


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director 

DATE: January 3, 1995

SUBJECT: Seamount Fisheries

ESTIMATED TIME  
1 HOUR

**ACTION REQUIRED**

Initial review of regulatory changes to monitor/manage seamount fisheries.

**BACKGROUND**

In June 1994, NMFS presented a report to the Council that identified enforcement problems that arise when groundfish allegedly taken in international waters (e.g., sablefish harvested on Gulf of Alaska seamounts) are actually taken in the EEZ. The seamount fisheries analysis examines measures that would allow NMFS to more effectively monitor the origin of groundfish harvest. Enhanced monitoring of the origin of groundfish harvest would contribute to the conservation of Federally-managed groundfish resources by ensuring that those groundfish that were harvested inside the EEZ were reported as such and counted toward individual quota shares and the overall TAC.

Based on a Council recommendation that NMFS prepare a regulatory amendment, the analysis of the seamount fisheries includes the following alternatives:

Alternative 1: Status quo. With the exception of the Donut Hole, Federally permitted vessels would continue to be unrestricted from fishing in, or possessing groundfish harvested from, waters seaward of the EEZ off Alaska.

Alternative 2: Federally permitted vessels would be prohibited from fishing for groundfish in waters seaward of the EEZ off Alaska or possessing groundfish in waters in the EEZ that were caught in waters seaward of the EEZ off Alaska.

Alternative 3: Federally permitted vessels fishing in the waters seaward of the EEZ off Alaska must obtain and carry onboard a fully functional and operational transponder and an observer for the duration of fishing activities in waters seaward of the EEZ off Alaska.

Option 1: Vessels would be responsible for their own transponder unit that conforms to the National VMS specifications outlined by NMFS (September 22, 1994; 59 FR 15180).

**Option 2:** NMFS would purchase a limited number of VMS units for use by vessels that intend to fish seaward of the EEZ. Vessels would come to designated ports to pick up a transponder (and an observer, if necessary) prior to conducting fishing activities seaward of the EEZ. This option would be less costly to the industry but could potentially be restrictive if more vessels wished to fish seaward of the EEZ than there were transponders available.

**Alternative 4:** Federally permitted vessels intending to fish in waters seaward of the EEZ off Alaska must complete and submit a Vessel Activity Report (VAR) and must, immediately upon reentry to the EEZ, offload any fish harvested in waters seaward of the EEZ off Alaska.

**Alternative 5:** Federally permitted vessels retaining quota share will have any sablefish harvested deducted from the quota share, regardless of the origin of the fish. This would prevent vessels from harvesting sablefish inside the EEZ, circumstances under which the fish would be deducted against a quota share, while claiming to have harvested the fish outside the EEZ, in which case they would not have to deduct the fish from their quota share.

The full analysis is attached as Item C-4(a).

The Enforcement Committee reviewed this issue at its November 28-29, 1994 meeting. The Committee's comments follow:

The Committee's preferred alternative was a combination of a modified Alternative 3 and Alternative 5. Alternative 3 requires a federally permitted vessel fishing in waters seaward of the EEZ off Alaska to obtain and carry a transponder. Transponders are an important tool of law enforcement, and may be able to be provided by NMFS to the few fishermen fishing on the seamounts. However, transponders provide information on where the vessel was for a given period of time, not on the activity performed there. Some legal concern was expressed in giving sufficient notice to the public in requiring the use of new gear for this fishery. Observers would be able to verify fishing activity and location, along with collecting biological data on the seamount fish stocks. The Research Plan, however, may be restricted from providing observers for the seamounts because the Magnuson Act does not authorize the program outside of federal waters. This legal issue is being investigated.

**DRAFT FOR COUNCIL REVIEW**

**Environmental Assessment and Regulatory Impact Review  
for a Regulatory Amendment to  
RESTRICT FISHING SEAWARD of the EEZ**

Prepared by  
National Marine Fisheries Service

January 1995

## Executive Summary

The National Marine Fisheries Service (NMFS) has the authority to regulate vessels fishing in the EEZ off Alaska. NMFS does not have direct authority to regulate fishing activities seaward of the EEZ. Fish harvested in waters seaward of the EEZ off Alaska are not counted against Federally managed quotas. Therefore, a certain incentive exists to harvest fish outside the EEZ and avoid restrictions associated with Federal management of the groundfish quotas. Two situations arise in which an incentive exists for the origin of groundfish harvest to be inaccurately reported: (1) when a Federal fishing closure is in effect inside the EEZ, vessels might continue to harvest fish inside the EEZ but claim to have harvested this fish seaward of the EEZ; and (2) under the Individual Fishing Quota (IFQ) system being implemented in 1995, fish that is caught seaward of the EEZ would not be counted against an IFQ limit. An incentive exists, therefore, to claim that the IFQ fish were caught outside the EEZ.

Under either circumstance the result of inaccurate reporting of groundfish could lead to overharvest of the various quotas. If groundfish that was caught inside the EEZ was actually reported to have been caught outside the EEZ this could lead to a potential groundfish conservation problem with respect to the Federally managed groundfish species. Once a fishery has been closed to fishing inside the EEZ, continued harvest could result in overfishing of that species. Under an IFQ system a vessel could theoretically never reach its quota of fish if those fish were caught inside the EEZ but were claimed to have been caught outside the EEZ and therefore not counted against the quota.

This analysis examines measures that would allow NMFS to monitor the origin of groundfish harvest whether it was inside the EEZ or seaward of the EEZ. The following alternatives are considered.

1.2.1 Alternative 1: Status quo. With the exception of the Donut Hole, Federally permitted vessels would continue to be unrestricted from fishing in, or possessing groundfish harvested from, waters seaward of the EEZ off Alaska.

1.2.2 Alternative 2: Federally permitted vessels would be prohibited from fishing for groundfish in waters seaward of the EEZ off Alaska or possessing groundfish in the EEZ that were caught in waters seaward of the EEZ off Alaska.

1.2.3 Alternative 3: Federally permitted vessels must carry onboard a fully functional and operational transponder when enroute to and fishing in waters seaward of the EEZ off Alaska .

Option 1: Placement of an observer onboard vessels fishing in waters seaward of the EEZ off Alaska.

Option 2: Vessels would be responsible for their own transponder unit that conforms to the National VMS specifications outlined by NMFS (September 22, 1994; 59 FR 15180).

AP  
Option 3: NMFS would purchase a limited number of VMS units for use by vessels that intend to fish seaward of the EEZ. Vessels would come to designated ports to pick up a transponder (and an observer, if necessary) prior to conducting fishing activities seaward of the EEZ. The transponder would be fully functional from the time that it is picked up in port until it is returned to port. This option would be less costly to the industry but could potentially be restrictive if more vessels wished to fish seaward of the EEZ than there were transponders available.

**1.2.4 Alternative 4: Federally permitted vessels intending to fish in waters seaward of the EEZ off Alaska must complete and submit a Vessel Activity Report (VAR) and must, upon re-entry to the EEZ, offload any fish harvested in waters seaward of the EEZ off Alaska before recommencing fishing in the EEZ.**

**1.2.5 Alternative 5: Federally permitted vessels holding quota share will have any sablefish harvested deducted from the quota share, regardless of the origin of the fish.**

Under any of alternatives 2-5, NMFS would also establish an eligibility criterion for Federal groundfish permit issuance. If a vessel failed to comply with a particular requirement prior to applying for a Federal groundfish permit, a permit would not be issued to that vessel for that fishing year. NMFS would also establish a criterion that if a vessel has been issued a permit and surrenders the permit they must still comply with the requirements of the alternative chosen. NMFS would use surveillance measures and could chose to implement the VAR to determine whether vessels comply with the alternative chosen.

Alternative 1 would continue to impose enforcement and administrative costs and these costs would likely increase under the IFQ system because more intensive monitoring will be necessary. Alternative 2 would impose some costs on the industry in terms of foregone revenue for those vessels that might derive a source of income from fishing seaward of the EEZ. Alternative 3 has associated costs for an observer as well as implementation and some maintenance costs associated with the use of a transponder. Alternatives 2 and 3 could be the most costly to the industry. Alternative 4 and 5 would involve some costs to both industry and enforcement.

## 1.0 INTRODUCTION

The groundfish fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) off Alaska are managed under the Fishery Management Plan (FMP) for the Groundfish Fisheries of the Gulf of Alaska (GOA) and the FMP for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Area (BSAI). Both FMPs were developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The GOA FMP was approved by the Secretary of Commerce and became effective in 1978 and the BSAI FMP became effective in 1982.

Actions taken to amend Fishery Management Plans or implement other regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations. In addition to the Magnuson Act, the most important of these are the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), Executive Order (E.O.) 12866, and the Regulatory Flexibility Act (RFA).

NEPA, E.O. 12866 and the RFA require a description of the purpose and need for the proposed action as well as a description of alternative actions which may address the problem. This information is included in Section 1 of this document. Section 2 contains information on the biological and environmental impacts of the alternatives as required by NEPA. Impacts on endangered species and marine mammals are also addressed in this section. Section 3 contains a Regulatory Impact Review (RIR) which addresses the requirements of both E.O. 12866 and the RFA that economic impacts of the alternatives be considered. Section 4 contains the Initial Regulatory Flexibility Analysis (IRFA) required by the RFA which specifically addresses the impacts of the proposed action on small businesses.

This Environmental Assessment/Regulatory Impact Review/(EA/RIR) addresses a proposed regulatory amendment that would restrict groundfish fishing activities seaward of the EEZ.

### 1.1 Purpose of and Need for the Action

The National Marine Fisheries Service (NMFS) has the authority to regulate vessels fishing in the EEZ off Alaska. NMFS does not have direct authority to regulate fishing activities seaward of the EEZ. Fish harvested in waters seaward of the EEZ off Alaska are not counted against Federally managed quotas. Therefore, a certain incentive exists to harvest fish outside the EEZ and avoid restrictions associated with Federal management of the groundfish quotas. Two situations arise in which an incentive exists for the origin of groundfish harvest to be inaccurately reported: (1) when a Federal fishing closure is in effect inside the EEZ, vessels might continue to harvest fish inside the EEZ but claim to have harvested this fish seaward of the EEZ; and (2) under the Individual Fishing Quota (IFQ) system being implemented in 1995, fish that is caught seaward of the EEZ would not be counted against an IFQ limit. An incentive exists, therefore, to claim that the IFQ fish were caught outside the EEZ.

Under either circumstance the result of inaccurate reporting of groundfish could lead to overharvest of the various quotas. If groundfish that was caught inside the EEZ was actually reported to have been caught outside the EEZ this could lead to a potential groundfish conservation problem with respect to the Federally managed groundfish species. Once a fishery has been closed to fishing inside the EEZ, continued harvest could result in overfishing of that species. Under an IFQ system a vessel could theoretically never reach its quota of fish if those fish were caught inside the EEZ but were claimed to have been caught outside the EEZ and therefore not counted against the quota.

Under existing regulations NMFS Enforcement would have difficulty determining definitively whether groundfish claimed to have been harvested seaward of the EEZ was in fact harvested seaward of the EEZ and not inside the EEZ.

To avoid potential discrepancies concerning where groundfish is harvested when a Federal groundfish closure is in effect or under an IFQ system, NMFS is proposing alternatives that would allow more accurate monitoring of groundfish fishing activities conducted seaward of the EEZ.

NMFS has regulatory authority to control activities of Federally permitted vessels. The alternatives for monitoring fishing activities seaward of the EEZ would be directed at Federally permitted vessels. In this manner, NMFS could indirectly regulate fishing activities seaward of the EEZ. Current regulations at § 672.4 and § 675.4 prohibit permitted vessels that have been issued Federal groundfish permits from fishing for, or possessing within the EEZ, fish caught in the Donut Hole.

Much of the waters seaward of the EEZ are not prime fishing grounds; however, there are a number of areas referred to as seamounts, areas of relative shallow depths, seaward of the EEZ that harbor populations of sablefish and rockfish and have the potential to be fished commercially.

The purpose of this analysis is to examine measures that would allow NMFS to monitor the origin of groundfish harvest whether it was inside the EEZ or seaward of the EEZ. Better monitoring of the origin of groundfish harvest would contribute to the conservation of Federally managed groundfish resources by ensuring that those groundfish that were harvested inside the EEZ were reported as such and counted toward individual quota share and the overall TAC.

## 1.2 Alternatives Considered

1.2.1 Alternative 1: Status quo. With the exception of the Donut Hole, Federally permitted vessels would continue to be unrestricted from fishing in, or possessing groundfish harvested from, waters seaward of the EEZ off Alaska.

1.2.2 Alternative 2: Federally permitted vessels would be prohibited from fishing for groundfish in waters seaward of the EEZ off Alaska or possessing groundfish in the EEZ that were caught in waters seaward of the EEZ off Alaska.

This alternative could be onerous because it would not allow any opportunity for vessels to conduct fishing activities seaward of the EEZ. However, the Coast Guard estimates that few vessels actually do fish seaward of the EEZ. For example, no vessels were sighted in the 88 hours that the Coast Guard spent flying over those waters in 1994.

1.2.3 Alternative 3: Federally permitted vessels must carry onboard a fully functional and operational transponder when enroute to and when fishing in waters seaward of the EEZ off Alaska.

This alternative would provide the most accurate, substantial and easily accessible information to Enforcement personnel concerning the locations and activities of vessels who are enroute to grounds seaward of the EEZ or who are seaward of the EEZ. With a transponder onboard vessels enforcement personnel could more efficiently identify potential fisheries violations and deploy vessels and aircraft accordingly. NMFS currently has published specifications for vessel monitoring systems (VMSs) which would be employed under this alternative (59 FR 15180; September 22, 1994). Observers might be necessary to verify whether a vessel is conducting fishing activities. However, the

NMFS Southwest Region has tested and implemented the transponder system and has determined a repetitive signal that reliably indicates fishing activity. This could preclude the need for an observer to be present to verify whether a vessel is engaged in fishing activities.

**Option 1:** Placement of observers on vessels fishing seaward of the EEZ. Observers placed on vessels fishing seaward of the EEZ would not come under the jurisdiction of the Research Plan. The individual vessel would, therefore, be responsible for the cost of the observer.

**Option 2:** Vessels would be responsible for their own transponder unit that conforms to the National VMS specifications outlined by NMFS (September 22, 1994; 59 FR 15180). Vessels would be required to check-in to a designated port to have the transponder turned on, before proceeding seaward of the EEZ.

**Option 3:** NMFS would purchase a limited number of VMS units for use by vessels that intend to fish seaward of the EEZ. Vessels would come to designated ports to pick up a transponder (and an observer, if necessary) prior to conducting fishing activities seaward of the EEZ. The transponder would be fully functional from the time that it is picked up in port until it is returned to port. This option would be less costly to the industry but could potentially be restrictive if more vessels wished to fish seaward of the EEZ than there were transponders available.

**1.2.4 Alternative 4:** Federally permitted vessels intending to fish in waters seaward of the EEZ off Alaska must complete and submit a Vessel Activity Report (VAR) and must, upon re-entry to the EEZ, offload any fish harvested in waters seaward of the EEZ off Alaska prior to recommencing fishing inside the EEZ.

The requirement to complete and submit the VAR would be in place with the newly revised recordkeeping and reporting program currently undergoing NMFS review. This report would allow Enforcement personnel to determine which vessels crossed the seaward boundary of the EEZ but it would not specify exactly where the vessel was going and tracking of the vessel outside the EEZ would not be possible. Information on the general location of the vessel would not be available until the vessel reentered the EEZ. This alternative would be relatively simple to implement but would not provide sufficient information for purposes of monitoring fishing activity inside and outside the EEZ.

Under the IFQ regulations, a vessel cannot have IFQ sablefish and non-IFQ sablefish onboard the vessel at the same time. Therefore, the vessel would have to offload fish before going seaward of the EEZ and upon reentry to the EEZ.

For other non-IFQ species the requirement for off-loading any fish harvested outside the EEZ upon re-entry to the EEZ would contribute toward more accurate accounting of groundfish harvest. However, there could still be a mixture of fish that was harvested seaward of the EEZ and fish harvested inside the EEZ.

**1.2.5 Alternative 5:** Federally permitted vessels holding quota share would have any sablefish harvested deducted from the quota share, regardless of the origin of the fish.



This alternative could be appropriate for sablefish harvest. However, because no quota share system exists for other groundfish species, it would not be effective in preventing inaccurate claims as to the origin of the harvest of other groundfish species.

Under this alternative, once there is no quota share remaining the original enforcement problem of vessels continuing to harvest groundfish inside the EEZ and claiming to harvest them outside the EEZ still exists. This is also the case for those vessels who are not issued any quota share. This alternative may best be combined with one of the other alternatives, such as the transponder. This alternative would also pose some complications in accounting since those fish harvested outside of the EEZ would need to be given a specific harvest area code.

Under any of alternatives 2-5, NMFS would also establish an eligibility criterion for Federal groundfish permit issuance. If a vessel failed to comply with a particular requirement prior to applying for a Federal groundfish permit, a permit would not be issued to that vessel for that fishing year. NMFS would also establish a criterion that if a vessel has been issued a permit and surrenders the permit they must still comply with the requirements of the alternative chosen. NMFS would use surveillance measures and could chose to implement the VAR to determine whether vessels comply with the alternative chosen.

## 2.0 NEPA REQUIREMENTS: ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in significant impact on the human environment. The environmental analysis in the EA provides the basis for this determination and must analyze the intensity or severity of the impact of an action and the significance of an action with respect to society as a whole, the affected region and interests, and the locality. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact study (EIS) must be prepared for major Federal actions significantly affecting the human environment.

An EA must include a brief discussion of the need for the proposal, the alternatives considered, the environmental impacts of the proposed action and the alternatives, and a list of document preparers. The purpose and alternatives were discussed in Sections 1.1 and 1.2, and the list of preparers is in Section 7. This section contains the discussion of the environmental impacts of the alternatives including impacts on threatened and endangered species and marine mammals.

### 2.1 Environmental Impacts of the Alternatives

The environmental impacts generally associated with fishery management actions are effects resulting from 1) harvest of fish stocks which may result in changes in food availability to predators, changes in the population structure of target fish stocks, and changes in community structure; 2) changes in the physical and biological structure of the benthic environment as a result of fishing practices, e.g., effects of gear use and fish processing discards; and 3) entanglement/entrapment of non-target organisms in active or inactive fishing gear. A summary of the effects of the 1995 groundfish total allowable catch amounts on the biological environment and associated impacts on marine mammals, seabirds, and other threatened or endangered species are discussed in the final environmental assessment for the 1995 groundfish total allowable catch specifications.

Alternative 2 would provide for the greatest degree of conservation of groundfish resources. It would prohibit fishing seaward of the EEZ thus not allowing the possibility for any inaccurate reporting of groundfish harvest. This would provide the greatest protection to groundfish resources inside the EEZ. Alternatives 3 and 4 would not affect the amount of fish harvested seaward of the EEZ; however these alternatives would also act to conserve the EEZ groundfish resources by reducing the potential for inaccurate reporting of the origin of those harvests. Alternative 5 would not be completely effective in conserving groundfish resources.

### 2.2 Impacts on Endangered, Threatened or Candidate Species Under the ESA

Species that are listed as threatened or endangered, or are candidates or proposed for listing under the Endangered Species Act (ESA), may be present in the BSAI and GOA. Additionally, nonlisted species, particularly seabirds, also occur in those areas and may be impacted by fishing operations. A list of species and a detailed discussion regarding life history and potential impacts of the 1995 groundfish fisheries of the BSAI and GOA on marine species can be found in an EA for the 1995 TAC specifications for the GOA and BSAI (NMFS 1995a). Insofar as this proposed regulatory amendment would help prevent groundfish harvests in excess of TACs and PSC mortality in excess of designated limits, fishing activities under any of the alternatives would not be expected to cause any adverse effects additional to those noted in the EA.

### 2.2.1 Salmon

Listed species of salmon, including the Snake River sockeye salmon (O. nerka), fall chinook and spring/summer chinook salmon (both Oncorhynchus tshawytscha) may be present in the BSAI or GOA. These areas are believed to be outside the range of another listed species, the Sacramento River winter-run chinook salmon. A Biological Opinion conducted on effects of the BSAI and GOA groundfish fisheries concluded that these fisheries are not likely to jeopardize the continued existence of endangered or threatened Snake River salmon species (NMFS 1994b). Alternatives 2-5 are not expected to adversely affect any listed salmon in a manner not already considered in previous consultations.

### 2.2.2 Seabirds

Listed or candidate species of seabirds include the endangered short-tailed albatross (Diomedea albatrus), the threatened spectacled eider (Somateria fischeri), and the candidate (category 1) Steller's eider (Polysticta stelleri), or (category 2) marbled murrelet (Brachyramphus marmoratus), red-legged kittiwake (Rissa brevirostris) or Kittlitz's murrelet (Brachyramphus brevirostris). A formal consultation conducted by the U.S. Fish and Wildlife Service (USFWS) on the potential impacts of groundfish fisheries and subsequent informal consultation on impacts of 1994 groundfish fisheries on these species concluded that groundfish fisheries adversely affect, but do not jeopardize, the existence of the short-tailed albatross (USFWS 1989, 1994) if the incidental take allowance of up to two short-tailed albatrosses per year was not exceeded. The informal consultation also concluded that groundfish fisheries were not likely to adversely affect the spectacled eider, Steller's eider, or marbled murrelet. The USFWS did not comment on remaining candidate species at that time. Alternatives 2-5 are not expected to adversely affect any listed or candidate seabirds in a manner not already considered in previous consultations.

### 2.2.3 Marine Mammals

As with salmon and seabirds listed under the ESA, fishing activities under this proposed action are not likely to impact the threatened Steller sea lion (Eumetopias jubatus), in a manner, or to an extent, not previously considered in informal section 7 consultations for 1994 groundfish fisheries (NMFS, 1994c,d).

Other listed marine mammals include the endangered fin whale (Balaenoptera physalus), sei whale (Balaenoptera borealis), humpback whale (Megaptera novaeangliae), sperm whale (Physeter catodon), northern right whale (Balaena glacialis), blue whale (Balaenoptera musculus) and Steller sealion (Eumetopias jubatus). None of these species are anticipated to be adversely affected by this proposed amendment.

## 2.3 Impacts on Marine Mammals not listed under the ESA

Marine mammals not listed under the ESA that may be present in the BSAI or GOA include cetaceans, [minke whale (Balaenoptera acutorostrata), killer whale (Orcinus orca), Dall's porpoise (Phocoenoides dalli), harbor porpoise (Phocoena phocoena), Pacific white-sided dolphin (Lagenorhynchus obliquidens), and the beaked whales (e.g., Berardius bairdii and Mesoplodon spp.)] as well as pinnipeds [northern fur seals (Callorhinus ursinus), and Pacific harbor seals (Phoca vitulina)] and the sea otter (Enhydra lutris). As previously mentioned, a list of species and detailed discussion regarding life history and potential impacts of the 1995 groundfish fisheries of the BSAI and GOA on those species can be found in an EA conducted on the 1995 Total Allowable Catch

Specifications for the GOA and BSAI (NMFS 1995a). Alternatives 2-5 are not expected to adversely affect any listed or candidate marine mammals in a manner not already considered in previous consultations.

#### **2.4 Coastal Zone Management Act**

Each of the alternatives would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Zone Management Program within the meaning of Section 307(c)(1) of the Coastal Zone Management Act of 1972 and its implementing regulations.

#### **2.5 Conclusions or Findings of No Significant Impact**

None of the alternatives are likely to significantly affect the quality of the human environment; preparation of an environmental impact statement for selection of any of the alternatives as the proposed action would not be required by Section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

### **3.0 REGULATORY IMPACT REVIEW: ECONOMIC AND SOCIOECONOMIC IMPACTS OF THE ALTERNATIVES**

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

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

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

This section also addresses the requirements of both E.O. 12866 and the Regulatory Flexibility Act to provide adequate information to determine whether an action is "significant" under E.O. 12866 or will result in "significant" impacts on small entities under the RFA. E.O. 12866 defines a "significant regulatory action" as likely to result in (1) an annual effect on the economy of \$100 million or more; (2) an adverse effect in a material way on the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; or (3) a novel legal or policy issue. Requirements of the RFA are addressed in Section 3.4.

**3.0.1 Alternative 1: Status quo.** With the exception of the Donut Hole, Federally permitted vessels would continue to be unrestricted from fishing in, or possessing groundfish harvested from, waters seaward of the EEZ off Alaska.

Under the new IFQ system established for 1995 this alternative would require greatly increased enforcement resources to adequately monitor and enforce the groundfish harvest.

**3.0.2 Alternative 2:** Federally permitted vessels would be prohibited from fishing for groundfish in waters seaward of the EEZ off Alaska or possessing groundfish in the EEZ that were caught in waters seaward of the EEZ off Alaska.

This alternative could be onerous on the industry in that it would not permit those vessels that derive some of their income from fishing seaward of the EEZ from realizing that revenue. However, the Coast Guard estimates that few vessels actually do fish seaward of the EEZ. For example, no vessels were sighted in the 88 hours that the Coast Guard spent flying over those waters in 1994. Therefore, the cost to the industry in terms of foregone revenue might not be great.

**3.03 Alternative 3: Federally permitted vessels must carry onboard a transponder when enroute to and when fishing in waters seaward of the EEZ off Alaska.**

**Option 1: Placement of observers on vessels fishing seaward of the EEZ.**

If NMFS were to require an observer for Federally permitted vessels that fish seaward of the EEZ, the vessel would be required to incur the cost of the observer. The Research Plan would not apply to these vessels. Observer costs would be approximately \$200/day per observer.

Various components are involved in the cost of implementing transponders and a system capable of accomodating the information. Vessels must have INMARSAT Standard C communication equipment which would cost approximately \$5-6,000, and the transponder unit (approximately \$3,000) which consists of an antenna and a radio. The vessel would also incur costs of approximately 4 cents/message sent (maximum query would be once per hour).

The receiving station, which would either be located at the Coast Guard station in Juneau or at the NMFS Enforcement office in Juneau, would also involve costs to set up and maintain. This station involves costs for a "mobile track" receiving unit (approximately \$3,000) that runs on a Pentium based system, and the software and installation for the receiver unit (approximately \$15,000). Minimal personnel time would be involved because the receiving unit computer would not be staffed continually. The computer would capture and store the information for later retrieval.

**Option 2: Vessels would be responsible for their own transponder unit that conforms to the National Vessel Monitoring System (VMS) specifications outlined by NMFS.**

**Option 3: NMFS would purchase a limited number of VMS units for use by vessels that intend to fish seaward of the EEZ. Vessels would come to designated ports to pick up a VMS transponder unit prior to conducting fishing activities seaward of the EEZ. This option would be less costly to the Industry but could potentially be restrictive if more vessels within a given season wished to fish seaward of the EEZ than there were transponders available. NMFS would incur the costs of the units at the above price, multiplied by the number of units that NMFS might purchase.**

**3.04 Alternative 4: Federally permitted vessels intending to fish in waters seaward of the EEZ off Alaska must complete and submit a Vessel Activity Report (VAR) and must, upon re-entry to the EEZ, offload any fish harvested in waters seaward of the EEZ off Alaska before recommencing fishing inside the EEZ.**

If the VAR is not in place under the recordkeeping and reporting rule the completion of this form would require extra costs. Alternative 4 may also result in increased costs to vessel operators because of the requirement to offload groundfish harvested outside the EEZ prior to fishing inside the EEZ.

**3.05 Alternative 5: Federally permitted vessels holding quota share would have any sablefish onboard deducted from the quota share, regardless of the origin of the fish.**

Under this alternative, vessel operators who would harvest sablefish outside the EEZ prior to harvesting their IFQ sablefish would be affected by a reduction in the amount of sablefish that could be harvested in the EEZ.

### 3.1 Reporting Costs

Alternatives 2 would not require additional reporting costs from the status quo. Alternative 3 would involve reporting costs associated with the transmission of data. Under alternative 4 there would be costs in time and effort for completing the VAR; however, if this requirement is in place under the final rule for recordkeeping and reporting, this amendment would not place any additional reporting costs on the industry. Alternative 5 could involve an additional reporting burden.

### 3.2 Administrative, Enforcement and Information Costs

Alternative 1, the status quo, bears a costly enforcement and administrative burden to monitor groundfish harvest and ensure accurate reporting, especially under the IFQ system. It would be very difficult for NMFS to adequately monitor groundfish harvest with existing resources if the status quo were to remain in place. Alternative 2, involving a complete prohibition of fishing seaward of the EEZ would not entail significant additional costs for administration, enforcement or information. Alternative 3, the requirement to carry a transponder while conducting any fishing activities seaward of the EEZ, would involve some administrative costs to monitor the transponder and enforcement costs for surveillance, when necessary, of the areas outside 200 mi. NMFS would have to maintain a receiving unit and the personnel resources to monitor the transponders. There would be costs involved in the maintenance of a pick-up point for and the supply of transponders to vessels if NMFS were to buy the transponders. If observers were determined to be necessary there would be costs associated with maintaining a separate system for these observers since the observers would not be paid for under the Research Plan. Alternative 4 would also involve additional administrative and enforcement costs to monitor and ensure compliance with the VAR and the off-loading of groundfish. Alternative 5 would involve some additional costs for NMFS to set up an accounting system to record the origin of sablefish caught outside 200 mi. since the IFQ is issued and recorded by specific area.

### 3.3 Summary of Economic Impacts

Alternative 1 would continue to impose enforcement and administrative costs. However, under the IFQ system, there would be substantially increased costs for surveillance measures to adequately monitor groundfish harvest. Alternative 2 would impose some costs on the industry in terms of foregone revenue for those vessels that might derive a source of income from fishing seaward of the EEZ. Alternative 3 has associated costs for an observer as well as implementation and some maintenance costs associated with the use of a transponder. Alternatives 2 and 3 could be the most costly to the industry. Alternative 4 and 5 would involve costs to both industry and enforcement.

This action is not expected to have an annual effect on the economy of \$100 million or more; cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, or innovation. Therefore, this action is not expected to result in a "significant regulatory action" as defined under EO 12866.

### 3.4 Economic Impact on Small Entities

Each of the alternatives are expected to have some degree of impact on small entities. There are a total of 2,282 Federally permitted vessels fishing in the EEZ off Alaska. Of these vessels there are 1,914 that have indicated the ability to fish with hook-and-line gear. Since the regulation is mainly concerned with vessels that fish for sablefish, and some rockfish, with hook-and-line gear, it could potentially affect a substantial number of vessels.

Although this regulatory amendment has the potential to affect a substantial number of small entities, the effects on those vessels are not expected to cause a reduction in annual gross revenues by more than 5 percent, have annual compliance costs that increase total costs of production by more than 5 percent, or impose compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities. Therefore, this action would not be "significant" under the RFA.

#### 4.0 Finding of No Significant Impact

For the reasons discussed above, implementation of any one of the alternatives to the status quo would not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required under Section 102(2)(c) of the National Environmental Policy Act or its implementing regulations.



## 5.0 REFERENCES

- National Marine Fisheries Service (NMFS). 1995a. Final Environmental Assessment for 1995 Groundfish Total Allowable Catch Specifications. NMFS, PO Box 21668, Juneau, AK 99802-1668.
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- National Marine Fisheries Service (NMFS). 1994c. Section 7 Consultation for 1994 Total Allowable Catch Specifications for the Gulf of Alaska Groundfish Fishery. January 14, 1994. National Marine Fisheries Service, PO Box 21668, Juneau, AK 99802-1668.
- United States Fish and Wildlife Service (USFWS). 1989. Formal Consultation with the U.S. Fish and Wildlife Service Pursuant to Section 7 of the Endangered Species Act. Biological Opinion. July 3, 1989. National Marine Fisheries Service, PO Box 21668, Juneau, AK 99802-1668.
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