial. The communities would see little change because total landings would remain at current levels. Some beneficial impacts may occur because this program would provide up to \$2.7 million to the successful offeror, and much of this may be reinvested in the various communities which serve as home ports to the vessels and a portion would be recovered through income taxes. Public comments were solicited on the draft EA and no public comments were received.

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: The program is not expected to result in substantial impacts to unique areas or ecologically critical areas because fishing effort would occur in open areas of the ocean.

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

Response: The program's effects on the human environment are not likely to be highly uncertain or involve unknown risks. Those vessels remaining in the fishery after the capacity reduction program is implemented will likely experience increased fishing opportunities and higher per capita incomes.

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

Response: The program is not related to other actions which produce cumulatively significant impacts.

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: The management measures under the program would occur in marine waters in Alaska and would not occur in any areas listed or eligible for listing in the National Register of Historic Places, and would not cause loss or destruction of significant scientific, cultural or historical resources because there are no significant scientific, cultural or historic resources within the action area.

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

Response: The program is not expected to result in the introduction or spread of a nonindigenous species. Fishing vessels participating in this fishery do not travel between ecologically different bodies of water or exchange ballast water.

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: The program is not likely to establish a precedent for future actions because environmental, social and economic impacts of any proposed future fishery management actions would be independently analyzed, therefore implementing the proposed action would not represent a decision in principle about future considerations.

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: NMFS fully considered all federal, state and local laws and requirements when analyzing the potential impacts of the proposed action, and NMFS has determined that a decision to implement the program is not expected to threaten a violation of Federal, State, or local law or requirements for the protection of the environment

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: The program is not reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target or non-target species because the amount of fish harvested and gear used to harvest fish would not change.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for a Second Fishing Capacity Reduction Program in the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-Pollock Groundfish Fishery, it is hereby determined that the program will not significantly impact the quality of the human environment as described above and in the supporting 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.


Dana FlowerLake,

Acting Director of Management and Budget

9/6/12
Date