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February 6, 2001

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable James V. Hansen
Chairman
The Honorable Nick J. Rahall II
Ranking Minority Member
Committee on Resources
House of Representatives

Subject: Department of Commerce, National Oceanic and Atmospheric Administration: Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), entitled “Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska” (RIN: 0648-AO82). We received the rule on January 22, 2001. It was published in the Federal Register as an “emergency interim rule; request for comments” on January 22, 2001. 66 Fed. Reg. 7276.

The interim rule was issued on an emergency basis to implement Steller sea lion protection measures to avoid the likelihood that the groundfish fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat.

Enclosed is our assessment of the NOAA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that NOAA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Bob Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Assistant Administrator for Fisheries
National Marine Fisheries Service
Department of Commerce

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
ENTITLED
"FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA; STELLER SEA
LION PROTECTION MEASURES FOR THE GROUND FISH FISHERIES OFF
ALASKA; FINAL 2001 HARVEST SPECIFICATIONS AND ASSOCIATED
MANAGEMENT MEASURES FOR THE GROUND FISH FISHERIES OFF ALASKA"
(RIN: 0648-AO82)

(i) Cost-benefit analysis

Due to the lack of information, a complete cost-benefit analysis was not performed. However, it is estimated by a simulation model that if fishermen are not able to totally compensate for reduced harvest in restricted times and places by fishing elsewhere, the industry revenues could drop by about \$401 million per year. However, assuming some compensation by the industry, the revenue drop would be about \$225 million per year.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

Because the rule is not subject to the requirement to provide notice and an opportunity to comment of 5 U.S.C. 553, the requirements of the Regulatory Flexibility Act do not apply.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not impose either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

Since Public Law 106-554, enacted December 21, 2000, required the Secretary of Commerce to issue this rule by January 20, 2000, it was impracticable to provide prior notice and an opportunity for public comment. Therefore, it was determined there was good cause to waive those requirements under 5 U.S.C. 553(b)(2). Likewise, the 30-day delay in the effective date under 5 U.S.C. 553(b)(3) was waived.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The interim rule does not contain any information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The interim rule is promulgated under the authority contained in 16 U.S.C. 773 et seq.; 1801 et seq.; 3631 et seq.; Title II of Division C, Pub. L. 105-277; section 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and section 209, Pub. L. 106-554.

Executive Order No. 12866

The interim rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action.

Executive Order No. 13132 (Federalism)

The interim rule does not have federalism implications under the order.