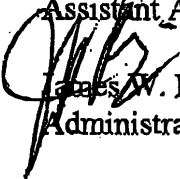


**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration***National Marine Fisheries Service**P.O. Box 21668**Juneau, Alaska 99802-1668*

May 13, 2004

MEMORANDUM FOR: Susan A. Kennedy
Acting NEPA Coordinator

THROUGH: William T. Hogarth, Ph.D.
Assistant Administrator for Fisheries

FROM:  James W. Balsiger
Administrator, Alaska Region

SUBJECT: Finding of No Significant Impact from the Environmental Assessment/ Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) to Modify the Maximum Retainable Amounts (MRA) of Pollock Harvested in the Bering Sea and Aleutian Islands Management Area (BSAI) by all Non-American Fisheries Act (AFA) Vessels

The action analyzed is the modification of the enforcement period for the MRA for pollock harvested by non-AFA vessels in the BSAI. The preferred alternative (Alternative 2, offload to offload option) changes the enforcement period of the pollock MRA to an offload-to-offload basis, allowing non-AFA vessels that have otherwise been forced to discard pollock, the option to retain additional pollock as long as they are under the MRA for pollock at the end of their fishing trip. Under Alternative 1, the no action alternative, the MRA for pollock continues to be enforced on an instantaneous basis and it is unlawful for a vessel to retain pollock in an amount that exceeds the MRA at any time during a fishing trip. Alternative 2 is the preferred alternative because it may increase the amount of pollock retained without increasing the overall amount of pollock harvested. Vessels are able to choose to retain pollock in excess of the MRA as long as the amount retained at the time of offload is at or below the current MRA percentage with respect to basis species or species groups retained. By allowing vessels to manage their MRA percentage for pollock on an offload-to-offload basis, additional pollock may be retained over the course of a fishing trip and regulatory discards could be reduced.

To determine the significance of impacts of the actions analyzed in this EA/RIR/FRFA, NMFS is required by NEPA, 50 CFR § 1508.27, and NOAA Administrative Order NAO 216-6 to consider the following:



Context: The setting of the action is the groundfish fisheries of the BSAI. Any effects of the action are limited to these areas. The effects on society within these areas are on individuals directly and indirectly participating in the groundfish fisheries and those who use the ocean resources. The action is the modification of the enforcement period for the MRA for pollock harvested by non-AFA vessels in the BSAI. The EA/RIR/FRFA for this action demonstrates that over the last four years (1999 through 2002), pollock discards constitute the largest component of discards by non-AFA trawl catcher processors operating in the BSAI (18 percent of all non-AFA trawl catcher processor discards are pollock). Current levels of pollock caught incidentally by non-AFA trawl catcher-processors also significantly exceed the MRA. The analysis also demonstrated that other non-AFA vessels are only seldom affected by the MRA for pollock on a haul-by-haul basis. Because of the current regulations which require all non-AFA vessels to retain all incidental catch of pollock up to the MRA and to discard pollock at any point in time in which the MRA is exceeded, it is presumed that all of these pollock discards are regulatory discards. Therefore, this action is only expected to affect non-AFA trawl catcher processors in the BSAI.

Intensity: A listing of considerations to determine intensity of the impacts is in 50 CFR § 1508.27 (b) and in the NOAA Administrative Order 216-6, Section 6. Each consideration is addressed below in the order as it appears in the regulations.

1. Beneficial and adverse impacts on marine resources, including sustainability of target and nontarget species, damage to ocean or coastal habitat or essential fish habitat, effects of biodiversity and ecosystems, and marine mammals are required to be considered in this action. Impacts on the marine environment and socioeconomic conditions were analyzed in the EA/RIR/FRFA. Effects on the natural and physical environment from the action focused on trophic interactions with groundfish stock, prohibited species, seabirds, marine mammals, endangered species, benthic habitat, and essential fish habitat in Section 3.1. Economic and social impacts were discussed in Section 3.2. Effects of the action on all of these components were determined to be insignificant. The modification of the MRA for pollock harvested in the BSAI by non-AFA vessels may increase the retention of pollock without increasing the overall catch of pollock.

2. Public Health and Safety may be improved to the extent that vessel operators will be able to plan pollock discards around crew activities and weather. For example, during hazardous weather, an operator may choose to retain all pollock to decrease the work load on crew members and decrease time spent processing in the factory. As long as the MRA for pollock is at or below published levels at the end of the trip, the vessel will be in compliance.

3. This action takes place in the geographic areas of the BSAI, generally from 3 nm to 200 nm offshore. The land adjacent to these areas contain **cultural resources and ecologically critical areas**. The marine waters where the fisheries occur contain ecologically critical area. No effects on the unique characteristics of these areas are anticipated to occur with this action because it only allows vessel operators to increase their retention of pollock without increasing the overall

amount of pollock harvested and provides relief from the regulatory burden of instantaneously meeting IR/TU and MRA regulations.

4. Increased retention/increased utilization (IR/TU) regulations require vessels to retain all pollock up to the MRA. Prior to this action, vessels were required to meet IR/TU and MRA regulations simultaneously at any time during a trip, therefore creating a regulatory burden. This action modifies the MRA for pollock harvested in the BSAI by non-AFA vessels by enforcing these regulations at the time of offload instead of instantaneously. This action allows these vessel operators to increase their retention of pollock without increasing the overall amount of pollock harvested and provides relief from the regulatory burden of instantaneously meeting IR/TU and MRA regulations. The effects of this action on the human environment are not **controversial** because they will not adversely affect the natural, physical, social, and economic environment. However, this action deals with bycatch in the groundfish fisheries, an issue surrounded by considerable controversy. Differences of opinion exist among various industry, environmental, management, and scientific groups on the effects of bycatch in the groundfish fisheries and what measures should be taken to reduce bycatch.

5. **Risks to the human environment, including social and economic effects.** The modification of the MRA for pollock harvested by non-AFA vessels in the BSAI poses no known risk to the human environment. This action will allow vessel operators to retain additional pollock without increasing the total pollock harvested.

6. Future actions:

Amendment 79

In June, 2003, the North Pacific Fisheries Management Council (Council) took final action on Amendment 79 to the BSAI FMP. This action would establish a minimum, phased in groundfish retention standard (GRS) for all non-AFA trawl catcher processor vessels over 125 feet in the BSAI beginning in 2005 and would include increased monitoring requirements. Modifying the MRA enforcement interval may increase retention rates, thereby reducing the impacts of Amendment 79. The proposed pollock MRA change would make it easier for vessels to achieve the GRS standards in proposed Amendment 79, and in that regard is expected to reduce some of the costs associated with Amendment 79, particularly in the years with phased-in, higher retention standards. The costs that the MRA would reduce are those associated with holding/processing, transporting, and transferring fish that are of relatively low value or "unmarketable." The MRA modification is not considered significant because it is expected to make it easier for vessels to meet retention requirements under Amendment 79. However, the costs associated with the requirement of Amendment 79 to use scales and increase observer coverage are unlikely to be completely mitigated by the MRA change.

Amendment 80

Amendment 80 would authorize NOAA Fisheries to allocate groundfish and/or Protected Species Catch (PSC) limits to individual cooperatives organized within the non-AFA trawl catcher processor sector based on the catch history of cooperative members. Amendment 80, in addition to the MRA modification, will make it easier for vessels to achieve the GRS and thereby further reduce the costs associated with holding/processing, transporting, and transferring fish that are of relatively low value or "unmarketable." When the race for fish is eliminated by the formation of a cooperative, fishermen are better able to minimize their incidental catch, as they can fish in a less hurried fashion and avoid or discontinue fishing in areas where the catch of unwanted species is high, without losing any competitive advantage. Another benefit is allowing fishing effort to be matched to processing capacity. A cooperative allows for increased yields in processing operations, not only by allowing for more labor intensive activities that increase yields for primary products, but by also providing time to produce secondary products, such as fish meal, from inedible portions of the fish. The additional revenues associated with these benefits of a cooperative could substantially offset the costs associated with the GRS requirements, including those costs associated with scale and observer requirements. The cumulative effect of MRA with respect to Amendment 80 is not expected to be significant.

7. Cumulatively significant impacts, including those on target and nontarget species.

Cumulatively significant impacts are not expected with this action because no significant effects from the action were identified. Further, there are no persistent past effects or reasonably foreseeable future effects on the natural or physical environment that have previously not been evaluated in analyses prepared for actions affecting the groundfish fisheries.

While there are no expected cumulative impacts on the natural and physical environment, there may be an economic effect as a result of the proposed action in combination with other actions. This action applies to all non-AFA vessels in the BSAI. However, only the head and gut fleet incidentally catches significant amounts of pollock. The head and gut fleet has experienced several regulatory changes in the past several years. Moreover, a number of reasonably foreseeable future actions are expected to directly affect the socioeconomic condition of this sector.

8. This action will have no effect on districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places, nor cause loss or destruction of significant scientific, cultural, or historical resources. This consideration is not applicable to this action.

9. This action will have no impact on ESA listed species in the BSAI and their critical habitat. This action may increase the retention of pollock in the BSAI without increasing the overall harvest of pollock. This action will be consistent with current Section 7 consultations for all ESA listed species occurring in the BSAI.

10. **This action poses no known violation of Federal, State, or local laws or requirements for the protection of the environment.** This action will be conducted in a manner consistent to the maximum extent practicable with the Alaska Coastal Zone Management Act of 1972 and its implementing regulations.

11. **Introduction or spread of a non-indigenous species.** This action has no effect on the introduction or spread of non-indigenous species. It will allow non-AFA vessels fishing in the BSAI to retain additional pollock without increasing their overall harvest of pollock.

Based on the EA/RIR/FRFA Enforcement Interval Change for Pollock Maximum Retainable Amounts (MRA) November 2003, I have determined that no significant impacts will result from the action. I request your concurrence in this determination by signing below. Please return this memorandum for our files.

1. concur. *[Signature]* 5-19-04
Date

2. I do not concur. _____
Date