

**Finding of No Significant Impact for the Environmental Assessment for Revised
Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands
Management Area Groundfish Fisheries**

November 2010

One of the purposes of an environmental assessment is to provide the evidence and analysis necessary to decide whether an agency must prepare an environmental impact statement (EIS). The Finding of No Significant Impact (FONSI) is the decision maker's determination that the action will not result in significant impacts to the human environment, and therefore, further analysis in an EIS is not needed. The Council on Environmental Quality regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." An action must be evaluated at different spatial scales and settings to determine the context of the action. Intensity is evaluated with respect to the nature of impacts and the resources or environmental components affected by the action. NOAA Administrative Order (NAO) 216-6 provides guidance on the National Environmental Policy Act (NEPA) specifically to line agencies within NOAA. It specifies the definition of significance in the fishery management context by listing criteria that should be used to test the significance of fishery management actions (NAO 216-6 §§ 6.01 and 6.02). These factors form the basis of the analysis presented in the environmental assessment/regulatory impact review (EA/RIR) for this action. The results of that analysis are summarized here for those criteria. Alternative 4 is the proposed action and is the reasonable and prudent alternative (RPA) in the biological opinion on the authorization of the Alaska groundfish fisheries.

Context: For this action, the setting is the Bering Sea and Aleutian Islands Management Area (BSAI). The revisions to the protection measures primarily affect the Atka mackerel and Pacific cod fisheries conducted in the Aleutian Islands subarea. Any effects of this action are limited to the BSAI, and the majority of the impacts are in the Aleutian Islands subarea. The effects of this action on society within the BSAI are on individuals directly and indirectly participating in these fisheries and on those who use the ocean resources. Because this action concerns the use of a present and future resource, this action may have impacts on society as a whole or regionally.

Intensity: Considerations to determine intensity of the impacts are set forth in 40 CFR 1508.27(b) and in the NAO 216-6, Section 6. Each consideration is addressed below in order as it appears in the NMFS Instruction 30-124-1 dated July 22, 2005, Guidelines for Preparation of a FONSI. The sections of the EA that address the considerations are identified.

(1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action? No. The proposed action would reduce the harvest of Pacific cod and Atka mackerel in the Aleutian Islands, reducing the mortality of these target species. The reduction in mortality by the fisheries would not jeopardize the sustainability of the Atka mackerel and Pacific cod stocks. The EA prepared for this action found no additional impacts on targeted species not previously considered in the Alaska Groundfish Harvest Specifications EIS. (EA Chapter 3)

(2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species? No. The impacts of reducing mortality of the Aleutian Islands Atka mackerel and Pacific cod target species would also reduce the mortality of non-target species that would be caught in these Aleutian Islands fisheries. Even though fishing effort may shift in time or

location in a manner that may increase the harvest of prohibited species (e.g., halibut), the current Prohibited Species Catch management measures ensure this change in harvest is not likely to jeopardize the sustainability of any non-target species. (EA Chapter 4)

(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?* No. Fishing effort would be reduced in the Aleutian Islands and may increase in the Bering Sea to offset the lost harvest opportunity in the Aleutian Islands for Atka mackerel and Pacific cod. Habitat in the Aleutian Islands would experience less impact from fishing activities with nonpelagic trawl gear, while fishing with this gear type may increase in other areas. Regardless, the habitat conservation measures in the Aleutian Islands and the Bering Sea subareas provide protection to habitat and these measures are not changed by this action. Because of the existing habitat conservation measures the action is not expected to cause substantial damage to coastal habitat or essential fish habitat in either the Aleutian Islands or in the Bering Sea subareas. (EA Chapter 7)

(4) *Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?* No. This action has effects that may affect safety in different ways. A shift in the fleet's center of gravity to the east, brings it closer to USCG search and rescue resources and to potential "good Samaritan" assistance. If profits are reduced there may be reduced investments in safety, and a reduction in the distance between fishing vessels may encourage a derby fishery mentality. The action may cause vessels shifting out of the Aleutian Islands to spend more time in the high traffic Unimak Pass area. Given that some factors tend to increase safety, while others may decrease it, there is no reasonable expectation of a substantial adverse impact on public safety. (RIR Chapter 10)

(5) *Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, seabirds, or critical habitat of these species?* No. The proposed action is not expected to result in increased interactions with endangered or threatened species, marine mammals, seabirds, or their critical habitat beyond those identified in previous consultations under section 7 of the Endangered Species Act (ESA). This action would reduce the potential adverse effects of the Aleutian Islands groundfish fisheries on ESA-listed Steller sea lions by closing portions of the Aleutian Islands subarea. These portions include areas of Steller sea lion designated critical habitat that would be closed to Atka mackerel and Pacific cod fishing. By closing these areas, the action reduces potential competition for prey, incidental takes, and disturbance that may result from the Atka mackerel and Pacific cod fisheries. In addition, the action would close groundfish fishing within 3 nm of Kanaga Island/Ship Rock rookery, further protecting this Steller sea lion site from potential adverse effects of groundfish fishing. (EA Chapters 5 and 6)

(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.)?* No. Effects of fishing on the marine ecosystem in Alaska are analyzed in detail in the Alaska Groundfish Fisheries PSEIS. Additional impacts on marine ecosystems in Alaska are summarized annually in the Stock Assessment and Fishery Evaluation reports. This action is limited in scope to the Aleutian Islands subarea and is intended to improve the predator-prey relationship for Steller sea lions and groundfish. No substantial impacts on biodiversity and/or ecosystem function were identified in the EA for this action. (EA Chapter 8)

(7) *Are significant social or economic impacts interrelated with natural or physical environmental effects?* No. Even though this action will have a substantial economic impact on participants in the Atka mackerel and Pacific cod fisheries in the Aleutian Islands, this cost is not interrelated to natural or physical environmental effects of the action. The costs are not a result of

the environmental effects of the action, but are a result of the necessity to remove potential environmental effects of the groundfish fisheries in the Aleutian Islands. (RIR Chapter 10)

(8) Are the effects on the quality of the human environment likely to be highly controversial? No. There is concern for the potential economic impacts on the Atka mackerel and Pacific cod fisheries that are prosecuted in the Aleutian Islands subarea and disagreement among stakeholders on what is necessary to comply with the ESA. For these reasons, the draft RPA presented in the July 2010 draft Biological Opinion (Biop) may be considered controversial. NMFS has determined through its biological opinion on the groundfish fisheries that the potential effects of the action are necessary to meet the requirements of the ESA to prevent the likelihood of the groundfish fisheries from causing jeopardy of extinction or adverse modification or destruction of designated critical habitat. NMFS has considered all comments received on the proposed RPA in the July 2010 draft Biop and developed this action taking into consideration recommended changes to the fisheries and the agency's need to ensure that the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification or destruction of critical habitat for Steller sea lions. The changes to the RPA in the final Biop from the draft RPA based on public comment reduce the controversial nature of this action to less than highly controversial. (EA Section 1.5 and Section 2.1.4)

(9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas? No. The proposed action does not change the existing habitat conservation measures that are in place for the Aleutian Islands subarea. The habitat conservation measures protect ecologically critical areas such as coral gardens from the potential affects of groundfish fishing activities. The proposed action would reduce fishing activities in portions of the Aleutian Islands, resulting in less potential impacts for these areas and would have no impacts on historic or cultural resources, park land, prime farmlands, wetlands, or wild and scenic rivers. No additional impacts on ecological critical areas are expected to result from the proposed action. (EA Chapters 1 and 7)

(10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks? No. The fish species and harvest methods involved, limited harvest amounts, and area of activity where potential effects might occur are well known and do not involve unique or unknown aspects. It is well understood that restricting the Atka mackerel and Pacific cod fisheries in the Aleutian Islands subarea would result in less fishing mortality on these important prey species in areas where Steller sea lions are experiencing the most population decline. (EA Chapters 3–8)

(11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts? No. The restrictions on the Atka mackerel and Pacific cod fisheries reduce potential effects on the environment, particularly for Steller sea lions. No additional past, present, or reasonably foreseeable future actions with cumulative impacts have been identified that would accrue from this action. (EA Chapters 3–7)

(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? No. The proposed action will have no effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, or cause loss or destruction of significant scientific, cultural or historic places. Because this action occurs within waters 0 nm to 200 nm off the coast of the BSAI, this consideration is not applicable to the proposed action. (EA Chapter 1)

(13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species? No. The proposed action will not introduce or spread nonindigenous

species into Alaska beyond amounts previously identified because it does not change fishing, processing, or shipping practices that may lead to the introduction of nonindigenous species. By reducing fishing activities in Area 543, there would be less likelihood of introducing nonindigenous species by the Atka mackerel and Pacific cod fishing activities in this area. (EA Chapter 2)

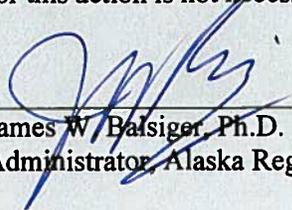
(14) *Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?* No. The proposed action would revise Steller sea lion protection measures in the Aleutian Islands subarea that would remain in effect until changed by future rulemaking. Implementation of these revisions does not prevent the consideration of scientific and commercial information and the development of new protection measures that may provide additional economic relief to the Atka mackerel and Pacific cod fisheries while ensuring the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification or destruction of designated critical habitat for the western distinct population segment of Steller sea lions. Each decision about the appropriate Steller sea lion protection measures is a separate decision requiring analysis and an adequate rationale. Therefore, this action does not create a precedent that binds NMFS or the Council in future management of the groundfish fisheries in a manner that protects Steller sea lions and complies with the ESA. (EA Chapter 1)

(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?* No. The proposed action poses no known violation of federal, state, or local laws and requirements for the protection of the environment. The action is necessary to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act and with the ESA. (EA Chapter 1)

(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?* No significant past, present, or reasonably foreseeable future action with cumulative impacts have been identified that would accrue in combination with the direct and indirect impacts on target and nontarget species from the proposed action. This action provides additional protection to target (Atka mackerel and Pacific cod) and non-target species (Steller sea lion), reducing the potential for adverse cumulative effects on these species. (EA Chapter 3-7)

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for Revised Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Management Area Groundfish Fisheries and its implementing regulations, it is hereby determined that this action 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.



James W. Balsiger, Ph.D.
Administrator, Alaska Region

11.26.10

Date