

1.5 Public Participation

The EIS and RIR were developed with several opportunities for public participation and is based on and prepared from the issues and alternatives identified during the scoping process, the Council process, and the public comment process for the draft EIS/RIR. This section describes these avenues for public participation.

1.5.1 Notice of intent and scoping

Scoping, the term used for involving the public in the NEPA process at its initial stages, is designed to provide an opportunity for the public, agencies, and other interest groups to provide input on potential issues associated with the proposed action. Scoping is used to identify the environmental issues related to the proposed action and identify alternatives to be considered in the EIS and RIR. Scoping is accomplished through written communications and consultations with agency officials, interested members of the public and organizations, Alaska Native representatives, and State and local governments.

The formal scoping period began with the publication of a Notice of Intent in the *Federal Register* on December 26, 2007 (72 FR 72994). Public comments were due to NMFS by February 15, 2008. In the Notice of Intent, NMFS requested written comments from the public on the range of alternatives to be analyzed and on the environmental, social, and economic issues to be considered in the analysis. NMFS published a news release on January 17, 2008, to remind people of their opportunity to participate in this scoping process.

A scoping report was prepared to inform the Council and the public of the comments received. The scoping report summarizes the issues associated with the proposed action and describes alternative

management measures raised in public comments. The scoping report was presented to the Council at its April 2008 meeting and is posted on the NMFS Alaska Region website.¹⁵

Additionally, members of the public participated and commented during the Council process. The Council started considering revisions to salmon bycatch management in 2004. Since then, the Council has notified the public when it is scheduled to discuss salmon bycatch issues. The Council process, which involves regularly scheduled and announced public Council meetings, ad-hoc industry meetings, and Council committee meetings, started before the formal EIS scoping process and continued as NMFS and the Council developed and refined the alternatives under consideration until the Council took final action in April 2009 to recommend a preferred alternative to NMFS.

1.5.2 Summary of alternatives and issues identified during scoping

NMFS received 42 written comments from the public and interested parties. The scoping report provides a summary of the comments and contains copies of the comments. This section summarizes the alternatives and issues raised during the scoping process.

Chapter 2 describes the alternatives the Council and NMFS determined best accomplish the proposed action's purpose and need. Chapter 2 also describes the alternatives raised during scoping that were considered but not carried forward, and discusses the reasons for their elimination from further detailed study.

Generally, the comments received suggested that (1) alternatives should comply with the Magnuson-Stevens Act, the Endangered Species Act, and Pacific Salmon Treaty; (2) salmon bycatch management should significantly reduce salmon bycatch; (3) hard caps are necessary to effectively reduce salmon bycatch; (4) hard caps should contain individual vessel accountability; and (5) there should be an exemption for vessels that participate in an ICA such as the one that established the VRHS.

The types of alternative management measures suggested by public comments include the following:

- Hard cap management measures
- Eliminate the prohibited species catch accounting period options
- Monitoring and enforcement measures
- Time/Area closure alternatives
- Pollock fishery management changes

To the extent practicable and appropriate, the EIS and RIR address the following issues raised during scoping.

Evaluate the effectiveness of existing salmon bycatch management measures

Many comments discussed the effectiveness of existing salmon bycatch management measures; the Chinook and chum salmon savings areas and the exemption from those closures for pollock vessels that participate in the VRHS ICA.

¹⁵ <http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm>

Scientific Issues

Comments suggested that the EIS utilize the best available stock identification data to determine the relevant impacts to salmon stocks from different levels of salmon bycatch under the alternatives. The comments stated that the analysis should address scientific uncertainty regarding the river of origin of salmon caught in the pollock fishery and the relationship between bycatch and abundance. The EIS should consider the long-term impacts that excessive salmon bycatch has on (1) the sustainability of western Alaska salmon stocks, (2) the composition and genetic diversity of those stocks, and (3) the people that rely on salmon.

Alaska Native Issues

Comments explained that salmon are irreplaceable to the cultural, spiritual, and nutritional needs of Alaska Native people and that analysis of the impacts on subsistence users and subsistence resources must include the broad range of values, not simply a commercial dollar value or replacement costs of these fish. Salmon serves an important cultural and economic role in the communities of Alakanuk, Eek, Nanakiak, Nunapitchuk, Emmonak, Kwethluk, Bethel, St. Mary's, Ruby, Nulato, Koyukuk, Kotlik, Galena, Kaltag, Fairbanks, Kongiganak, Quinhagak, Nenana, Minto, Marshall, and Hooper Bay, and throughout western and Interior Alaska.

Comments also stated that salmon bycatch in the Bering Sea pollock fishery is essentially a reallocation of the in-river return of salmon destined for western and Interior Alaska communities and communities in Canada. Comments recommended that the EIS address impacts to federally-protected subsistence users, in-river commercial fisheries, treaty obligations, and environmental justice implications. Comments explained that excessive salmon bycatch (1) threatens the way of life in western Alaska, (2) seriously impacts in-river uses of those stocks, where federal and state law provides subsistence uses the highest priority, and (3) is a serious concern to the people of western and Interior Alaska who depend upon these stocks as a primary subsistence food source.

Additional Issues

Comments encouraged that salmon bycatch management comply with the Magnuson-Stevens Act, the Endangered Species Act, the Pacific Salmon Treaty and Yukon River Agreement, Alaska National Interest Lands Conservation Act, NEPA, Executive Order 13175 on consulting with tribes, and Executive Order 12898 on environmental justice.

Comments stated that the EIS should discuss how monitoring and enforcement activities would need to be changed to comply with the alternatives and develop a research and monitoring plan to identify information needed to establish an "optimal" bycatch level based on improved stock-specific information.

Comments stated that the EIS should analyze the commercial, subsistence, sport, and cultural values of salmon for users throughout Alaska and the Pacific Northwest. The EIS should contain a full economic analysis of the effects that alternative hard caps would have on the fishing industry, coastal communities, Community Development Quota (CDQ) groups, suppliers, consumers, and other groups that derive benefits from a viable pollock fishery.

Because of the complexity of the issues, to adequately comply with the requirements for consultation under E.O. 13175, comments requested that NMFS develop summary materials which, along with the full EIS/RIR, can provide a resource to tribes to enable them to adequately participate.

1.5.3 Public comments on the Draft EIS/RIR/IRFA

NMFS released the Draft EIS/RIR/IRFA and solicited public comment on the during an 80-day public comment period from December 5, 2008, to February 23, 2009. NMFS received 61 letters of comment. The letters of comment are posted on the NMFS Alaska Region website.¹⁶

Chapter 9 contains the Comment Analysis Report (CAR), which provides the public comments received during the comment period, summarizes them, and presents the agency's response. NMFS provided a preliminary CAR to the Council at the April 2009 meeting and posted the preliminary CAR on the NMFS Alaska Region web page along with the public comments. The preliminary CAR contained summaries of the public comments received during the comment period and the agency's responses. The preliminary CAR also contained, as appendices, the EIS and RIR sections that authors substantively revised based on public comments. The preliminary CAR appendices have been incorporated into this final EIS. The preliminary CAR was also a tool for the authors to revise the EIS and RIR and respond to each statement of concern.

1.5.4 Changes to the Final EIS and Final RIR from the Draft EIS/RIR/IRFA

All changes from draft to final are detailed in Chapter 9. This section summarizes the major changes. The first major change from the Draft EIS/RIR/IRFA was to separate the Final EIS and Final RIR into Volume I and Volume II, respectively. This change was made primarily because the combined final document was over 1000 pages and thus too large to fit into one volume. Additionally, the final IRFA is not included these documents and will be published in the classifications section of the preamble to the proposed rule due to the nature of that analysis.

The second major change was the incorporation and analysis of Alternative 5, which the Council recommended as the preferred alternative in April 2009. A description of Alternative 5 was added to Chapter 2 and Chapters 4 through 8 and the Final RIR analyze the impacts of Alternative 5.

The third major change was to incorporate into the Final EIS and Final RIR the sections that authors substantively revised based on public comments. These sections were provided as appendices to the preliminary CAR for Council consideration when it took final action in April 2009.

Additional changes were made throughout the document to improve clarity and organization.

1.5.5 Community outreach

One of the Council's policy priorities is to improve Alaska Native and community consultation in federal fisheries management. The Council identified the need to improve the stakeholder participation process during development of the EIS and RIR. As the Council chose a preliminary preferred alternative at its June 2008 meeting, it was determined timely to undertake an outreach effort with affected community and Native stakeholders during the development of the draft EIS/RIR and prior to final Council action. The Council developed an outreach plan to solicit and obtain as much input as possible on the proposed action from Alaska Natives, communities, and other affected stakeholders. This outreach effort, specific to Chinook salmon bycatch management, dovetailed with the Council's overall community and Native stakeholder participation policy.

¹⁶ <http://www.fakr.noaa.gov/sustainablefisheries/bycatch/salmon/chinook/comments/default.htm>

The outreach plan for Chinook salmon bycatch management was intended to enable the Council to maintain ongoing and proactive relations with Native and rural communities. One of the objectives of the plan is to coordinate with NMFS' tribal consultation efforts, discussed in Section 1.5.7, to prevent a duplication of efforts between the Council and NMFS, which includes not confusing the public with divergent processes or providing inconsistent information.

A summary report to document the outreach process and results of the regional and Native meetings were prepared and presented to the Council in April 2009, when the Council took final action to recommend Alternative 5. The report, entitled "Summary and Results of Outreach Plan for DEIS on Chinook Salmon Bycatch in the Bering Sea Pollock Fishery," is summarized below and available on the Council website.¹⁷

1.5.6 Summary of the community outreach meetings

Upon informal consultation with community and Native coordinators, Council staff determined that the most effective approach to community outreach meetings is to work with established community representatives and Native entities within the affected regions and attend annual or recurring regional meetings, in order to reach a broad group of stakeholders in the affected areas. Council staff consulted with the coordinators of the Federal Subsistence Regional Advisory Councils (RACs) and the Association of Village Council Presidents (AVCP) in order to schedule time on the agendas for their upcoming meetings. Council staff provided presentations on the Council process, overall outreach efforts, and the proposed action on Chinook salmon bycatch reduction measures, at six separate regional meetings. After the presentations, the organizations and the public asked questions and provided feedback on the proposed action and process. Council staff recorded questions and comments. Two Council members attended five of the six meetings, and one to two Council staff analysts attended each meeting.

In sum, Council staff, Council members, and when possible, NMFS staff, participated in the following regional meetings:

Bristol Bay RAC October 6 – 7, 2008 Dillingham
AVCP meeting October 7 - 9, 2008 Bethel
Eastern Interior RAC October 14 – 15, 2008 Nenana
Northwest Arctic RAC October 16, 2008 Kotzebue
Western Interior RAC October 28 – 29, 2008 McGrath
Nome Outreach Meeting January 22, 2009 Nome

In addition to the above regional/community meetings, Council staff provided a lengthy presentation of the main EIS findings at the Yukon River Panel meeting on December 9, 2008. The Yukon River Panel is an international advisory body established under the Yukon River Salmon Agreement for the conservation, management, restoration, and harvest sharing of Canadian-origin salmon between the U.S. and Canada. Nine Council members attended. In addition to specific clarifications on the presentation and Council intent, there was substantial time allotted for discussion between Yukon River Panel members and Council members on the forthcoming action.

A short summary of each meeting is provided below. Note that the dates provided below refer to the date on which the Council presentation and comments occurred, recognizing that each meeting was typically two to three days. The complete outreach report also contains (1) details of the regional meetings attended, the participants, and the comments (by category), and (2) copies of resolutions or motions resulting from these meetings.

¹⁷ http://www.fakr.noaa.gov/npfmc/current_issues/bycatch/BycatchOutreach409.pdf

Bristol Bay Subsistence Regional Advisory Council, October 7, 2008, Dillingham

The Bristol Bay RAC meeting was comprised primarily of RAC members and State and Federal agency staff, with a few public participants (estimate of 25 total participants). The Bristol Bay RAC represents 31 Bristol Bay subsistence communities and rural residents. The RAC emphasized the importance of Chinook salmon as a subsistence food and noted lower returns (and smaller Chinook) in their region. The RAC was also very concerned about the lack of genetic information on which to base potential impacts to individual river systems. The RAC adopted a resolution to (1) request the Council adopt regulations to significantly minimize the bycatch of all salmon species in the Bering Sea pollock fishery; (2) support a Chinook salmon bycatch hard cap not to exceed 38,000 fish annually; (3) support hard caps and other regulations that are conservative and designed to preserve salmon stocks; and (4) support State and Federal efforts to conduct additional data collection and analyses to refine regulations that minimize salmon bycatch in the Bering Sea trawl fisheries.

Association of Village Council Presidents 44th Annual Convention, October 8, 2008, Bethel

The AVCP is centralized in the Yukon-Kuskokwim Delta, along the Southwestern region of Alaska, and serves 56 Federally-recognized Alaska tribes. Approximately 200 participants attended, including representatives from member tribes, subsistence and commercial salmon fishermen, Federal and State agency staff, CDQ group representatives, and city and borough representatives. Translation services were provided to translate between Yupik and English. Comments were centered on the priority to protect the subsistence salmon fishery, both for cultural and traditional reasons, as well as a primary food source.

Detailed comments were provided with regard to Alternative 4 and incentive plans linked to a higher cap of 68,000 Chinook salmon. The AVCP submitted a resolution relevant to this issue at the 2008 Alaska Federation of Natives annual convention, which passed. The resolution encouraged the Council and NMFS (1) to take emergency action to regulate the 2009 pollock fishery such that measures would ensure the conservation and rebuilding of western Alaska Chinook salmon stocks; (2) to implement permanent regulations for the 2010 pollock fishery; and (3) to establish a bycatch hard cap of no more than 30,000 Chinook.

Eastern Interior Subsistence Regional Advisory Council, October 15, 2008, Nenana

The Eastern Interior RAC meeting was comprised primarily of RAC members, community members, environmental groups, and some State and Federal agency staff (estimate of 40 total participants). The Eastern Interior RAC represents thirteen villages along the Yukon or Tanana rivers and an additional seventeen villages within the region. The RAC emphasized several concerns about the preliminary preferred alternative and its ability to meet a goal of reduced Chinook salmon bycatch and to increase in-river fisheries. While appreciative of the efforts to communicate with the RAC on this issue, the RAC also commented that ongoing, open dialogue with the Council is long overdue and that additional, noncommercial representation on the Council is necessary.

The RAC adopted several motions, which were sent in the form of a letter to the Council (dated 1/30/09). The motions (1) supported a Chinook salmon hard cap of 29,323 for immediate implementation; (2) requested economic penalties on individual trawl vessels; (3) recommended that the pollock industry bear the cost of improved sampling methods and genetic studies on the Chinook salmon stocks impacted by the industry's bycatch; (4) recommended modification to the food bank program in order to distribute bycaught salmon to Western and Interior Alaska communities; and (5) related concerns with the length of time it takes to have a management action implemented.

Northwest Arctic Subsistence Regional Advisory Council, October 16, 2008, Kotzebue

The Northwest Arctic RAC meeting was attended primarily by RAC members and Federal and State agency staff. The region the RAC represents encompasses 11 villages on the coast of Kotzebue Sound and along the Noatak and Kobuk Rivers. The RAC did not have a quorum under which it could conduct business, due to airline cancellations due to weather. However, members present did receive the presentation and comment on the proposed action. The primary comments and questions addressed the rationale for the various range of hard caps. The RAC noted some tentativeness in providing a recommendation on the proposed action, as Chinook salmon is less important to their region relative to chum and char. The RAC noted significant interest in future management measures for chum salmon.

Western Interior Subsistence Regional Advisory Council, October 28, 2008, McGrath

The Western Interior RAC meeting was comprised of RAC members, State and Federal agency staff, and community members (estimate of 25 total participants). The region the RAC represents encompasses 27 villages along the Yukon and Kuskokwim rivers. The RAC related concerns that several external factors, including fuel prices and unsustainable management measures, put increasing pressure on subsistence users. They had several questions about the rationale supporting Alternative 4 and questioned the potential efficacy of the incentive plans and the transferability provisions. The RAC did not support the hard cap of 68,000 Chinook, noting that it represents an average of the three highest bycatch years on record.

The Western Interior RAC adopted several motions, which were sent in the form of a letter to the Council (1/30/09). The motion recommended a hard cap of 29,323 Chinook, which represents the long-term historic range of Chinook salmon bycatch, but that a hard cap within the 10-year average of 29,000 – 38,000 Chinook would be acceptable. While the RAC does not support the higher cap of 68,000 Chinook, if a higher cap figure is adopted, selling or trading the caps should not be allowed. The motion also recommended that all salmon bycatch should be processed and returned to Alaskan communities within the rivers of origin, but not to replace subsistence activities. Finally, the RAC requested a review of the pollock quota and consideration of season reductions to protect the pollock stock, noting concern that as the pollock stock becomes less abundant, more fishing effort follows, which results in additional salmon bycatch.

Nome Council Outreach Meeting, January 22, 2009,

Council staff organized an outreach meeting in Nome to reach the Bering Straits communities. The Alaska Sea Grant Marine Advisory Program (MAP) agent in Nome helped publicize the meeting and provided equipment, and the Nome Eskimo Community hosted the meeting at its tribal hall. This meeting was also coordinated with NMFS, in that NMFS conducted a tribal consultation with the Nome Eskimo Community subsequent to the Council's outreach meeting. The outreach meeting was also intended to provide background information to facilitate the tribal consultation. The meeting in Nome was publicized through the community's email list serve, which generally reaches the sector of Nome which attends events, meetings, and activities. The meeting was also advertised on two radio stations in Nome. A letter was also sent to 30 Bering Strait governments, IRAs, and village corporations in early January, which announced the meeting and the ability to set up remote audio/internet sites in several villages, which would allow nearby villages to listen to the meeting real-time and follow the powerpoint presentation on a host computer. In addition, the Nome MAP agent posted the Council outreach flyer at about 15 locations in Nome.

An estimated 50 people attended the meeting in Nome, with several additional people participating remotely from the communities of Stebbins, Brevig Mission, Elim, Unalakleet, and Kotzebue. A broad

cross-section of individuals participated, including ADF&G staff, Board members and staff of the NSEDC, members of the pollock industry, an environmental group, staff from the local radio and newspaper, subsistence and commercial salmon fishermen, tribal representatives from the Nome Eskimo Community, Elim, Stebbins, and Brevig Mission, and staff of Kawerak, Inc., which is the regional non-profit corporation organized by the Bering Straits Native Association to provide services throughout the Bering Straits Region.

Feedback provided at this meeting was also varied, but centered heavily on the cultural significance and traditional use value of Chinook to surrounding communities, and the lack of adequate analysis in the EIS/RIR on the impacts to and characterization of the subsistence fishery. Participants also provided several comments on Alternative 4, and the concept of the industry incentive plans. Overall, those who addressed a specific cap level supported a lower cap of 30,000 Chinook salmon, noting that the starting place for such a measure should be conservative due to the lack of genetic data and uncertainty. Comments were also made noting that the local CDQ group, NSEDC, contributes heavily to the Norton Sound economy in terms of employment, community share payments, and fishery infrastructure projects, and that the majority of CDQ funding is directly related to the pollock fishery. Formal comments on the EIS/RIR have been provided from several of the tribes and organizations that attended this meeting.

1.5.7 Tribal Governments and Alaska Native Claims Settlement Act Regional and Village Corporations

NMFS is obligated to consult and coordinate with federally recognized tribal governments and Alaska Native Claims Settlement Act (ANCSA) regional and village corporations on a government-to-government basis pursuant to Executive Order 13175, the Executive Memorandum of April 29, 1994, on “Government-to-Government Relations with Native American Tribal Governments,” and Division H, Section 161 of the Consolidated Appropriations Act of 2004 (Public Law 108-199, 188 Stat. 452), as amended by Division H, Section 518 of the Consolidated Appropriations Act of 2005 (Public Law 108-447, 118 Stat. 3267). More information about Executive Order 13175 and related law is in Section 1.7. The tribal consultation process is an opportunity for NMFS to learn about local subsistence use and harvest of Chinook salmon as well as the cultural value and importance of subsistence. The information NMFS learned during these consultations is reflected in the EIS and RIR analysis.

NMFS’s consultation process involves the tribes early and throughout the decision-making process in accordance to Executive Order 13175. Presently, for major federal actions that require an EIS, we begin the tribal consultation process at scoping, which is the first step in the decision-making process. Scoping is intended to identify the issues associated with, and alternatives to, the proposed action. The NMFS Regional Administrator sends each tribe a letter explaining the proposed action and how an interested tribe can provide comments and contact NMFS for a consultation. Thereafter, NMFS consults with any tribe upon request. Subsequently, upon release of the DEIS, NMFS sends another letter to each tribe soliciting comments on the scope and content of the document, providing information on how to receive a copy, and again inviting interested tribes to contact NMFS for a consultation. Likewise, NMFS sends a similar letter with the release of the final EIS. Each tribal consultation letter identifies the NMFS point of contact for the proposed action. That person is typically NMFS’s most knowledgeable person on the issues relevant to the proposed action. The NMFS point of contact works with each interested tribe to conduct the consultation between the tribe and the NMFS Regional Administrator or his designee.

To start the consultation process for this action, NMFS mailed letters to Alaska tribal governments, Alaska Native corporations, and related organizations on December 28, 2007, when NMFS started the EIS scoping process. The letter provided information about the proposed action and EIS process and solicited consultation and coordination with Alaska Native representatives. NMFS received 12 letters

providing scoping comments from tribal government and Alaska Native Corporation representatives, which were summarized and included in the scoping report. Additionally, a number of tribal representatives and tribal organizations provided written public comments and oral public testimony to the Council during the Council outreach meetings and the Council meetings where the Council developed the alternatives.

Once the DEIS was released, NMFS sent another letter to Alaska Native representatives to announce the release of the document and solicit comments concerning the scope and content of the DEIS. The letter included a copy of the executive summary and provided information on how to obtain a printed or electronic copy of the DEIS. Also, NMFS mailed 23 copies of the DEIS to the Alaska Native representatives that requested a copy or provided written comments to NMFS. NMFS received 14 letters providing comments on the DEIS and the alternatives from tribal government, tribal organization, and Alaska Native corporation representatives, which are summarized and responded to in this Comment Analysis Report in Chapter 9. These comments provide information about local subsistence use of salmon and the importance of Chinook salmon to individuals and communities in Alaska. The comment letters are posted on the NMFS Alaska Region website.¹⁸

Additionally, NMFS received letters from seven tribal government representatives requesting a consultation; the Nome Eskimo Community, Chinik Eskimo Community (Golovin), the Stebbins Community Association, the Native Village of Unalakleet, the Native Village of Kwigillingok, the Native Village of Kipnuk, and the Alakanuk Tribal Council.

NMFS held a tribal consultation in Nome on January, 22, 2009 in conjunction with a Council outreach meeting on Chinook salmon bycatch. Consulting in person with NMFS in Nome were representatives of the Nome Eskimo Community, the Chinik Eskimo Community, and the Native Village of Elim. Consulting by telephone were representatives of the Stebbins Community Association and the Native Village of Unalakleet. Council staff provided information on the DEIS, the alternatives, and the schedule for Council action. NMFS staff provided additional information and then listened to the concerns and issues raised by the tribal representatives. The issues and concerns discussed at the consultation are reflected in the letter from the Nome Eskimo Community, which is summarized and responded to in the CAR.

NMFS also held a tribal consultation teleconference on March 17, 2009, with the Native Village of Kwigillingok and the Bering Sea Elders Advisory Group. The issues and concerns discussed at the consultation are reflected in the letter from the Bering Sea Elders Advisory Group, which is summarized and responded to in the CAR and posted on the NMFS Alaska Region web page.

NMFS also held a tribal consultation teleconference on October 19, 2009, with the Alakanuk Tribal Council and the Native Village of Kipnuk. The Regional Administrator provided information the Chinook and chum salmon bycatch in the Bering Sea in 2009 and then listened to the concerns and issues raised by the tribal representatives. The tribal representatives expressed the difficulty of meeting subsistence needs of Chinook salmon in 2009. They explained a cap of 60,000 Chinook salmon was too high to conserve the species and recommended a cap of 29,000 Chinook salmon.

Once NMFS released the Final EIS and Final RIR, NMFS sent another letter to Alaska Native representatives to announce the release of the document and solicit comments. The letter included a copy of the executive summary and provided information on how to obtain a printed or electronic copy of the

¹⁸ <http://www.fakr.noaa.gov/sustainablefisheries/bycatch/default.htm>

Final EIS and Final RIR. Also, NMFS mailed 28 copies of the Final EIS and Final RIR to the Alaska Native representatives that requested a copy or provided written comments to NMFS.

1.5.8 Cooperating Agencies

The Council for Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA emphasizes agency cooperation early in the NEPA process. NMFS is the lead agency for this EIS. The State of Alaska Department of Fish and Game (ADF&G) is a cooperating agency and participated in the development of the EIS and RIR and provided data, staff, and review for this analysis. ADF&G has an integral role in the development of the EIS and RIR because it manages the commercial salmon fisheries, collects and analyzes salmon biological information, and represents the people who live in Alaska.

Additionally, at the October and December 2007 and the February, April, and June 2008 Council meetings, Council and NMFS staff informed representatives of the U.S Coast Guard, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife, the U.S. State Department, and the U.S. Fish and Wildlife Service of the development of the Draft EIS/RIR/IRFA. NMFS mailed a copy of the DEIS/RIR/IRFA and Final EIS and RIR to all members of the Council, its Scientific and Statistical Committee and its advisory Panel.

1.6 Statutory Authority for this Action

Under the Magnuson-Stevens Act (16 USC 1801, et seq.), the United States has exclusive fishery management authority over all marine fishery resources found within the EEZ. The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the Council has the responsibility for preparing FMPs and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the federal mandates of the Department of Commerce with regard to marine and anadromous fish.

The Bering Sea pollock fishery in the EEZ off Alaska is managed under the FMP for Groundfish of the Bering Sea and Aleutian Islands. The salmon bycatch management measures under consideration would amend this FMP and federal regulations at 50 CFR 679. Actions taken to amend FMPs or implement other regulations governing these fisheries must meet the requirements of federal law and regulations.

1.7 Relationship of this Action to Federal Laws, Policies, and Treaties

While NEPA is the primary law directing the preparation of this EIS, a variety of other federal laws and policies require environmental, economic, and socioeconomic analyses of proposed federal actions. This section addresses the CEQ regulations, at 40 CFR 1502.2(d), that require an EIS to state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of NEPA and other environmental laws and policies. The EIS and RIR contain the required analysis of the proposed federal action and its alternatives to ensure that the action complies with these additional federal laws and executive orders:

- National Environmental Policy Act (NEPA)
- Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)
- Endangered Species Act (ESA)
- Marine Mammal Protection Act (MMPA)
- Administrative Procedure Act (APA)