MEMORANDUM FOR: THE RECORD

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

SUBJECT: NEPA Categorical Exclusion for Regulatory Amendment to Modify Nontrawl Lead Level 2 Observer Requirements, RIN 0648-BG96


Description of the Action

The proposed action includes three elements. The first two elements of this proposed action would modify the requirements for an observer to obtain a nontrawl lead level 2 (LL2) deployment endorsement and implement a pre-cruise meeting requirement for vessels required to carry an observer with a nontrawl LL2 deployment endorsement. These elements are intended to increase the number of observers that qualify for a nontrawl LL2 deployment endorsement and maintain observer safety and data quality. The third element of this proposed action would make editorial changes, and modify observer coverage and reporting requirements for vessels when participating in the Western Alaska Community Development Quota (CDQ) Program. This element is intended to 1) align regulations with Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) section 305(i)(1)(B)(iv); 2) reduce observer coverage costs; 3) improve operational efficiency; and 4) reduce the reporting burden for catcherprocessors and motherships when participating in CDQ fisheries.

1 The Magnuson-Stevens Act section 305(i)(1)(B)(iv) states, “the harvest of allocation under the [CDQ] program for fisheries with individual quotas or fishing cooperatives shall be no more restrictive than for participants in the applicable sector, including with respect to the harvest of non-target species.” This requirement is known as the “regulation of harvest” provision of the Magnuson-Stevens Act. Under this provision, regulations governing pollock CDQ fishing are designed to be no more restrictive than regulations governing the American Fisheries Act (AFA) pollock fisheries, and regulations governing non-AFA trawl catcherprocessors and motherships participating in the groundfish CDQ fisheries (all groundfish except pollock) are designed to be no more restrictive than regulations governing the Amendment 80 fisheries.
**Effects of the Action**

This action would increase observer availability and decrease observer coverage costs.

The effects of the action are primarily economic. The North Pacific Fishery Management Council (Council) recommended changes to nontrawl LL2 observer deployment endorsement requirements after reviewing a discussion paper on the subject in October 2016, an initial review draft Regulatory Impact Review (RIR) in April 2017, and a public review draft RIR in June 2017.

In both the initial review draft and the public review draft RIR, NMFS stated that it had reached a preliminary conclusion that this action would qualify for a Categorical Exclusion from further review under National Environmental Policy Act (NEPA) because this action would be an amendment to a previously analyzed and approved action, and this action, individually and cumulatively, does not have the potential to pose significant effects to the quality of the human environment. The Council received no public comment that objected to these preliminary conclusions.

This action amends regulations last amended in 2012 when NMFS modified monitoring and enforcement requirements for the Bering Sea and Aleutian Islands (BSAI) freezer longline fleet. The impacts of the monitoring and enforcement requirement were analyzed in a combined Environmental Assessment and RIR. NMFS concluded that the monitoring and enforcement requirements would not have a significant impact on the environment and therefore issued a Finding of No Significant Impact (FONSI) for the monitoring and enforcement requirements for the BSAI freezer longline fleet. The analysis is available at [https://alaskafisheries.noaa.gov/sites/default/files/analyses/riere_0512.pdf](https://alaskafisheries.noaa.gov/sites/default/files/analyses/riere_0512.pdf).

**Extraordinary Circumstances**

This action can be reviewed independently from other actions. Additionally, I considered the context in which the action could have extraordinary circumstances listed in NOAA’s Companion Manual for NAO 216-6A Section 4 and expect no extraordinary circumstances.

---

2 Discussion Paper, Options to reduce the potential for shortages of fixed gear lead level 2 observers, available under agenda item C-5, Council October 2016 meeting. [http://legistar2.granicus.com/npfmc/meetings/2016/10/948_A_North_Pacific_Council_16-10-03_Meeting_Agenda.pdf](http://legistar2.granicus.com/npfmc/meetings/2016/10/948_A_North_Pacific_Council_16-10-03_Meeting_Agenda.pdf)


Based on the description of the action and its anticipated effects set out above, I have determined
that the proposed action has no potential for significant adverse effects on human health or
safety; areas with unique environmental characteristics; species or habitats protected by the
Endangered Species Act, the Marine Mammal Protection Act, the Magnuson-Stevens Act, or the
Migratory Bird Treaty Act; or properties listed or eligible for listing on the National Register of
Historic Places. Furthermore, this action has no potential to generate, use, store, transport, or
dispose of hazardous or toxic substances. Nor is there the potential to cause disproportionately
high and adverse effect on the health or the environment of minority or low-income
communities, compared to the impacts on other communities. This action will not contribute to
the introduction, continued existence, or spread of noxious weeds or non-native invasive species.
The action does not pose a potential violation of Federal, State, or local law or requirements
imposed for protection of the environment; involve environmental effects that are highly
controversial, uncertain, unique, or unknown; establish a precedent or decision in principle for
future actions, or result in cumulative significant impacts.

Categorical Exclusion

As defined in Section 4 and Appendix E of NOAA’s Companion Manual for NAO 216-6A, this
action is categorically excluded from the need to prepare either an Environmental Assessment or
an Environmental Impact Statement. Specifically, the proposed action falls into the category of
actions subject to categorical exclusion identified in Appendix E of NOAA’s Companion Manual
for NAO 216-6A, A1, an action that is a technical correction or a change to a fishery
management action or regulation, which does not result in a substantial change in any of the
following: fishing location, timing, effort, authorized gear types, or harvest levels.

CC: AKR NEPA Coordinator
    NOAA NEPA Coordinator