

Title: Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) for a Rule to Revise Recordkeeping and Reporting Requirements for the Alaska Groundfish Fishery.

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Lead Agency: National Marine Fisheries Service
Alaska Regional Office
Sustainable Fisheries Division
P.O. Box 21668
Juneau, Alaska 99801
(907) 586-7228

Responsible Official: James W. Balsiger, Regional Administrator

For Further Information Contact: Patsy A. Bearden, NMFS Alaska Region, (907) 586-7008

Abstract: This Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) analyzes a rule that would change implementing regulations for the Fishery Management Plans (FMPs) for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) and the FMP for Groundfish of the Gulf of Alaska (GOA) by revising recordkeeping and reporting (R&R) requirements.

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Executive Summary

This Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) analyzes proposed amendments to regulations at 50 CFR 679 which would revise recordkeeping and reporting (R&R) regulations for the Alaska groundfish fisheries and for the Individual Fishery Quota (IFQ) halibut and sablefish fisheries off of Alaska. It provides the analyses required under E.O. 12866 and the RFA. Eight classes of regulatory changes are analyzed:

- (1) Regulatory Housekeeping. Remove obsolete text, clarify and simplify existing text, and reorganize text to remove duplication. Add, revise, and remove definitions.
- (2) Buying Station Daily Cumulative Logbook (DCL). Remove the requirement to obtain, complete, and submit the DCL. Add a requirement to complete, maintain, and distribute a Buying Station Report (BSR).
- (3) Shoreside Processor Electronic Logbook Report (SPELR). Extend the requirement to use the SPELR for processors buying from AFA catcher vessels past January 16, 2001, and require shoreside processors or stationary floating processors that receive pollock harvested in a directed pollock fishery to use the SPELR.
- (4) Individual Fishing Quota (IFQ) Program. Proposals add reporting requirements to the Prior Notice of IFQ Landing Report, the IFQ Landing Report, the IFQ Shipping Report, the IFQ Transshipment Authorization, the IFQ Vessel Clearance Report and the IFQ Departure Report.
- (5) Product Transfer Report (PTR). Give processors a new option for calculating the PTR total fish product weight transferred. An option would be added to record total actual scale weights for each species/product.
- (6) Marking of gear. Extend the gear marking requirements to include hook-and-line, longline pot, and pot-and-line gear.
- (7) Seabird avoidance gear. Add a requirement for longline operations over 60 feet to record bird avoidance gear use in logbooks.
- (8) Surrender of permit. A regulation would be added that once a Federal fisheries permit or Federal processor permit is surrendered during a fishing year, it would not be reinstated that same year.

The eight groups of regulatory changes identified in the introduction are independent of each other. Any one of them may be adopted in combination with any possible grouping of the others. Because of this, this RIR and the accompanying IRFA evaluate each of the eight proposals independently. Each of the proposals is evaluated against a “no action” alternative and the costs and benefits relative to the “no action” alternative are identified.

In each instance, the proposal, its purpose, and its implications, have been described. Potential costs and benefits have been listed. Costs and benefits from all the components of the proposed rule have been summarized in a table in the last section of the chapter. Each section looks at the distributional impacts, focusing on the impacts on large and small entities. This analysis is qualitative, although impacts have been quantified and monetized where possible.

The costs and benefits of the proposals are summarized below.

Summary of Costs and Benefits for Regulatory Changes Other Than IFQ Changes			
Component of rule	Benefits	Costs	Present value
Regulatory Housekeeping	Reduces costs to fishermen of complying with regulations. Reduces enforcement costs. Fewer requests for information to NMFS Sustainable Fisheries. An annual benefit.	None	Positive
Substitute one-page Buying Station Report (BSR) for Daily Cumulative Logbook (DCL)	Reduces the paperwork costs for operators of buying stations and possibly processors; reduces form preparation costs for NMFS. An annual benefit of about \$8,700.	None	\$24,600 (Estimated over three years at 5.9%)
Shoreside Processor Electronic Logbook Report	Reduced annual recordkeeping expenses of about \$2,200 per year; ability to manage individual vessel harvests in AFA fisheries; reduced cost of complying with Steller sea lion pollock RPAs in the GOA. An annual benefit.	One time expense of less than \$8,000	At least \$26,100 (Estimated over 10 years at 6.1%)

Summary of Costs and Benefits for Regulatory Changes Other Than IFQ Changes			
Component of rule	Benefits	Costs	Present value
Individual Fishing Quota rule changes (see Table 1 for details)	Clarification of existing regulations; more effective targeting of enforcement assets; closure of enforcement loophole; lower costs for registered buyers in general; reduced costs for dinglebar ling cod fishermen; time savings for some sablefish catcher-processors acting as their own registered buyers	\$5,100	Unknown (Can't be calculated from available information)
Revision to Product Transfer Report (PTR) regulations	More reporting flexibility for motherships, catcher processors, shoreside processors and stationary floating processors. An benefit of about \$1,568 per year.	None	\$4,400 (Estimated over three years at 5.9%)
Marking of gear	Reduced costs to NOAA and USCG enforcement efforts; more effective enforcement of gear rules, resources may be released for more effective enforcement of other regulations. An annual benefit.	Increased costs to pot fishermen who must re-mark gear or who will be precluded from the flexibility provided by gear sharing. An annual expense.	Unknown (Can't be calculated from available information)
Seabird avoidance gear reporting	Possible increased protection of seabird populations. Possible reduced cost of protection.	\$6,415/year or less	Unknown (Can't be calculated from available information)
Surrender of permit	Improved data on groundfish harvests in the BSAI and GOA.	Increased observer expenses for small numbers of vessels. An annual expense.	Unknown (Can't be calculated from available information)

The Regulatory Flexibility Analysis identified the following numbers of large and small entities impacted by these proposed regulations.

Numbers of Small and Large Entities				
Component of Rule	Type of Entity	Small	Large	Total
Regulatory Housekeeping	Catcher vessels, catcher processors, fish buyers, CDQ groups	1,254 catcher vessels, 47 catcher processors, 32 onshore processors, 0 motherships, 6 CDQ groups	0 catcher vessels, 63 catcher processors, 26 large onshore processors, 3 motherships, 0 CDQ groups	1,254 catcher vessels, 110 catcher-processors, 58 onshore processors, 3 motherships, 6 CDQ groups
Substitute one-page Buying Station Report (BSR) for Daily Cumulative Logbook (DCL)	Buying stations; CDQ groups	268 buying stations; 6 CDQ groups	0	268 buying stations; 6 CDQ groups
Shoreside Processor Electronic Logbook Report	Shoreside processors accepting AFA fish or fish from directed pollock fisheries; CDQ groups	8 processors; 6 CDQ groups	13	21 processors; 6 CDQ groups
Individual Fishing Quota rule changes	Persons fishing using halibut and sablefish individual quotas; Registered Buyers that were not also catcher vessels; CDQ groups	1,613 halibut fishing operations and 433 sablefish fishing operations; 92 Registered Buyers	0 fishing operations; 28 Registered Buyers	1,613 halibut fishing operations and 433 sablefish fishing operations; 120 Registered Buyers
Revision to Product Transfer Report (PTR) regulations	catcher processors, onshore processors, motherships; CDQ groups	79 processors; 6 CDQ groups	68	171 processors; 6 CDQ groups
Marking of gear	pot catcher-vessels (CV) and pot catcher-processors (CP); CDQ groups	254 CV and 13 CP; 6 CDQ groups	0 CV and 0 CP	254 CV and 13 CP; 6 CDQ groups
Seabird avoidance gear reporting	Longline catcher-vessels over 60 feet (CV) and longline catcher-processors (CP) over 60 feet; CDQ groups	129 CV and 38 CP; 6 CDQ groups	0 CV and 6 CP	129 CV and 44 CP; 6 CDQ groups

Numbers of Small and Large Entities (continued)				
Component of Rule	Type of Entity	Small	Large	Total
Surrender of permit	Vessels currently surrendering permits; CDQ groups	17 vessels; 6 CDQ groups	0	17 vessels; 6 CDQ groups

The analysis of costs and benefits indicates that few of these proposals will impose costs on small entities. The proposals that are most likely to increase the financial costs of small entities are the provision to require the marking of pot gear with the registration number of the vessel using the gear, and the regulatory change that would prevent a vessel from surrendering its Federal fishery permit and then reinstating it in the same fishing year.

The pot gear marking rule would prevent vessels from sharing gear and would prevent a vessel from retrieving gear set by another; the extent of these practices is not known. The Federal fishery permit requirement would prevent a small number of vessels from fishing in state waters without observer coverage after fishing in Federal waters under Federal observer rules during the same fishing year. Some small entities may thus face increased costs from an added observer requirement in state waters.

1.0 INTRODUCTION

The groundfish fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) off Alaska are managed under the Fishery Management Plan for the Groundfish Fisheries of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Area. Both fishery management plans (FMPs) were developed by the North Pacific Fishery Management Council (Council). The Gulf of Alaska (GOA) FMP was approved by the Secretary of Commerce and became effective in 1978 and the Bering Sea and Aleutian Islands Area (BSAI) FMP became effective in 1982.

Actions taken to amend fishery management plans or implement other regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations. In addition to the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act), the most important of these are the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), Executive Order (E.O. 12866), the Regulatory Flexibility Act (RFA), and the American Fisheries Act (AFA).

This Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) analyzes proposed amendments to regulations at 50 CFR 679 which would revise recordkeeping and reporting (R&R) regulations for the Alaska groundfish fisheries and for the Individual Fishery Quota (IFQ) halibut and sablefish fisheries off of Alaska. It provides the analyses required under E.O. 12866 and the RFA. The RIR is in Chapter 2 and the IRFA is in Chapter 3.

The proposed R&R regulatory changes are summarized in “Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements” in *Federal Register* (-----, -----). The suite of regulatory changes which are proposed have been divided into eight categories for analysis:

- (1) Regulatory Housekeeping. Remove obsolete text, clarify and simplify existing text, and reorganize text to remove duplication. Add, revise, and remove definitions.
- (2) Buying Station Daily Cumulative Logbook (DCL). Remove the requirement to obtain, complete, and submit the DCL. Add a requirement to complete, maintain, and distribute a Buying Station Report (BSR).
- (3) Shoreside Processor Electronic Logbook Report (SPELR). Extend the requirement to use the SPELR for processors buying from AFA catcher vessels past January 16, 2001, and require shoreside processors or stationary floating processors that receive pollock harvested in a directed pollock fishery to use the SPELR.
- (4) Individual Fishing Quota (IFQ) Program. Proposals add reporting requirements to the Prior Notice of IFQ Landing Report, the IFQ Landing Report, the IFQ Shipping Report, the IFQ Transshipment Authorization, the IFQ Vessel Clearance Report and the IFQ Departure Report.

(5) Product Transfer Report (PTR). Give processors a new option for calculating the PTR total fish product weight transferred. An option would be added to record total actual scale weights for each species/product.

(6) Marking of gear. Extend the gear marking requirements to include hook-and-line, longline pot, and pot-and-line gear.

(7) Seabird avoidance gear. Add a requirement for longline operations over 60 feet to record bird avoidance gear use in logbooks.

(8) Surrender of permit. A regulation would be added that once a Federal fisheries permit or Federal processor permit is surrendered during a fishing year, it would not be reinstated that same year.

2.0 REGULATORY IMPACT REVIEW (RIR)

2.1 Introduction

This Regulatory Impact Review (RIR) provides the analysis required under Executive Order (E.O.) 12866. The following statement from the E.O. summarizes the requirements of an RIR:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

Executive Order 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant". A "significant regulatory action" is one that is likely to:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

2.2 Purpose of and Need for the Action

The proposed changes are necessary to remove obsolete text, clarify and simplify existing text, facilitate management of the fisheries, promote compliance with the regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the fishery management programs for groundfish and of the halibut and sablefish IFQ programs. These changes are necessary to adapt regulations and reporting requirements to the evolution of industry, fishery management needs, and the environment.

2.3 Description of the Fishery

The groundfish fisheries off Alaska are an economically important segment of the U.S. domestic fishing industry. Commercial groundfish catches off Alaska totaled approximately 1.7 million tons (t) in 1999, compared to 1.9 million t in 1998. The value of the catch at ex-vessel, *excluding* the value added by processing, was \$483 million in 1999, an increase from \$416 million in 1998.

Groundfish accounted for the largest share of the ex-vessel value of all commercial fisheries off Alaska in 1999 (39%), while the Pacific salmon fisheries were second, at \$346 million (28% of the total value). The ex-vessel value of the shellfish catch amounted to \$271 million (22% of the total).

The value of the 1999 catch, after primary processing, was approximately \$1.2 billion. This estimate *includes* the “value added” by at-sea and shoreside processors, typically characterized as representing the “first wholesale” gross product value.

Alaska pollock has consistently been the dominant species in the commercial groundfish catch off Alaska. The 1999 pollock catch of 1.09 million t accounted for on the order of two-thirds of the total groundfish harvest (down approximately 13% from a year earlier). The next major species, Pacific cod, accounted for 242,500 t or almost 15% of the total 1999 groundfish catch in the EEZ off Alaska. The 1999 Pacific cod catch was also down, about 6%, from a year earlier.

Trawling accounts for, on average, about 90% of the total groundfish catch, with hook and line gear accounting for another 7.9%. Commercial landings of pollock are exclusively made by

operators using trawl gear. Pacific cod is harvested by trawls (in 1999, 44% or 105,000 t); by hook and line gear (in 1999, 41% or 101,000 t); and by pots (in 1999, 15% or 35,000 t).

Over the last five years, catcher vessels took 43% of the total groundfish catch, while catcher processor vessels took the remaining 57%, for the BSAI and GOA as a whole. Catcher vessels took about 48% of the total, in 1999 (an increase due, in part, to AFA provisions which increased the share of the BSAI pollock TAC allocated to inshore processors).

The distribution of catch, between catcher vessels and catcher processor vessels, differs substantially by species and area. For pollock, in the GOA, 100% is landed inshore by catcher vessels. In the BSAI, in 1999, approximately 44% of the total pollock catch was harvested by catcher processors, with the balance caught by catcher vessels delivering either to shoreside plants or motherships. For Pacific cod, the pattern is more complex. In 1999, in the BSAI, 100% of the longline caught Pacific cod was reportedly taken by catcher processors; over 81% of the pot-caught cod was taken by catcher vessels; and the trawl-caught Pacific cod was more nearly evenly split, with catcher processors accounting for just over 47% of the total landings.

Three mother ships were in operation in 1999 (Northern Economics, 2000). All three have ownership or business affiliations with large Japanese-owned processing companies, and are further affiliated with some of their delivering catcher vessels. Taken together with their affiliated entities, none of these motherships meet the criteria for small entities (NMFS, 2000.).

There were 58 onshore processors operating in 1999. Large entities in the processing sector are those employing more than 500 persons (including employment in affiliated operations). In 1999 onshore processors fell into five groups. Six plants were Bering Sea Pollock Inshore Plants. These are assumed to be large processors. Similarly, there were 10 Alaska Peninsula and Aleutian Island Inshore Plants in 1999 and 10 Kodiak Island Inshore Plants in 1999. These have also all been assumed to be large entities. Eighteen plants were Southcentral Alaska Inshore Plants and 14 were Southeast Alaska Inshore Plants. These last two classes of plants have been assumed to be small entities. This gives a total of 32 small entities and 26 large entities among the onshore processing plants. This is a rough estimate of the numbers of large and small onshore processing entities. (The classification of onshore processors into different regional categories has been based on Northern Economics, 2000.) Small and large entity determinations are estimates based on anecdotal information.

Through the Community Development Quota (CDQ) program, the North Pacific Fishery Management Council and NMFS allocate a portion of the BSAI groundfish, prohibited species, halibut and crab TAC limits to 65 eligible Western Alaska communities. These communities work through six non-profit CDQ Groups to use the proceeds from the CDQ allocations to start or support commercial fishery activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ program began in 1992 with the allocation of 7.5% of the BSAI pollock TAC. The fixed gear halibut and sablefish CDQ allocations began in 1995, as part of the halibut and sablefish Individual Fishing Quota Program. In 1998, allocations of 7.5%

of the remaining groundfish TACs, 7.5% of the prohibited species catch limits, and 7.5% of the crab guidelines harvest levels were added to the CDQ program.

Alaska continues to lead all states in volume (4.5 billion pounds in 1999) and value (\$1.1 billion) of fisheries landings. (For perspective, Louisiana was second in both categories, at 1.5 billion pounds and \$302.7 million.) Unalaska/Dutch Harbor was the leading U.S. port in quantity of commercial landings. Pollock ranked number one, by quantity, and fifth in value, of all U.S. commercially landed species.

2.4 Description and Analysis of the Alternatives

The eight groups of regulatory changes identified in the introduction are independent of each other. Any one of them may be adopted in combination with any possible grouping of the others. Because of this, this RIR and the accompanying IRFA evaluate each of the nine proposals independently. Each of the proposals is evaluated against a “no action” alternative and the costs and benefits relative to the “no action” alternative are identified.

This analysis is largely qualitative, although impacts have been quantified and monetized where possible. NMFS guidance for RIR and IRFA (IRFA or Regulatory Flexibility Act analyses (RFAA) provides, “At a minimum, the RIR and the RFAA should include a good qualitative discussion of the economic effects of the selected alternatives. Quantification of the effects is desirable, but the analyst needs to weigh such quantification against the significance of the issue and available studies and resources. (NMFS, 2000(d), page 2).

In each instance, the proposal, its purpose, and its implications, have been described. Potential costs and benefits have been listed, quantified, and monetized where possible. Costs and benefits from all the components of the proposed rule have been summarized in a table in the last section of the chapter. Each section looks at the distributional impacts, focusing on the impacts on large and small entities. Large and small are defined relative to the Regulatory Flexibility Act. Chapter 3, which includes the Initial Regulatory Flexibility Analysis (IRFA) draws on the discussions in Chapter 2 by reference.

2.4.1 Regulatory Housekeeping

The proposed regulations make the regulations implementing the Groundfish Fishery Management Plans (FMPs) for the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA) easier to understand in many ways. These changes are responsive to the Presidential Memorandum for the Heads of Executive Departments and Agencies, “Plain Language in Government Writing,” dated June 1, 1998. These proposals are also meant to be responsive to requests from industry received in recordkeeping and reporting workshops, and to suggestions from NOAA Office For Enforcement (NOFE) and US Coast Guard personnel.

These changes are not substantive. They reduce the number of levels in regulatory paragraphs, provide tabular summaries of rules and regulations, remove obsolete text, clarify and simplify existing text, and reorganize text to remove duplication. Definitions are added, revised, and removed. Some regulatory language is revised into a “question and answer” format.

These changes should reduce the amount of time required to read and interpret the regulations and reduce consulting and legal expenditures by the public. The changes may lead to reductions in requests for interpretation by the public and may thus free NMFS staff for other tasks. With these considerations in mind, these are changes to a complex body of regulation; some of these changes may inadvertently make parts of these regulations more confusing. While it appears likely that the regulatory change will reduce social costs, it is impossible to estimate the size of the time savings or their monetary value. The costs of regulatory change, if any, would be very small since the revisions have already been drafted.

The regulatory housekeeping proposal will affect all groundfish fishing operations, and all buyers of groundfish. In 1999, 1,364 fishing operations participated in the groundfish fisheries. 1,254 of these were catcher vessels and 110 were catcher-processors (vessels which both caught and processed fish). All of the 1,254 catcher vessels are considered small entities. Forty-seven of the catcher-processors are also considered small entities. Small entities are those operations with Alaska groundfish ex-vessel value and product value of less than \$3,000,000. This approach probably overestimates the numbers of small entities for several reasons: (a) income from other fisheries and vessel activities is not considered; (b) data on affiliations between vessels and between vessels and processors is not available; (c) fish ticket data for inshore deliveries is not available for all deliveries. (NMFS 2000c) Three large motherships would be affected. Thirty-two small onshore processors and 26 large onshore processors would be affected. Six Community Development Quota (CDQ) groups will also be impacted. CDQ groups are considered to be small non-profit entities.

2.4.2 Buying Station Daily Cumulative logbook

Groundfish are often delivered to buying stations rather than to shoreside processing facilities or motherships. Fish may be delivered to a tender at sea, or to a truck on a dock, for eventual delivery to a processing plant or mothership. The total number of operating buying stations is not known with certainty. Available data indicates that 268 permits were issued for at-sea tenders in 1999 (although not all tender permits would have been associated with an active tender). The number of additional buying stations operating on land is not known.

Regulations at §679.5(a)(4)(iii) require the operators or managers of buying stations to maintain a separate Buying Station Daily Cumulative Logbook (DCL) for each mothership or shoreside processor to which the buying station delivers fish during a fishing year. The contents of the DCL are described at §679.5(d). The DCL is a bulky, three-part NCR form; the operator fills out the first page and produces the second two as carbons of the first. Buying station operators are

required to cumulate the data and processors are required to submit quarterly reports of the cumulated data to NMFS. Twenty-five processors filed 63 quarterly reports in 1999.

The processors that receive fish from buying stations must compile data from the DCLs into their DCPLs and WPRs, and file and retain copies. NMFS estimates that the annual costs for this activity for at-sea tenders may be about \$322 per buying station per processor. The cost for 268 at-sea tenders would have been about \$86,296. This estimate assumes that all tender permits are active and complete compliance by at-sea tenders. However, as noted above, compliance may be poor. Costs for on-shore buying stations cannot be estimated since the number of on-shore buying stations cannot be estimated with current data. NMFS estimates that the DCLs cost it about \$6,709 per year for printing and delivery (NMFS, 2000).

NMFS proposes to substitute a one-page Buying Station Report (BSR) for the DCL. Section §679(d), which formerly described the DCL, would be removed, and in its place a new requirement for the BSR would be added. The information required by the BSR would be the same required by the DCL. However, the BSR would be a simple one page form which would have to be filled out for each shipment from the buying station to accompany the product to the processor. Buyers would have to maintain copies, but would no longer have to maintain and return the large logbooks for each processor.

As with the DCL, the processors that receive fish from buying stations must compile data from the BSRs; unlike the DCL, buying stations will not be required to retain copies and processors will not be required to file quarterly reports with NMFS. NMFS estimates that the annual costs for this activity for at-sea tenders may be about \$312 per buying station per processor. The cost for 268 at-sea tenders would have been about \$83,616. This estimate again assumes all tender permits are active and complete compliance by at-sea tenders. Costs for on-shore buying stations cannot be estimated since the number of on-shore buying stations cannot be estimated with current data. NMFS estimates that the BSR will cost it about \$670 per year for preparation and delivery.

Substitution of the BSR for the DCL should benefit operators of buying stations by reducing their paperwork costs. It will benefit processors to the extent that the buying stations are their subsidiaries and they share in the reduced paperwork costs. The numbers presented above suggest a drop in public and private costs (a benefit) of about \$8,700 per year. This estimate assumes all tender permits are active and complete compliance with the program and does not take account of the unknown number of land-based buying stations. There are no apparent costs to implement this proposal.

This proposal will affect buying stations. The total number of buying stations is unknown, as is the number which are small or large. There were 268 tender permits issued in 1999, although not all of these may have been associated with active tenders. In addition there were an unknown number of land based stations. The 268 tenders has been used as an estimate of the number of operations. All operations are assumed to be small. This may overestimate the number of small

operations because many tenders may be affiliated with larger firms. Six Community Development Quota (CDQ) groups will also be impacted. CDQ groups are considered to be small non-profit entities.

2.4.3 Shoreside Processor Electronic Logbook Report (SPELR)

Regulations at §679.5(f)(3) currently require managers of shoreside processors or stationary floating processors, receiving groundfish deliveries from American Fisheries Act catcher vessels, to record and submit a shoreside Processor Electronic Logbook Report (SPELR) for each catcher vessel delivery and to retain printed reports for the duration of the fishing year. SPELR reports must be submitted daily as electronic files to NMFS. This requirement is applicable through January 16, 2001. Processors using the SPELR are exempt from certain other record-keeping requirements. These include requirements to maintain shoreside processor Daily Cumulative Production Logbooks (DCPLs), submission of quarterly DCPL logsheets, submission of Weekly Processor Reports (WPRs), and (if they accept CDQ fish) submission of CDQ delivery reports.

The AFA pollock fishery requires quick in-season management responses. In addition, the AFA creates individual catcher vessel allocations and a need to monitor harvests at the individual vessel level. A pre-existing paper system provided aggregate fishery data (not vessel specific data) after a lag of about a week through the Weekly Processor's Report (WPR). The SPELR provides the data within about 24 hours for individual vessels. SPELR also reduces the number of times data must be recorded. Without the SPELR, data collected by processing firms must be re-recorded in computer files by NMFS after transmittal from the processors. With the SPELR, data entry occurs once, when the data are input by processors.

SPELRs also play an important role in the management of Gulf of Alaska pollock fisheries. Under the pollock fishery Reasonable and Prudent Alternatives (RPAs), adopted in accordance with the Endangered Species Act (ESA) to ensure that pollock fisheries did not hurt the endangered Steller sea lion stocks in the North Pacific, pollock TACs were introduced into the Shelikof Strait, between Kodiak Island and the mainland (65 *FR* 3892). This created a need for catch data that was more disaggregated than provided by Federal management areas. The State of Alaska's statistical areas provided the necessary level of disaggregation. The SPELR system, under which firms taking deliveries of pollock file daily reports identifying the State of Alaska statistical areas from which fish were harvested, meets this need.

Currently, 19 firms use the SPELR system under the Federal AFA regulations. Two firms that are not currently using the SPELR are taking steps to do so and would be required to do so under the new regulations. These firms are known to have already made progress towards bringing the SPELR system on line. NMFS estimates that adoption of the SPELR requires the use of a personal computer with a value of about \$1,000 and one or two weeks of staff time. The upper end of this cost is estimated to be about \$4,000 per firm.

With the proposed change, the regulations at §679.5(f)(3) would be removed. New sections §679.5(e) and (f) would be introduced with revised SPELR requirements. Under the new regulations, shoreside processors and stationary floating processors must use a SPELR (or other NMFS-approved software) to report on each catcher vessel delivery if they receive groundfish from AFA catcher vessels or if they receive pollock harvested in a directed pollock fishery. Those using the SPELR would continue to be exempted from the recordkeeping requirements listed above. These changes would have the effect (a) of extending the requirement for existing firms past January 16, 2000, and (b) of extending the requirement to previously uncovered firms.

In the absence of this regulatory change, the SPELR regulation for processors accepting deliveries from AFA catcher-vessels would expire on January 16, 2001. In addition, processors who accept deliveries of pollock from directed (but non-AFA fisheries) would not be required to use the SPELR system. Processors may continue to comply voluntarily with the reporting requirements, or they may resort to the traditional paper management system.

The SPELR brings three classes of benefits (a) reduced annual record keeping costs for firms adopting the SPELR and for NMFS, (b) enhanced value from the AFA statute, and (b) reduced costs of compliance with pollock RPAs for Steller sea lion protection. The annual record keeping costs for firms and NMFS can be estimated. Each firm that adopts the SPELR will have annual SPELR expenses, but will no longer have to file or maintain the WPR or DCPL. The SPLER is expected to cost \$941 per year while the savings on the WPR and DCPL is expected to be \$2,508. NMFS will incur an additional \$133 to receive SPELR reports from a new firm, but would save \$627 per year on WPR and DCPL paperwork. The net overall paperwork savings should be about \$2,194 per year for each firm that adopts the SPELR. Since two firms are expected to adopt, the total cost is \$4,388 per year.

The cost of adopting the SPELR system is the cost to each firm of acquiring a computer and converting to the data processing system and software used by the SPELR. These costs are estimated to be up to \$4,000 per firm. Four firms not using the SPELR would have to begin using it under this regulation, and three of these firms are known to have already made significant progress toward adopting the SPELR.

As noted, 19 firms are currently required to use the SPELR because they buy groundfish from AFA catcher vessels. Another two firms would be required to begin using the SPELR under the provisions of the proposed rule requiring that firms accepting deliveries of pollock from fisheries targeting pollock use the SPELR. On the basis of anecdotal information, 13 of these firms are believed to be large firms, employing or affiliated with firms that employ, more than 500 persons. The sizes of another eight of these firms are not known. For the purposes of this analysis, these have been treated as small firms, although this may overestimate the numbers of small firms. Six Community Development Quota (CDQ) groups will also be impacted. CDQ groups are considered to be small non-profit entities.

2.4.4 Individual fishing Quota

Eight changes are proposed for the regulations for the IFQ halibut and sablefish programs. These regulations are each described in this section. A concluding section summarizes the costs and benefits.

Weight prior to offload

Some of the vessels landing IFQ halibut and IFQ sablefish are catcher processors, freezing, processing, and packaging the halibut and sablefish on board before delivery. In many cases the vessel operator acts as an IFQ Registered Buyer taking possession of the IFQ fish and making the landing report. These operations often calculate the weight of product that they produce at the time of production. However, current regulations at §679.5(1)(2)(vi) require that registered buyers, taking possession of IFQ fish at landing, record the product code and initial accurate scale weight made at the time offloading commences for IFQ species sold and retained. This requires a second weighing of the fish.

This regulatory change would add a new paragraph §679.5(1)(2)(vii) with the following exception to the information requirement on the landing report, “Exemption: if the vessel operator is the Registered Buyer reporting the IFQ landing, the accurate weight of IFQ sablefish processed product obtained before the offload may be substituted for the initial accurate weight at time of offload.” When the vessel operator functions as the Registered Buyer responsible for accurately weighing and reporting the catch, this change would relieve sablefish freezer-processors from the requirement for a second weighing of their product at the time of offload. The NOAA Office For Enforcement (NOFE) would still be able to monitor the offload and weigh the product if necessary for the purpose of auditing under other regulations.

The benefit of this proposed rule is the time saving it provides this class of operations at the time of offloading. This type of operation would now have two options for weighing whereas without this rule they would be limited to one option. There is no cost to this proposed change.

Debit all catch to IFQ account; Vessel operator responsible for landing

Regulations at §679.5(1)(2) would be revised to add a requirement to the IFQ landing report that would (1) impose an explicit affirmative duty on an IFQ fisherman to ensure that his catch is debited from his IFQ account, and (2) impose an explicit affirmative duty on vessel operators to offload all IFQ catch.

These changes close loopholes in the enforcement of the IFQ program. Currently Registered Buyers are responsible for filing landings reports on all IFQ fish landed. However, Registered Buyers cannot be held responsible for fish that are not landed if they are unaware of the existence of the fish. This might happen if vessel operator concealed part of his IFQ fish catch onboard and did not land it. This regulation imposes a requirement on a vessel operator to ensure that all

fish onboard are landed. Halibut fishermen are required by IPHC regulations at 17.3 to offload all of their IFQ halibut at the same time. If they want to deliver to more than one location they must land all of their halibut at the first landing site. Sablefish fishermen have more latitude and do not have to land all of their product at the same time. This regulation change would not affect this. However, the regulation change would make the vessel operator the person responsible for ensuring that all of the IFQ fish were landed so that Registered Buyers could file landing reports on it.

Currently, International Pacific Halibut Commission regulations (IPHC 17.3) require processors and buyers who receive halibut directly from the owner or operator of a halibut vessel to weigh “all” halibut catch, including catch retained. In addition, regulations at §679.42.(c)(1)(iv) require IFQ fishermen to sign the landing reports for the catch that is weighed and regulations at §679.7(f)(1) require these reports to be accurate. Taken together, these regulations imply that an IFQ fisherman must have all his catch weighed by the registered buyer so that it can be appropriately debited from the IFQ account.

This regulatory change would add the following paragraph to §679.5(1)(2)(i) to accomplish this purpose, “(B) IFQ Cardholder. All IFQ catch onboard a vessel must be debited from the IFQ permit holder’s account under which the catch was harvested.” This requirement would clarify the regulations so that it would be clear that fishermen who set aside part of their IFQ catch for home consumption would be required to debit that harvest against their IFQ account.

This regulatory change would also add the following paragraph to §679.5(1)(2)(i): “(C) Vessel Operator. A vessel operator is responsible for offloading all IFQ fish to a registered buyer.” This change makes it clear that a vessel operator has an obligation to offload all IFQ fish to a registered buyer.

Finally, the change would renumber the existing paragraph §679.5(1)(2)(i), “A registered buyer must report an IFQ landing within 6 hours after all such fish are landed and prior to shipment or departure fo the delivery vessel from the landing site,” as §679.5(1)(2)(i)(A).

This regulatory change would not add new requirements to the IFQ halibut and IFQ sablefish program; it would only clarify existing regulations. If this clarification reduced efforts to by-pass the reporting requirements, or made it easier to prosecute those requirements, it would reduce program costs. Because the requirement does not impose new responsibilities on fishermen, it does not add to their costs.

Ice or slime

Regulations at §679.5(1)(2)(vi), dealing with IFQ landings reports would be amended to require registered buyers to report whether ice or slime is included in the weight of fish reported in IFQ landing reports for debit from the IFQ account. Table 1 in the regulations, “Product and delivery codes” would be revised to remove all ice-and-slime codes.

Currently registered buyers report product codes that indicate whether or not the product is landed with ice or slime. As time has passed this has led to a multiplication of product codes with separate codes required for products landed with and without ice or slime. The addition of a new question on ice and slime on the IFQ landings reports will allow a reduction in the number of product codes and will increase reporting flexibility by allowing registered buyers to report any product with ice and slime without the need for a regulatory change to introduce a new product code. This regulatory change would not require registered buyers to collect or supply more information than they would do without the change.

This regulatory change would lead to a simplification of existing regulations. It would make the regulations more flexible and adaptable so that fishermen could deliver new products without the need for revision of the regulations to adopt new product codes. There would be no cost of adopting this regulatory change.

Regulatory area on prior notice

This change would amend §679.5(1)(1)(iii) to add a question to the Prior Notice of IFQ Landing Report information requirement. IFQ fishermen are required to file a Prior Notice of IFQ Landing Report at least six hours before making a landing. Fishermen are currently asked for information on the registered buyer, the location, date and time of the landing and the amounts of IFQ halibut and sablefish to be landed, vessel identification, and the ID numbers for the IFQ permits that will be used for the landing. With the regulatory change, fishermen would also be required to report on the IFQ regulatory area within which IFQ halibut or IFQ sablefish were harvested.

Information on the IFQ regulatory area where the IFQ fish were taken has been collected in the past by NOFE. However, it has not been collected since the start of 2000 because authority to collect it was not explicitly included in regulation. The information is helpful to NOFE agents in making decisions about the allocation of their scarce enforcement assets. NOFE is able to monitor about 5% of annual landings. This regulatory change would provide information on the regulatory area from which fish are taken in advance of the landing. This would allow NOFE agents to query their data bases and compare reported harvests by regulatory area, from the Landing Report, with data on available IFQ holdings. The comparison would allow NOFE to target enforcement agents towards landings where reported harvests appeared to be close to, or in excess of, the available IFQ.

The benefit of the regulation would be the improved compliance with IFQ regulations flowing from the enhanced effectiveness of NOFE. The cost would be the burden of answering the additional question when the prior notice of landing was made. This cost would be very small since the information is already known when the Prior Notice of IFQ Landing was made. In 2000, 10,279 prior notices of landing were submitted. If the answer to the question added 30 seconds to each notice, the total additional time would have been 86 hours. At \$20 per hour (the pay for a Federal GS-7 in Alaska) the total cost would have valued at about \$1,700.

Ask about salmon or dinglebar ling cod on landing report

IFQ halibut and sablefish fishermen are often active in other fisheries. IFQ fishermen who are active in the salmon and dingle-bar ling cod fisheries often take incidental harvests of halibut. Normally, in accordance with §679.5(l)(1)(i), the operator of any vessel making an IFQ landing must notify NMFS Enforcement in Juneau at least six hours before landing halibut or sablefish. However, regulations at §679.5(l)(1)(iv) currently exempt the operator of a category B, C, or D vessel, as defined at §679.40(a)(5), who is making an IFQ landing of IFQ halibut of 500 pounds or less, concurrent with a legal landing of salmon, from filing the prior notice of landing. This exemption recognizes the incidental nature of these harvests and minimizes the burden on fishermen.

NOFE compares data from landings reports filed by registered buyers with its records of prior notice of landings. When it finds discrepancies it investigates. Landings in the absence of a prior notice could require investigation time, potentially using NOFE resources, and imposing a burden on fishermen. This can occur even when the fisherman was legitimately not required to obtain a prior notice. Currently the landings report does not provide information on (a) the gear used to harvest the fish, and (b) on whether or not the landing of IFQ fish was made concurrent with legal landings of salmon or of dinglebar ling cod. If this information was available, it could help NOFE identify the landings in which prior notice was not required and help avoid unnecessary investigations.

These proposed changes would do two things. First, they would expand the exemption at §679.5(l)(1)(iv) to include dinglebar ling cod fishermen. Second, they would collect additional information in the landings reports filled out by registered buyers that would reduce the costs to NOFE of monitoring landings made under the exemption. This information would include the gear type used to harvest the fish and whether or not the IFQ fish were landed concurrently with salmon and dinglebar ling cod.

The benefits from these regulation changes would be (1) increased flexibility, and consequent reduced operating costs, for dinglebar ling cod fishermen who hold halibut QS, and (2) an improved ability for NOFE to target its enforcement assets. The cost would be the cost to registered buyers of collecting and reporting the additional information. This cost should be small. Registered buyers complete landings reports using electronic terminals. These terminals lead the buyers through a series of question prompts. The change would require the addition to prompts for the gear type used in the landing and for information on whether or not salmon or ling cod taken with dinglebar gear was landed concurrently with the IFQ fish. This information should be known to or readily available to the registered buyer. In 2000, about 10,057 Landings Reports were submitted. At one minute for the two additional questions, the total additional time required would have been about 168 hours. At \$20 per hour (the pay for a Federal GS-7 in Alaska) the total cost would have valued at about \$3,400.

Shipment report

Regulations at §679.5(1)(3) would be amended to add a requirement to the IFQ Shipment Report to allow short-distance movement of IFQ fish accompanied by an ATM landing receipt by a registered buyer to his processing plant. Currently registered buyers are required to complete and file an IFQ shipment report before they move fish away from the place where they are landed. Many firms, whose plants are located away from landing places are inconvenienced by the need to complete the form before moving the fish from the place where they were landed to the place where they will be processed.

This regulatory change would reduce the costs for this class of Registered Buyer. NOFE would still receive a landing report from the landing place; the IFQ shipment report would still be required from the registered buyer before the buyer disposed of the fish to other parties. The most important use for Shipment Reports is to give NOFE the ability to audit Registered Buyers' landings by monitoring movements of fish downstream in the chain of possession from the Registered Buyer. There are no costs to this regulatory change and there will be cost savings to registered buyers whose plants are located at a distance from landings places.

Transshipment authorization

Regulations at §679.5(1)(4) would be amended to revise the regulatory text describing the IFQ Transshipment Authorization by adding a list of required information to obtain a transshipment authorization. Vessel operators transshipping (from one vessel to another) IFQ halibut and IFQ sablefish are required to obtain a Transshipment Authorization from NOFE at least 24 hours before the transshipment. This gives NOFE time to decide whether or not to monitor the transshipments, plan resources, and arrange the logistics for monitoring the transshipment. This is principally needed to monitor the offloading of freezer longliners to tramp freighters. NOFE routinely collects certain information from persons requesting the authorization to find out when and where the transshipment will occur and how long it might take. This regulatory change will provide a basis in regulation for the specific information collected when an authorization is requested.

This should not increase the costs for fishing operations or for the operations taking possession of the fish at sea since it would not affect the requirement for authorizations. It may reduce enforcement costs by clarifying the types of information that are required when an authorization is requested.

Clearance and departure reports

The IFQ system depends heavily on the ability of NOFE to monitor landings of IFQ fish. IFQ fish may be landed anywhere. However, it would be prohibitively expensive to station NOFE agents in every port where fish might be landed. Because of this, regulations at §679.5(1)(5) require vessels planning to deliver IFQ fish outside of Alaska (for example in Canada,

Washington or Oregon) to enter one of several listed “primary ports,” including Bellingham, Washington, and obtain a vessel clearance. This requirement gives NOFE the opportunity to inspect the vessel and its cargo before the vessel proceeds to a port outside Alaska to land the fish.

Vessels landing outside of Alaska may get a vessel clearance in one of several Alaskan ports, or in Bellingham, Washington. However, vessel operators electing to obtain the vessel clearance in Bellingham are first required to file a departure report with NOFE enforcement before they leave Alaskan waters. The departure report contains information about the weight of IFQ fish on board and the intended date and time clearance will be sought outside Alaska. This gives NOFE notice that IFQ fish are leaving Alaska and that a vessel clearance has not yet been obtained. A departure report may be made by phone and does not require physical inspection of the vessel or its cargo.

Section §679.5(1)(5) contains the requirement for vessel clearance and the departure reports. The proposed regulation would revise §679.5(1)(5) for clarity and close a current loophole in the departure report regulation. Among the changes improving the clarity of the regulations, the clearance and departure report requirements would be broken out into separate paragraphs so as to make the departure report requirement easier to find.

The loophole that will be closed is one that currently allows a vessel to fish in Alaska waters after submitting a departure report or obtaining vessel clearance from NMFS. The ability to fish after submitting a departure report or obtaining a clearance reduces the enforcement value of the report and clearance requirements. The proposed regulatory change would add the requirement, “The IFQ departure report may only be submitted after completion of all IFQ fishing and prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska.”

This regulatory change will make the vessel clearance and departure report regulations clearer and may reduce the amount of time it takes to find, read and interpret them. The substantive part of the change involves the tightening of the departure report requirement to prevent IFQ fishing after the report is filed. This regulatory change clarifies the intent of the regulation. It is currently the intent of the regulations that departure reports be filed after IFQ fishing has finished. While almost all departure reports are believed to have been filed after fishing has been concluded, at least one in the last two years was not. The intent is to close this loophole. The benefit will be an enhanced ability to enforce the IFQ program. There appears to be no cost to this regulation. There does not appear to be any cost to fishermen from this change; a departure report can be filed as easily after fishing is concluded as before it is concluded.

Entities affected

These regulations would affect IFQ halibut and sablefish fishing operations and the registered buyers who buy from them. In 1999 1,613 unique vessels made IFQ halibut landings, and 433 unique vessels made sablefish landings. (NMFS 2000(b) Tables III-n and III-o, page 22).

Vessels in the IFQ programs are subject to caps on the amounts of QS that may be landed from them. A vessel may be used to land up to a half percent (0.5%) of all halibut IFQs or up to one percent (1.0%) of all sablefish IFQs. In 2000 these limits were 265,370 pounds of halibut (headed and gutted weight) and 299,261 pounds of sablefish (round weight). No vessels subject to these restrictions could have been used to land more than \$3,000,000 worth of halibut and sablefish combined in 1999. NMFS annually publishes estimated “standard prices” for halibut and sablefish. These are estimates of the ex-vessel prices received by fishermen for their harvest. The prices are used for calculating permit holder cost recovery fee liabilities. In 2000, this price data suggests that the price of halibut might have been about \$2.50 per pound of halibut (headed and gutted weight) and \$2.50 per pound of sablefish (round weight). (NMFS, 2000(_)). These harvest limits and prices imply maximum vessel revenues for about \$1,400,000 for halibut and sablefish taken together. Therefore all halibut and sablefish vessels are treated as small entities. These estimates are likely to overestimate the numbers of small entities since they do not take account of income that might have been earned by the vessel in other fisheries or activities, and they do not take account of vessel affiliations.

Any person who receives IFQ halibut or IFQ sablefish from the person(s) that harvested the fish must have a Registered Buyer permit. In addition, a person who harvests IFQ halibut or sablefish must have a Registered Buyer permit if they sell it in a dockside sale, outside of an IFQ regulatory area, or outside of the State of Alaska. (§679.4(d)(2)). Registered Buyers, therefore, include persons accepting deliveries of fish from fishermen and includes the fishermen themselves if they dispose of the fish in certain ways.

In 1999 250 registered buyers reported landings of halibut and 121 registered buyers reported landings of sablefish. There was some overlap with many Registered Buyers reporting landings of both; in all, 271 separate Registered Buyers reported landings of either halibut or sablefish. Since 132 of the Registered Buyers in 1999 were classified as catcher-sellers and 19 were catcher-processors, there is considerable overlap between fishing operations and registered buyers. Only 120 of the Registered Buyers were not also catcher vessel operations. (NMFS 2000(b), Table II-i, page 11). To avoid double-counting, the analysis of large and small entities should be limited to the operations that did not also catch their fish.

Data on the revenues, employment, or affiliations of all of these 120 Registered Buyer operations are not currently available. Data is available for expenditures on fish purchases by 77 shoreside Registered Buyers. Because expenditures for raw fish should be less than revenues from the sale of fish, an expenditure cut-off of \$2,000,000 was used to separate large from small operations. Twenty-eight of these had expenditures greater than \$2,000,000. Therefore, no more than 92 Registered Buyers may have been small entities. For the purposes of this analysis these have been classified as small operations. This may overestimate the number of small entities since

these estimates are based on expenditures to purchase fish rather than sales, do not take account of revenues from sources other than IFQ fish, and do not take account of affiliations between operations.

Summary of the IFQ provisions cost and benefits

Total costs appear to be about \$5,100 per year. Total benefits are difficult to estimate. The costs and benefits of each proposal are summarized in the following table.

Table 1. Summary of Costs and Benefits for IFQ related changes		
Component of rule	Benefits	Costs
Permission to report weight of IFQ fish landed offshore and made into product prior to offload in certain circumstances	Time savings for sablefish catcher-processors acting as their own registered buyers.	None
Debit all IFQ catch onboard a vessel against IFQ permit holder's account under which it was harvested	Clarifies existing regulations. Saves time for public and enforcement	None
Reduce product codes, ask fishermen if they used "ice and slime"	Simplification of regulations and of adapting regulations to evolving industry operations	None
Fishermen report regulatory area in which fish were caught on prior notice	More effective targeting of enforcement assets	\$1,700/year
Incidental catch concurrent with legal landing of salmon or dinglebar ling cod?	Reduced costs for dinglebar fishermen; enforcement has more ability to target its scarce enforcement assets	\$3,400/year
Relax registered buyer report requirements	Lower costs for the registered buyers with processing plants located away from landing places	None
Information requirement for transshipment authorizations	Possible reduced enforcement costs	None
Changes to regulations dealing with departure and clearance reports	Savings in time for public in interpreting regulations; closure of an enforcement loophole	None

2.4.5 Groundfish Product Transfer Report (PTR)

Regulations at §679.5(g) currently require the operators of motherships, catcher/processors, or managers of shoreside processors or stationary floating processors to record each transfer of groundfish product (including unprocessed fish) or donated prohibited species, on a Groundfish Product Transfer Report (PTR). The PTR is an important enforcement document; it provides the principal information on the volume of groundfish disposed of by persons buying it from the harvesters. It thus provides an important check on buyer purchase reports. Because of its importance, it is itself audited by physical inspection of product.

NMFS estimates that 171 processors (110 catcher processors, three motherships, and 58 onshore processors) transfer product an average of 25 times a year generating 4,275 PTRs per year. The estimated time requirement for a PTR is 11 minutes (NMFS, 2000, Table 4, page 48). Total time devoted to PTRs is estimated to be 784 hours a year. NMFS estimates that the total cost of PTR preparation is \$15,675 (this does not include costs of submission to NMFS by fax).

The PTR requires reports of the total product weight for each species/product transferred. Currently persons completing the PTR are required to record the number of production units and the average fish product weight of a production unit. The total product weight is calculated as the product of total units and average weight per unit. Because all shoreside processors and many catcher/processors and motherships now have scales available, an option would be added to use total actual scale weights for each species/product. Persons electing to use this option would still be required to report on the average fish product weight per production unit. This information is important to NOFE agent audits.

This change in the regulations would provide processors more flexibility in adapting their responses to their working procedures and may thus result in some private sector time savings. If the regulation change reduces the time take to fill out the PTRs by 10%, it would produce a private sector cost savings of about \$1,568 per year. There are no implementation or other costs.

This regulatory change could have an effect on the 171 operators of motherships, catcher/processors, or managers of shoreside processors or stationary floating processors who must currently file this report. Forty-seven catcher processors and 32 onshore processors are assumed to be small. The remaining operations are assumed to be large. Six Community Development Quota (CDQ) groups will also be impacted. CDQ groups are considered to be small non-profit entities.

2.4.6 Marking of gear

Regulations at §679.24(a)(1) currently require that all longline marker buoys carried onboard or used by any longline vessel be marked with the vessel's name and its registration number, or the vessel's name and its Federal fisheries permit number. This proposed change would revise this paragraph to extend the requirement to (a) vessels using hook and line gear, (b) vessels using

longline pot gear, and (c) vessels using pot-and-line gear. The regulation would also be clarified so that “registration number” reads “ADF&G registration number.” Pacific cod is the only species targeted by pot fishermen.

This rule would reduce the costs and increase the effectiveness of enforcement, and it would increase costs for pot fishermen. Enforcement agents would be able to tell, more easily, who owned gear being fished in violation of fishery management regulations. This capability may become more important as regulations are introduced to protect species under the Endangered Species Act.

Pot fishermen, however, may incur increased costs. Fishermen may share gear, or it may be convenient for one fisherman to retrieve gear for another operator. There is no data available on the extent to which this takes place. This rule would make this difficult or impossible. In some cases the registration information on the gear could be changed, but this would be time consuming. In other cases, for example, when one fisherman retrieves gear set by another fisherman, this would be impossible.

Fishermen would also be required to mark gear. This, however, would probably be a relatively small cost. The marking could be done with a magic marker on the buoy. In addition, a large part of the fleet already does this marking. State regulations currently require crab and groundfish pots to carry the ADF&G registration number of the vessel operating the gear (5 AAC 28.050). Since many Pacific cod fishermen already participate in state groundfish and crab fisheries, they would already be subject to this requirement.

The regulation extends the marking requirement to vessels using pot gear to fish for groundfish. In 1999, 254 catcher-vessels caught groundfish with pot gear off of Alaska; 13 catcher-processors also used pot gear (NMFS. 2000(c)). In 1999, no pot vessels had Alaska groundfish landings with ex-vessel or product value over \$3,000,000. (NMFS. 2000(d)) Thus all of these vessels are considered small for the purposes of the RFA. The numbers of small vessels may be overestimated for several reasons. Among them, the gross revenue guideline did not consider the vessel’s or the vessel owner’s revenues from other fisheries, and the analysis could not look at affiliations between vessels or between vessels and fish buying firms. Six Community Development Quota (CDQ) groups will also be impacted. CDQ groups are considered to be small non-profit entities.

2.4.7 Seabird avoidance gear

Regulations at §679.24(e) currently require operators of vessels using hook-and-line gear fishing for groundfish in the GOA and the BSAI to use certain bird avoidance measures. Under this proposal, paragraph §679.24(e)(1) would be revised to add a requirement that the vessel operator record the appropriate seabird avoidance gear code in the Catcher Vessel Longline and Pot Daily Fishing Log (DFL) or in the catcher-processor longline and pot Daily Cumulative Processors Log

(DCPL). A table would be added to the regulations to provide seabird avoidance gear codes for use with the logbooks.

NMFS consults with the U.S. Fish & Wildlife Service (USFWS) on the effects of the BSAI and GOA groundfish fisheries and the Pacific halibut fishery on USFWS-jurisdiction species listed as endangered or threatened under the section 7 consultative process of the Endangered Species Act (ESA). These species include the spectacled eider and Steller's eider which are listed as threatened, and the short-tailed albatross which is listed as endangered. Both of the Biological Opinions (BiOp) issued by USFWS concluded that the hook-and-line fisheries were likely to adversely affect the short-tailed albatross but did not jeopardize its continued existence. The BiOps contained non-discretionary requirements for NMFS to test the effectiveness of the seabird avoidance measures being used in the longline fisheries. One way the effectiveness of measures is being tested is through a scientific research study being conducted by the Washington Sea Grant Program. Another way that the effectiveness of the measures can be tested or evaluated is through the collection of logbook and fisheries data.

Regulations at §679.5(c) require operators of groundfish catcher-vessels 60 feet (LOA) and over, and all operators of catcher-processors, to record detailed information about fishing gear hauls in a logbook provided by NMFS for that purpose. Operators are required to provide information on the location, date, and time of the haul, details about the gear used and how it was deployed, and information on the catch. NMFS logbooks already include a space for information on the use of seabird avoidance gear. Seabird avoidance measures have been required by regulations at §679.24(e) of vessel operators fishing for groundfish with hook-and-line gear since 1997. Vessel operators fishing for Pacific halibut have been required by regulations at §679.42(b)(2) to use these same measures since 1998.

The impact of this regulatory change will be to require vessel operators to note in the logbook the type of seabird avoidance gear they are using. Observers on these vessels will use this information and record on the 'observer haul form' the code for the type of seabird avoidance gear that is recorded in the operator's log. Observers will also verify, by observation, some sample of these hauls. The seabird avoidance code will be copied and verified by observers during the normal course of their activities. They are already required to copy other data from the haul logs and to conduct species composition analysis of hauls. NMFS will be able to use this observer data to measure the effectiveness of the avoidance gear, i.e. relate to the numbers of seabirds incidentally caught for those hauls.

The cost of this regulation is additional time required for vessel operators to make the original log entries, and for the observers to copy the log entries and verify a sample of them. The table below shows the numbers of hook and line vessels over 60 feet fishing for groundfish and sablefish in 1999. The table also shows estimates of the numbers of hauls made by these vessels.

Table 2. Estimated Observed Hauls by Vessels Over 60 Feet, and Numbers of Vessels Over 60 Feet, for Hook and Line Groundfish and Sablefish Fisheries in BSAI and GOA, 1999				
	Catcher-processors		Catcher-vessels	
	Hauls	Vessels	Hauls	Vessels
BSAI	12,987	38	456	17
GOA	916	22	714	46

Source: Observer data. NMFS-SF- AKR.

Table 3. Estimated Total Number of Hauls by Vessels Over 60 Feet, and Numbers of Vessels Over 60 Feet, for Hook and Line Groundfish and Sablefish Fisheries in BSAI and GOA, 1999				
	Catcher-processors		Catcher-vessels	
	Hauls	Vessels	Hauls	Vessels
BSAI	15,038	38	1,153	43
GOA	1,207	29	1,847	119

Source: Observer data. Hiatt and Terry, Table 28, 29.

NMFS estimates that it would take approximately 1 minute per haul for a vessel operator to collect information on what type of avoidance gear is being used and to enter the information into the log. Based on the 19,245 hauls the cost in time to the entire hook-and-line fleet would be approximately 321 hours per year. Evaluating this time at a cost of \$20/hour (the average wages and benefits for a Federal GS-7 employee in Alaska, including COLA), the cost imposed is \$6,415 per year. Observers also have to copy the seabird avoidance gear code into their observer logs and verify some of the information against their own records, but the time required for this is probably small. The actual incremental costs of this regulation are probably substantially below this estimate since many catcher-processor operations are already believed to be recording this information and these operations have relatively high numbers of hauls per year.

Ultimately the information collected under this regulation could contribute to the preservation of threatened or endangered seabird species and could affect the cost at which this is accomplished. Data collected voluntarily is already being used by a segment of industry for in-season monitoring of seabird mortality. While gear avoidance gear is already required, the reporting requirement may lead to increased sensitivity to the requirement by fishermen. Data collected through this means may eventually help identify the most effective and least cost methods for seabird avoidance. The regulation's benefit would derive from the value placed on the preservation of the species by society - that is, the existence value, the increase in the probability of species preservation, and any decreases in the cost to society of preserving the species.

In 1999, 129 catcher-vessels over 60 feet and about 44 catcher-processors over 60 feet caught groundfish with hook-and-line gear off of Alaska. None of the catcher vessels, and only six of the catcher-processors had Alaska groundfish landings with ex-vessel or product value over \$3,000,000. (NMFS. 2000(d)) Thus all 129 of the catcher-vessels and 38 of the catcher-processors are considered small for the purposes of the RFA. The numbers of small vessels are probably overestimated for several reasons. Among them, the gross revenue guideline did not consider the vessel's or the vessel owner's revenues from other fisheries, and the analysis could not look at affiliations between vessels or between vessels and fish buying firms. Six Community Development Quota (CDQ) groups will also be impacted. CDQ groups are considered to be small non-profit entities.

2.4.8 Surrender of permit

Regulations at §679.4(b) require owners of vessels being used as catcher-vessels, catcher-processors, motherships or tenders in the GOA or the BSAI fisheries targeting groundfish, or in fisheries in which operations are required to retain groundfish bycatch, to obtain a Federal fisheries permit for the vessel. Federal fisheries permits are issued on a three-year cycle. A permit is good from the time it is received until the end of the cycle in which it is received unless it is revoked, suspended or modified (§679.4(b)(4)(i)). A Federal fisheries permit may also be surrendered by returning the original permit to NMFS in Juneau (§679.4(b)(4)(ii)).

Vessels that are over 60 feet in length and that possess Federal fisheries permits are subject to Federal observer requirements. Regulations at §679.50(c)(v) require catcher-processor or catcher vessels greater than or equal to 60 feet length overall (LOA) but less than 125 feet LOA and that participate for more than three fishing days in a calendar quarter to carry an observer during at least 30 percent of fishing days in that quarter and at all times during at least one trip. Regulations at §679.50(c)(iv) require catcher-processors and catcher vessels 125 feet LOA or longer to carry observers on 100% of fishing days (an exception is made for vessels fishing with pot gear which are only subject to the 30% coverage requirement). Vessels with Federal fisheries permits must have observer coverage whether they fish inside or outside Alaskan waters.

Federal fisheries permits are not required for fishermen fishing inside Alaska state waters. Some fishermen obtain Federal fishing permits at the start of the year to allow them to fish within Federal waters. However, persons holding Federal permits are required to follow Federal fishery management rules. Some of these, such as the use of observers, can be expensive. Each year a few operators obtain a Federal fisheries permit to fish in Federal waters early in the year; then relinquish their Federal permit later in the year so they can fish within state waters without being required to meet the obligations (including observer coverage) that follow from holding a Federal permit. These fishermen then reacquire Federal permits to fish in Federal waters later in the year. Federal fisheries permit surrender is not common. Typically there are less than 25 surrenders a year; in 1999 there were 17. Counts of surrenders overstate the numbers of surrenders plus reinstatements because not all permits that are surrendered are reinstated.

This proposed regulatory change would revise §679.4(b)(4)(ii) to change the requirement for surrendering the Federal fisheries permit. An operator who surrenders a permit would not be permitted to reinstate it during the current fishing year.

The regulatory change would result in improved observer coverage for groundfish vessels in the BSAI and the GOA and should lead to minor savings in permit processing expenses by NMFS. The regulations would impose increased observer costs on certain vessel operations: those that would otherwise have surrendered their permits. Either these would face increased observer costs or they would change their operational pattern and not fish in state waters.

Data on numbers of vessels surrendering permits and surrendering and reinstating permits is not available on computer records, so it has not been possible to characterize these operations by gear type actually used, processor mode of the vessel, or size status with respect to the criteria in the regulatory flexibility act. There were 17 surrenders in 1999, but it is not clear that all of these were reinstated. Thus, 17 may be a high estimate. For the purposes of the Regulatory Flexibility Act (RFA) analysis, the 17 surrenders have been assumed to be for small entities. This may be a high estimate of the number of small entities. For example, the observer requirement, which may be an important reason for surrendering and reinstating, does not apply to the smallest classes of vessels. That is, vessels under 60 feet in length are not required to carry observers. Nevertheless, the RFA act is meant to provide increased scrutiny on the impacts on small entities and the conservative assumption appears to be in keeping with the spirit of the law. Six Community Development Quota (CDQ) groups will also be impacted. CDQ groups are considered to be small non-profit entities.

2.4.9 Cost and Benefit Summary

Much of this analysis is qualitative so it is impossible to estimate net benefits for some of the regulatory changes. The costs and benefits of each of the components of the proposed rule, and where possible, the present values of the components, are described below in Table 4.

Net present values were described in four instances when there were reasonably defined costs and benefits. In four instances, either the costs or the benefits were not sufficiently monetized to permit a present value calculation. The SPELR was analyzed over a ten year time period on the assumption that a new technology might be available and implemented after that time. The substitution of the BSR for the DCL and the revision to the PTR were both evaluated over a three year period. This period was chosen based on the assumption that initiatives taken under the Government Paperwork Elimination Act (GPEA) would replace these “paper-based” systems with electronic systems by the act’s target date of October 2003. Discount rates were based on OMB recommendations set out in the annually updated appendix to its Circular A-94. These were 6.1% for the ten year time frame and 5.9% for the three year time frame. (OMB, 1992).

Table 4. Summary of Costs and Benefits for Regulatory Changes Other Than IFQ Changes			
Component of rule	Benefits	Costs	Present value
Regulatory Housekeeping	Reduces costs to fishermen of complying with regulations. Reduces enforcement costs. Fewer requests for information to NMFS Sustainable Fisheries. An annual benefit.	None	Positive
Substitute one-page Buying Station Report (BSR) for Daily Cumulative Logbook (DCL)	Reduces the paperwork costs for operators of buying stations and possibly processors; reduces form preparation costs for NMFS. An annual benefit of about \$8,700.	None	\$24,600 (Estimated over three years at 5.9%)
Shoreside Processor Electronic Logbook Report	Reduced annual recordkeeping expenses of about \$2,200 per year; ability to manage individual vessel harvests in AFA fisheries; reduced cost of complying with Steller sea lion pollock RPAs in the GOA. An annual benefit.	One time expense of less than \$8,000	At least \$26,100 (Estimated over 10 years at 6.1%)
Individual Fishing Quota rule changes (see Table 1 for details)	Clarification of existing regulations; more effective targeting of enforcement assets; closure of enforcement loophole; lower costs for registered buyers in general; reduced costs for dinglebar ling cod fishermen; time savings for some sablefish catcher-processors acting as their own registered buyers	\$5,100	Unknown (Can't be calculated from available information)
Revision to Product Transfer Report (PTR) regulations	More reporting flexibility for motherships, catcher processors, shoreside processors and stationary floating processors. An	None	\$4,400 (Estimated over three years at 5.9%) benefit of about \$1,568 per year.

Table 4. Summary of Costs and Benefits for Regulatory Changes Other Than IFQ Changes			
Component of rule	Benefits	Costs	Present value
Marking of gear	Reduced costs to NOAA and USCG enforcement efforts; more effective enforcement of gear rules, resources may be released for more effective enforcement of other regulations. An annual benefit.	Increased costs to pot fishermen who must re-mark gear or who will be precluded from the flexibility provided by gear sharing. An annual expense.	Unknown (Can't be calculated from available information)
Seabird avoidance gear reporting	Possible increased protection of seabird populations. Possible reduced cost of protection.	\$6,415/year or less	Unknown (Can't be calculated from available information)
Surrender of permit	Improved data on groundfish harvests in the BSAI and GOA.	Increased observer expenses for small numbers of vessels. An annual expense.	Unknown (Can't be calculated from available information)

2.5 Significance Under E.O. 12866

Executive Order 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant". A "significant regulatory action" is one that is likely to:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

This proposal does not appear to have an annual effect on the economy of \$100 million or more or to adversely affect the factors listed in Item #1. Although the cost and benefit analysis has necessarily been qualitative, an examination of the summary of the results in Table 4 indicates

that few costs are likely to be large. The regulation requiring the marking of pot gear is one for which the costs could not be identified, and for which the costs may be significant for the operations involved. However the total gross ex-vessel value of the pot groundfish fishery, which focuses on Pacific cod, was \$23.7 million in 1999 (NMFS 2000(c), Table 19, page 45). The change contemplated must involve a fraction of that amount.

NMFS is not aware that this proposal (a) will create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, (b) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or (c) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

3.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS (IRFA)

3.1 The Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) first enacted in 1980 was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action.

On March 29, 1996, President Clinton signed the Small Business Regulatory Enforcement Fairness Act (SBREFA). Among other things, the new law amended the RFA to allow judicial review of an agency's compliance with the RFA. The 1996 amendments also updated the requirements for a final regulatory flexibility analysis, including a description of the steps an agency must take to minimize the significant economic impact on small entities. Finally, the 1996 amendments expanded the authority of the Chief Counsel for Advocacy of the Small Business Administration (SBA) to file *amicus* briefs in court proceedings involving an agency's violation of the RFA.

3.1.1 Requirement to prepare an IRFA

If it cannot be certified that a proposed rule “*will not* have a significant economic impact on a substantial number of small entities”, an initial regulatory flexibility analysis (IRFA) must be prepared. To ensure a broad consideration of impacts and alternatives, NMFS has prepared an IRFA pursuant to 5 USC 603, without first making the threshold determination of whether or not this proposed action would have a significant economic impact on small entities.

The central focus of the IRFA should be on the economic impacts of a regulation on small entities and on the alternatives that might minimize the impacts and still accomplish the statutory objectives.

The level of detail and sophistication of the analysis should reflect the significance of the impact on small entities. Under 5 U.S.C., Section 603(b) of the RFA, each IRFA is required to address:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, record keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:
 1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
 2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

3. The use of performance rather than design standards;
4. An exemption from coverage of the rule, or any part thereof, for such small entities.

3.1.2 What is a small entity?

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) and small government jurisdictions.

3.1.2.1 Small businesses

Section 601(3) of the RFA defines a “small business” as having the same meaning as “small business concern” which is defined under Section 3 of the Small Business Act. “Small business” or “small business concern” includes any firm that is independently owned and operated and not dominate in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor...A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49% participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the US including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$ 3 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or less persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$3 million criterion for fish harvesting operations. Finally a wholesale business servicing the fishing industry is a small businesses if it employs 100 or less persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as

one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50% or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or has the power to control less than 50% of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors or general partners controls the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint venturers if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

3.1.2.2 Small organizations

The RFA defines "small organizations" as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

3.1.2.3 Small governmental jurisdictions

The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

3.2 Reason for Considering the Proposed Action

NMFS is proposing revisions to several sections of regulations that pertain to permits, recordkeeping, and reporting requirements for groundfish fisheries off Alaska. The proposed changes are necessary to remove obsolete text, clarify and simplify existing text, facilitate management of the fisheries, promote compliance with the regulations, and facilitate

enforcement efforts. This action is intended to further the goals and objectives of the fishery management programs for groundfish and of the halibut and sablefish IFQ programs.

3.3 Objectives of, and Legal Basis for, the Proposed Action

The objectives of the proposed actions are to: (a) clarify and simplify the regulations pertaining to the management of the groundfish fisheries and the IFQ halibut and sablefish fisheries in the waters of the BSAI and the GOA; (b) ease certain regulatory burdens to reduce the cost of operation for fishermen and increase compliance with regulations; (c) reduce the costs of enforcing fisheries regulations; (d) enhance the value of the pollock fisheries managed under the American Fisheries Act (AFA); (e) reduce the costs of compliance with pollock RPAs for Steller sea lion protection; (f) reduce the costs and increase the effectiveness of regulations to protect migratory birds identified as endangered or threatened under the Endangered Species Act (ESA).

The legal basis for the proposed action is the Magnuson-Stevens Fishery conservation and Management Act, 16 U.S.C. 1801 *et seq.*

3.4 Number and Description of Small Entities Affected by the Proposed Action

The RIR in Chapter 2 contains the analysis of the numbers of small and large entities affected by this regulatory proposal and evaluates the impact on the small entities. That details of that discussion are included here by reference, and are summarized in Table 5 below.

Table 5. Numbers of Small and Large Entities				
Component of Rule	Type of Entity	Small	Large	Total
Regulatory Housekeeping	Catcher vessels, catcher processors, fish buyers, CDQ groups	1,254 catcher vessels, 47 catcher processors, 32 onshore processors, 0 motherships, 6 CDQ groups	0 catcher vessels, 63 catcher processors, 26 large onshore processors, 3 motherships, 0 CDQ groups	1,254 catcher vessels, 110 catcher-processors, 58 onshore processors, 3 motherships, 6 CDQ groups
Substitute one-page Buying Station Report (BSR) for Daily Cumulative Logbook (DCL)	Buying stations; CDQ groups	268 buying stations; 6 CDQ groups	0	268 buying stations; 6 CDQ groups
Shoreside Processor Electronic Logbook Report	Shoreside processors accepting AFA fish or fish from directed pollock fisheries; CDQ groups	8 processors; 6 CDQ groups	13 processors	21 processors; 6 CDQ groups

Table 5. Numbers of Small and Large Entities (Continued)				
Component of Rule	Type of Entity	Small	Large	Total
Individual Fishing Quota rule changes	Persons fishing using halibut and sablefish individual quotas; Registered Buyers that were not also catcher vessels; CDQ groups	1,613 halibut fishing operations and 433 sablefish fishing operations; 92 Registered Buyers	0 fishing operations; 28 Registered Buyers	1,613 halibut fishing operations and 433 sablefish fishing operations; 120 Registered Buyers
Revision to Product Transfer Report (PTR) regulations	catcher processors, onshore processors, motherships; CDQ groups	79 processors; 6 CDQ groups	68 processors	171 processors; 6 CDQ groups
Marking of gear	pot catcher-vessels (CV) and pot catcher-processors (CP); CDQ groups	254 CV and 13 CP; 6 CDQ groups	0 CV and 0 CP	254 CV and 13 CP; 6 CDQ groups
Seabird avoidance gear reporting	Longline catcher-vessels over 60 feet (CV) and longline catcher-processors (CP) over 60 feet; CDQ groups	129 CV and 38 CP; 6 CDQ groups	0 CV and 6 CP	129 CV and 44 CP; 6 CDQ groups
Surrender of permit	Vessels currently surrendering permits; CDQ groups	17 vessels; 6 CDQ groups	0	17 vessels; 6 CDQ groups

Table 4 in the RIR in Chapter 2 indicates that few of these proposals will impose costs on small entities. The proposals that are most likely to increase the financial costs of small entities are the provision to require the marking of pot gear with the registration number of the vessel using the gear, and the regulatory change that would prevent a vessel from surrendering its Federal fishery permit and then reinstating it in the same fishing year. The pot gear marking rule would prevent vessels from sharing gear and would prevent one vessel from retrieving gear set by another; the extent of these practices is not known. The Federal fishery permit requirement would prevent a small number of vessels from fishing in state waters without observer coverage after fishing in Federal waters under Federal observer rules during the same fishing year.

3.5 Recordkeeping and Reporting Requirements

Recordkeeping and reporting requirements associated with this action have been discussed in the RIR (Chapter 2). No additional Recordkeeping and reporting requirements are associated with this action.

3.6 Relevant Federal Rules that may Duplicate, Overlap, or Conflict with Proposed Action

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this proposed action.

3.7 Description of Significant Alternatives

NMFS is not aware of any alternatives in addition to those discussed that would accomplish the objectives of the Magnuson-Stevens Act.

4.0 REFERENCES

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5.0 AGENCIES AND INDIVIDUALS CONSULTED

Consultations:

Kim Rivera, National Marine Fisheries Service, Protected Resources Division
Jessica Gharrett, National Marine Fisheries Service, Restricted Access Management Division
John Kingeter, National Marine Fisheries Service, Enforcement Division

6.0 LIST OF PREPARERS

Ben Muse
NMFS-Alaska Regional Office
P.O. Box 21668
Juneau, Alaska 99801

(907)586-8743
ben.muse@noaa.gov

Patsy Bearden
NMFS-Alaska Regional Office
P.O. Box 21668
Juneau, Alaska 99801

(907)586-7008
patsy.bearden@noaa.gov

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