increased effort for scallops off Washington and Oregon.

No information is available to NMFS that indicates that the interim closure of Federal waters off Alaska to fishing for scallops under either the February 24, 1995, emergency rule or the FMP will have an impact on the Washington and Oregon scallop fishery in a manner not already occurring due to increased fishing effort by vessels displaced from the East Coast of the United States. In recent years, the amount of scallops harvested off Oregon and Washington annually was not substantial relative to the Alaska fishery and averaged less than 1 percent of the Alaska harvest during 1989–1992. In 1993, the scallop landings off Oregon and Washington increased to 270,000 lb (122.47 mt) and 246,000 lb (111.58 mt), respectively, due to increased fishing effort by east coast vessels.

The Council has no authority beyond the Federal waters off Alaska. Nonetheless, the Council consists of three members from the State of Washington and two members from the State of Oregon. At least one of these members serves on both the North Pacific and Pacific Councils, as well as the PSMFC. NMFS believes this joint membership served to inform adequately the Pacific Council about scallop management actions the Council was considering. The fact that the PSMFC chose to pursue a Magnuson Act amendment to resolve Pacific coast management concerns rather than an interjurisdictional management plan and that the Alaska scallop FMP only addresses fishing off Alaska does not constitute a violation of National Standards 3 or 6.

Comment 5. The proposed FMP is not consistent with National Standard 4. An interim closure of Federal waters to fishing for scallops discriminates against residents of different States, and only Alaska State registered vessels are allowed to harvest weathervane scallops in Alaska State waters. This provides a competitive advantage to Alaskan vessels.

Response. NMFS disagrees. The interim closure to fishing for scallops authorized under the FMP does not discriminate against non-Alaska State residents. All vessels are prohibited from fishing for scallops in Federal waters off Alaska, including vessels owned and operated by Alaska State residents and vessels registered under the laws of the State of Alaska. The State of Alaska has notified the public that it will open specified State waters to limited fishing for scallops. Any vessel owner, regardless of state of residency, may choose to register his/

her vessel with the State of Alaska and abide by State regulations governing the scallop fishery in State waters. Neither inconsistency with National Standard 4 nor discrimination against non-Alaska state residents results from implementation of the FMP.

*Comment 6.* The proposed FMP is not consistent with National Standard 5, because the FMP seriously limits efficiency and no analysis is provided on how a 1-year closure of Federal waters will enhance long-term efficiency. Similarly, the previous acceptance by NMFS of an Alaska State scallop management program also imposed technical and economic inefficiencies.

Response. NMFS disagrees. Efficiency in terms of resource management is enhanced by providing for the long-term sustainable harvest of the scallop resource (see response to Comment 2). NMFS concurs that short-term economic gain is subordinated to the long-term health of the scallop resource. This balance is considered and allowed under National Standards 1 and 5. Furthermore, fishery resources regulations typically control efficiency to prevent stock depletion. Without such controls, fishermen might fish until it were unprofitable to do so, resulting in localized depletion of scallops, which would increase the risk of overfishing scallop stocks.

Comment 7. The proposed FMP is not consistent with National Standard 7, because the FMP does not address how NMFS would monitor the closure of Federal waters to fishing for scallops. Effective enforcement could be costly. Furthermore, the proposed FMP differs from the regulations of Washington and Oregon and would not minimize costs and avoid unnecessary duplication.

Response. NMFS disagrees. NMFS would monitor and enforce closure of Federal waters to fishing for scallops in the same manner that groundfish area closures are enforced (i.e., observer data, surveillance flights by the U.S. Coast Guard (USCG), recordkeeping and reporting documentation, other available sources of information that indicate the location of fishing operations). NMFS recognizes that some scallop stocks straddle Federal and State waters in a manner that may make the enforcement of the closure of Federal waters off Alaska difficult. NMFS also recognizes that, in recent years, most of the scallop harvest has come from Federal waters and that the State of Alaska intends to follow a conservative approach to opening State waters to fishing for scallops so that the potential for redistribution of fishing effort from Federal to State waters does not

jeopardize the resource in State waters. NMFS intends to coordinate management with the State of Alaska so that the State will consider any enforcement concerns resulting from the closure of the Federal fishery when determining whether or not to open State waters to fishing for scallops.

Comment 8. The proposed FMP is not consistent with the New England Fishery Management Council's (New England Council's) scallop fishery management plan, which provides for an industry advisory panel. The proposed FMP should allow for an industry advisory panel to provide a forum for management agencies and industry members to discuss management and data collection strategy.

Response. The management measures contained in the scallop fishery management plan prepared by the New England Council may or may not be pertinent to the management of the Alaska scallop fishery under the authority of the Council. The proposed FMP contains a single management measure, an interim closure of Federal waters, to provide the time necessary to prepare a management regime that would authorize a controlled fishery for scallops in Federal waters. This future management regime could provide for an industry advisory panel that provides input to management agencies if the Council so desires. An industry advisory panel beyond that which already exists in the normal Council process is not mandated, because the New England Council has made such a provision in its scallop management plan.

Comment 9. Concerns about localized overfishing of scallop stocks do not justify closure of Federal waters because fishermen will leave a fishing area before the stock is overharvested to the point where profit margin falls to the break even point. As a result, sufficient amounts of scallops will remain to repopulate an area.

Response. NMFS disagrees. Also see response to Comment 2. The weathervane scallop is a long-lived, slow growing species. As a result, this species is vulnerable to overfishing. Fishing a localized stock of scallops until catch-per-unit-of-effort (CPUE) drops to the point of becoming unprofitable poses conservation concerns, especially if the stock is reduced to the point where it is not able to recover or can recover only after a long period of time.

Prior to the 1990's, management of the Alaska weathervane scallop fishery was premised on the assumption that the fishery would self-regulate by