



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
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April 6, 2006

MEMORANDUM FOR: The Record

FROM: Robert D. Mecum *rdm*
Acting Administrator, Alaska Region

SUBJECT: Categorical Exclusion for a Proposed Rule to Amend Individual Fishing Quota (IFQ) Program Regulations

NMFS proposes an administrative structure that provides notice to the public of the IFQ fee percentage while removing any discretionary authority from NMFS in calculating the fee percentage. Calculation of the fee percentage under this action would become a purely ministerial duty conducted by NMFS. The proposed action would not affect the ex-vessel value determination under either program or affect the current structure or administration of the standard prices calculated for the Halibut and Sablefish IFQ Program or the Catcher/Processor Ex-vessel Values calculated for the Crab Rationalization Program. However, NMFS would make minor changes to the current fee regulations to ensure full compliance with the APA while improving administrative efficiency. The proposed action would accomplish the following three goals if approved:

- (1) Inform the public of the equation and all factors used to calculate the fee percentage, thereby allowing the public to comment on the methodology used to conduct the standard calculation of the fee percentage;
- (2) Remove any discretion on behalf of NMFS to calculate the direct program costs (DPC) in part by integrating an independently developed, new timekeeping system that automatically calculates management costs by individual employee; and
- (3) Publish an annual fee percentage by notice, rather than by proposed and final rule. This goal would be accomplished by reducing the notice announcing the fee percentage to a purely ministerial duty undertaken by NMFS based on this action, which would establish the fee percentage as a simplified administrative calculation rather than the current more complicated reduction of the default percentage.

After reviewing the proposed action in relation to NOAA Administrative Order (NAO) 216-6, including the criteria used to determine significance, I am recommending that NMFS conclude that this proposed action would not have a significant effect, individually or cumulatively, on the human environment beyond those effects identified in previous NEPA analyses. An Environmental Assessment (EA) was prepared for the final rule implementing the original Halibut and Sablefish IFQ Cost Recovery Program regulations (65 FR 14919, March 15, 2000)



and an Environmental Impact Statement (EIS) was prepared for the final rule implementing the Crab Rationalization Program (70 FR 10174, March 2, 2005). The scope of those analyses include the potential environmental impacts of this proposed rule because those analyses analyzed the original cost recovery programs, which included analyses of all potential and cumulative environmental impacts of the cost recovery systems.

Based on the nature of the proposed actions and the previous environmental analyses, I recommend that NMFS conclude that the proposed action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement, in accordance with Section 5.05b of NAO 216-6. The salient factors contributing to the conclusion that a categorical exclusion is appropriate for this proposed action are:

1. The principal effect of the proposed action is to remove obsolete regulations for the Halibut and Sablefish IFQ Program. There are no potential environmental effects for the proposed action. Therefore, the proposed amendments to the Halibut and Sablefish IFQ Program regulations are not anticipated to have significant impacts on the human environment due to the limited context of the actions and to the lack of severity of potential impacts (NAO 216-6, Sections 6.01 and 6.02).
2. The impact of the proposed action was previously analyzed in NEPA analyses.
3. The impact of the proposed action is administrative in nature and expected to have no significant impact on the human environment.

Attachments

FINAL REGULATORY IMPACT REVIEW

for a regulatory amendment to change the procedure for promulgating IFQ cost recovery fees

Date: January 2006

Lead Agency: Alaska Regional Office
National Marine Fisheries Service
Juneau, Alaska

Responsible Official: Robert D. Mecum
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Abstract: This RIR evaluates the costs and benefits, as well as the distributional impacts, of a proposed regulatory amendment to reduce discretionary authority in the calculation of Halibut and Sablefish IFQ and Crab Rationalization cost recovery fees. This RIR addresses the requirements of Presidential Executive Order (E.O.) 12866.

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Executive Summary

This Regulatory Impact Review (RIR) evaluates a regulatory amendment to reduce or remove potential discretionary authority in the calculation of Halibut and Sablefish IFQ and Crab Rationalization cost recovery fees. The amendment does not modify the definitions of the costs that must be recovered, and is not expected to alter the cost recovery fees that must be paid by fishermen.

This proposed action would accomplish the following goals, if approved:

- 1) Inform the public of the equation and all factors used to calculate the fee percentage, thereby allowing the public to comment on the methodology used to conduct the standard calculation of the fee percentage;
- 2) Remove any discretion on behalf of NMFS to calculate the direct program costs (DPC) in part by integrating an independently developed, new timekeeping system that automatically calculates management costs by individual employee; and
- 3) Publish an annual fee percentage by notice rather than by proposed and final rule. This goal would be accomplished by reducing the notice announcing the fee percentage to a purely ministerial duty undertaken by NMFS based on this action, which would establish the fee percentage as a simplified administrative calculation rather than the current more complicated reduction of the default percentage.

Under the preferred alternative (Alternative 2), NMFS also would edit existing regulatory text. The proposed editorial changes are intended to achieve three discrete purposes. First, the editorial changes are intended to provide a clearer explanation of the affected public's obligations under the regulations. Second, the editorial changes are meant to remove any discretionary authority on behalf of NMFS in determining the fee percentage, by using terms such as "shall" and "must" regarding NMFS duties, in places where "would," "will," or "may" were previously used. Lastly, the changes would eliminate the "default" percentage and require an annual calculation of the fee percentage subject to a maximum value. These editorial changes are intended to codify the ministerial nature of NMFS' duties in overseeing cost recovery.

This proposed action would not affect the ex-vessel value determination under either program or affect the current structure or administration of the standard prices calculated for the Halibut and Sablefish IFQ Program, or the equivalent "Catcher processor (CP) Ex-vessel Values," calculated for the Crab Rationalization Program. This action will not have any costs for fishermen subject to the cost recovery fee. The principal benefit to fishermen would include a more transparent and accountable fee collection system resulting from enhanced compliance with the Administrative Procedure Act ("APA"; 5 U.S.C. §§ 501 *et seq.*, 701 *et seq.*). There would be no change in the fishery management costs subject to recovery from the fishermen, nor would there be any change in the timing of the notice the fishermen receive with respect to annual cost recovery rates. There would be benefits attributable to the action, as a result of better documentation of the costs to be recovered, and, on that account, less scope for administrative discretion by the Regional Administrator, but there is no reason to expect that these measures would result in a change in the amount of the cost recovery fees.

This action is not expected to impose costs on fishermen, or to create administrative costs for NMFS Alaska Region (AKR). This action would, therefore, not be expected to have the potential to result in 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.

NMFS has not identified any factors that would be expected to have the potential to (a) “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 the executive order.”

1 Introduction

This Regulatory Impact Review (RIR) evaluates a regulatory amendment to reduce or remove potential discretionary authority in the calculation of Halibut and Sablefish IFQ, and Crab Rationalization, cost recovery fees. The amendment does not modify the definitions of the costs that must be recovered, and is not expected to alter, in any way, the cost recovery fees that must be paid by fishermen.

2 What is a Regulatory Impact Review?

This RIR is required under Presidential Executive Order (E.O.) 12866 (58 *FR* 51735; October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

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 nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866 further 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:

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

3 Statutory authority

NMFS AKR administers the Halibut and Sablefish IFQ programs and the Crab Rationalization Program in the North Pacific. The Halibut and Sablefish IFQ Program and the Crab Rationalization Program are limited access systems authorized by section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act specifies the following, with respect to the imposition of IFQ cost-recovery fees:

1. Fees must recover actual costs directly related to actual enforcement and management of the IFQ Program;
2. Fees must not exceed 3 percent of the ex-vessel value of fish harvested under any such program;
3. Fees are in addition to any other fees charged under the Magnuson-Stevens Act;
4. With the exception of money reserved for the IFQ loan program, fees must be deposited in the Limited Access System Administrative Fund (LASAF) in the U.S. Treasury; and
5. Fees must be collected at either the time of a legal landing of halibut or sablefish, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

The Halibut and Sablefish IFQ Program and the Crab Rationalization Program comprise the two Alaskan fisheries managed under IFQ Programs, and assessed a fee for recovery of management and enforcement costs. Fishing under the Halibut and Sablefish IFQ Program began in March 1995, through regulations set forth at 50 CFR part 679. Fishing under the Crab Rationalization Program began in August 2005, as authorized by regulations at 50 CFR part 680.

4 Purpose and need for action

NMFS AKR annually assesses a cost recovery fee on IFQ permit holders in the Alaska halibut and sablefish fisheries. Under the provisions of the Crab Rationalization Program, participants in the crab fisheries are also assessed for cost recovery. Details on the IFQ and Crab Rationalization cost recovery programs may be found in Section 6 of this RIR.

Since 2000, NMFS AKR has used a Federal Register notice to inform the affected public of their fee obligations, with over 99.9% compliance since implementation. However, the Region was informed in 2004, by the Department of Commerce, Office of General Counsel (DOC-OGC) that the use of a Federal Register notice of the cost recovery fee percentage was no longer sufficient under the APA and that notice and comment rulemaking, through a proposed and final rule, would be necessary to meet the requirements of the APA. DOC-OGC maintains that NMFS' discretionary authority in determining the IFQ fee percentage and the change in the fee percentage from a "default" percentage requires proposed and final rulemaking. However, due to the time sensitive nature of fee assessment and payment, and the dependence of permit issuance on the timely payment of fees, using a proposed and final rule process to inform the affected public of their fee obligations would potentially result in unnecessary administrative delays and undue hardship to the affected public. Therefore, NMFS AKR proposes this action as a means to ensure timely collection of cost recovery fees, consistent with the requirements of the APA.

This proposed action would accomplish the following three goals, if approved:

1. Inform the public of the equation and all factors used to calculate the fee percentage, thereby allowing the public to comment on the methodology used to conduct the standard calculation of the fee percentage;
2. Remove any discretion on behalf of NMFS to calculate the direct program costs (DPC) in part by integrating an independently developed, new timekeeping system that automatically calculates management costs by individual employee; and

3. Allow NMFS to continue to annually publish an annual fee percentage by notice, rather than by proposed and final rule. This goal would be accomplished by reducing the notice announcing the fee percentage to a purely ministerial duty undertaken by NMFS based on this action, which would establish the fee percentage as a simplified administrative calculation, rather than the current, more complicated reduction of the default percentage.

5 Alternatives considered

Alternative 1: No Action

Regulatory language would remain unchanged.

Alternative 2: Revise regulations (preferred alternative)

Under Alternative 2, NMFS also would edit existing regulatory text. The proposed editorial changes are intended to achieve three discrete purposes. First, the editorial changes are intended to provide a clearer explanation of the affected public's obligations under the regulations. Second, the editorial changes are meant to remove any discretionary authority on behalf of NMFS in determining the fee percentage, by using terms such as "shall" and "must" regarding NMFS duties, in places where "would," "will," or "may" were previously used. Lastly, the changes would eliminate the "default" percentage and require an annual calculation of the fee percentage subject to a maximum value. These changes are intended to codify the ministerial nature of NMFS' duties in overseeing cost recovery.

The APA requires agencies to advise the public through a notice in the Federal Register of the terms or substance of a proposed substantive rule, allowing the public a period to comment. This is termed the "notice and comment" requirement of the APA. The requirement is designed to give interested persons an opportunity to participate in the rulemaking process through written submissions or oral presentations. Generally, the procedural safeguards of the APA help ensure that government agencies are accountable to the public and their decisions are reasoned. This proposed action provides substantive elements that are subject to the APA's notice and comment procedures and is intended to provide the public with a meaningful opportunity to comment on the proposed provisions.

Under the current Cost Recovery Programs for the Halibut and Sablefish IFQ and the Crab Rationalization Programs, the fee percentage is calculated according to the following general equation: $[100 \times (DPC - AB) / V] / (1 - NPR)$. "DPC" represents the direct program costs for the Programs for the previous fiscal year, "AB" is the end of the fiscal year LASAF account balance for the applicable IFQ program, "V" is the estimated ex-vessel value of the catch subject to the cost recovery fee liability for the current year, and "NPR" is the fraction of the fee assessments that is expected to result in nonpayment.

The NPR, AB, and V variables are non-discretionary variables taken directly from sources which NMFS has no ability to change. NPR is simply the calculated nonpayment rate based on the previous year, as determined by subtracting the percentage of IFQ holders subject to a fee liability who do not pay, from the percent total of IFQ holders subject to a fee liability. AB is the existing balance in the LASAF account. V is based on the reported ex-vessel value by established port or port group, as reported by the fishery participants, which is subsequently summed and applied by NMFS. Therefore, each application of the values for NPR, AB, and V is purely ministerial in nature and not subject to the discretion of NMFS.

This proposed action would simplify the current calculation by eliminating or consolidating some variables. This proposed action would eliminate the NPR variable because of its negligible effect on the overall calculation of the percentage since the inception of the program. However, the changes proposed for this action focus primarily on the DPC variable. First, as part of this action the AB variable would be automatically incorporated into the DPC variable, rather than treated as a separate variable. Second, NMFS, Alaska Region is adopting a new time and attendance management system, which will more efficiently and accurately track individual management responsibilities and their attributable costs. The new management system will eliminate the exercise of any NMFS discretion in determining the DPC for any IFQ program. Therefore, in conjunction with presently non-discretionary calculation of other variables used to calculate the fee percentage, the determination of DPC becomes a purely ministerial exercise. NMFS would then apply the automatically calculated DPC to the fee percentage formula to achieve the fee percentage for the prescribed fee period.

Alternative considered but not analyzed

NMFS also reviewed an alternate method based on a matrix model that incorporates the fee percentage calculation variables into a table of direct program cost (DPC) ranges, that would be provided in a Federal Register notice. The fee percentage of the matrix model would inform IFQ holders of the potential fee percentage, based on the median of a range determined for the DPC variable. Direct program costs determined as a result of the new management accounting system would be automatically applied to the matrix to determine the appropriate median fee percentage. Overpayments or underpayments based on a fee percentage for a given year would be captured in the subsequent year's fee percentage calculation as the Account Balance (AB) variable. An example of the matrix model is provided below.

Direct Program Costs (DPC) and applicable Fee Percentage Range				
DPC Range		Fee Percent		
		Low	High	Median
1,000,000	1,500,000	0.4	0.9	0.7
1,500,000	2,000,000	0.6	1.3	0.9
2,000,000	2,500,000	0.8	1.6	1.2
2,500,000	3,000,000	1.0	1.9	1.4
3,000,000	3,500,000	1.2	2.2	1.7
3,500,000	4,000,000	1.3	2.5	1.9
4,000,000	4,500,000	1.5	2.8	2.2
4,500,000	5,000,000	1.7	3.0	2.4
5,000,000	5,500,000	1.9	3.0	2.5
5,500,000	6,000,000	2.1	3.0	2.6
6,000,000	6,500,000	2.3	3.0	2.7
6,500,000	7,000,000	2.5	3.0	2.8
7,000,000	7,500,000	2.7	3.0	2.8
7,500,000	8,000,000	2.9	3.0	2.9
8,000,000	8,500,000	3.0	3.0	3.0

NMFS opted not to consider the matrix model, because the model would result in wide fluctuations in the calculated fee percentage due to differences in the AB variable. Therefore, the imprecision of the matrix model could result in wide variation in the fee percentage from year to year, which would result in a reduced ability by the affected public to estimate their fee obligations.

6 Background Fishery Information

Halibut and sablefish individual quota programs

On March 20, 2000, NMFS published regulations (65 FR 14919) implementing the IFQ Cost Recovery Program for IFQ landings of halibut and sablefish, (set forth at 50 CFR 679.45). Under the regulations, an IFQ permit holder incurs a cost recovery fee liability for every pound of IFQ halibut and IFQ sablefish that is landed on his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee liability for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder is also responsible for submitting a fee liability payment to NMFS on or before the due date of January 31, following the year in which the IFQ landings were made. The dollar amount of the fee due is determined by multiplying the annual IFQ fee percentage (3 percent or less) by the ex-vessel value of each IFQ landing made on a permit and summing the totals of each permit (if more than one).

Section 304(d)(2)(B) of the Magnuson-Stevens Act allows a maximum fee of three percent of the ex-vessel value of fish harvested under an IFQ program. Current regulations allow NMFS to reduce the fee percentage if actual management and enforcement costs are recoverable through a lesser percentage. NMFS does not know the actual annual costs of the IFQ Program until after the end of the Federal fiscal year (September 30). After that time, NMFS will publish a notice with the fee percentage for that year to reflect more closely the actual IFQ-related management and enforcement costs for the past Federal fiscal year. Because fishermen do not know at the time they sell their IFQ fish exactly what fee percentage will be applied to their IFQ landings made from February (season opening) through September (Federal fiscal year-end), NMFS encourages IFQ permit holders to set aside the full amount (3%) of the fees throughout the fishing year so that a lump sum payment may be made by January 31, of the following calendar year. Early payments are allowed, but do not relieve a permit holder of associated reporting requirements.

Crab Rationalization Cost Recovery

Section 313(j) of the Magnuson-Stevens Act provides supplementary authority to section 304(d)(2)(A) and additional detail for cost recovery provisions specific to the Crab Rationalization Program. As a quota program, the Crab Rationalization Program must follow the statutory provisions set forth by section 304(d) and section 313(j) of the Magnuson-Stevens Act.

Section 313(j) of the Magnuson-Stevens Act requires the Secretary to approve a Cost Recovery Program for the Crab Rationalization Program, conducted in accordance with the existing Halibut and Sablefish IFQ Cost Recovery Program. Similar to the Halibut and Sablefish IFQ Cost Recovery Program, the Crab Rationalization Cost Recovery Program allows for the collection of actual management and enforcement costs up to 3 percent of ex-vessel gross revenues and a loan program based on 25 percent of the fees collected.

Section 313(j) includes specific cost recovery requirements to accommodate the crab processing industry and to address problems experienced under the Halibut and Sablefish IFQ Cost Recovery Program. This section provides authority to collect 133 percent of actual costs of management and enforcement, which would more fully reimburse the management and enforcement costs of the program after reserving 25 percent of the cost recovery fees for the IFQ loan program. Additionally, section 313(j) requires cost recovery fees to be paid in equal shares by the harvesting and processing sectors. Catcher processors, being a combination of both sectors, would pay the full fee percentage.

NMFS developed the Crab Rationalization Cost Recovery Program in conformance with statutory

requirements and to partially compensate the agency for the unique added costs of management and enforcement of the Crab Rationalization Program. Key provisions of the Crab Rationalization Cost Recovery Program include (1) a new definition and application of "fee liability," (2) the establishment of a Registered Crab Receiver (RCR) permit system to streamline management and reporting, (3) the establishment of a "crab fishing year" for biological and administrative purposes, and (4) a new administrative process that requires the collection and submission of fees by RCRs, rather than requiring separate billings to each person that receives a crab allocation (crab allocation holder). The crab allocations include IFQ, Crew IFQ, Individual Processing Quota (IPQ), Community Development Quota (CDQ), and the Adak community allocation.

Generally, a crab allocation holder would incur a cost recovery fee liability for every pound of crab landed by that person in the crab rationalization fisheries. The RCR permit holder would be responsible for collecting any fee liability of the crab allocation holder landing crab and self-collecting any fee liability for all crab landed at the RCR's facility. The RCR permit holder would be responsible for submitting this payment to NMFS on or before the due date of July 31, following the crab fishing year in which payment for the crab was made. The dollar amount of the fee due would be determined by multiplying the fee percentage (not to exceed 3 percent) by the ex-vessel value of crab debited from the allocation. Specific details on the Crab Rationalization Cost Recovery Program may be found in the implementing regulations for the Crab Rationalization Program set forth at 50 CFR 680.44, and published March 2, 2005, at 70 FR 10174.

The Crab Rationalization Program established a fee percentage calculation structure similar to the Halibut and Sablefish IFQ Program. To budget their costs, fishermen need to know the fee percentage that would apply to any crab deducted from a crab allocation in a crab fishing year at the time of sale. Based on preliminary calculations, however, NMFS expects that 3 percent of ex-vessel value will not cover the management and enforcement costs of the Program. Hence, NMFS will begin the Cost Recovery Program by using the maximum of 3 percent. NMFS would reduce the fee in subsequent seasons if calculated to be less than 3 percent.

Changes in documenting cost estimates

Under both alternatives considered, NMFS AKR will modify its procedures for calculating program costs. These changes, described below, will provide better documentation for cost estimates. They are not expected to lead to systemic changes in the cost estimates, or modify the size, or distribution, of cost recovery fees. These changes are administrative and not part of the action under consideration.

Under the current Cost Recovery Programs for the Halibut and Sablefish IFQ Program and the Crab Rationalization Program, the fee percentage is calculated according to the following general equation:

$$[(100)(DPC-AB) / V] / (1-NPR)$$

where,

DPC represents the direct program costs for the previous fiscal year;

AB is the projected end of the year LASAF account balance;

V is the projected ex-vessel value of the catch subject to the cost recovery fee liability for the current year;

NPR is the fraction of the fee assessments that is expected to result in nonpayment.

NMFS AKR is adopting a new time and attendance management system that will more efficiently and accurately track individual management responsibilities. The new management system will eliminate the exercise of any discretionary authority by NMFS in determining the direct program costs for any IFQ program. Therefore, in conjunction with presently non-discretionary calculation of other variables used to compute the fee percentage, the determination of the DPC becomes a purely ministerial exercise on behalf of the NMFS. In essence, NMFS will simply apply the automatically calculated or existing variables to the fee percentage formula to compute the fee percentage for the prescribed billable period.

With these changes, the DPC calculation would become an automated process managed by NMFS AKR, Operations, Management, and Information (OMI) Division. The process would receive inputs from all personnel who engaged in management or enforcement responsibilities associated with each IFQ program, (i.e. Crab Rationalization, Halibut and Sablefish IFQ, etc.).

Additionally, this proposed action would simplify the current calculation by eliminating or consolidating some variables. This proposed action would eliminate the NPR variable because of its negligible effect on the overall calculation of the percentage since the inception of the program. However, the changes proposed for this action focus primarily on the DPC variable. First, as part of this action the AB variable would be automatically incorporated into the DPC variable, rather than treated as a separate variable. Second, NMFS, Alaska Region is adopting a new time and attendance management system, which will more efficiently and accurately track individual management responsibilities and attributable costs. The new management system will eliminate the exercise of any NMFS discretion in determining the DPC for any IFQ program. Therefore, in conjunction with the presently non-discretionary calculation of other variables used to calculate the fee percentage, the determination of DPC becomes a purely ministerial exercise. NMFS would then apply the automatically calculated DPC to the fee percentage formula to derive the fee percentage for the prescribed fee period.

For instance, a NMFS employee working on a regulation for the Halibut and Sablefish IFQ Program would record the amount of time he or she spends on that IFQ program in a special timekeeping program by 15-minute intervals over each two-week pay period. The timekeeping program would document and sum the specific time expended by that NMFS employee on work directly related to the management of the Halibut and Sablefish IFQ Program. The time expended by that NMFS employee would then automatically be multiplied by his or her hourly pay rate to achieve the management costs of that individual for the Halibut and Sablefish IFQ Program. The NMFS employee's management costs would then be automatically summed with other employee's similarly attributable costs and added to any other documented costs incurred by NMFS (e.g. printing, training, and supply costs). Enforcement costs would continue to be calculated based on agents' salaries as dedicated full time to IFQ enforcement, plus any other documented costs incurred by NMFS Enforcement (e.g. training, equipment, and travel costs). OMI would then sum all individual DPCs to achieve the DPC variable.

7 Summary of the benefits and costs

This action would modify the structure that provides notice to the public of the IFQ fee percentage, by removing any discretionary authority from NMFS in calculating the fee percentage.

This proposed action would not affect the ex-vessel value determination under either program or affect the current structure or administration of the standard prices calculated for the Halibut and Sablefish IFQ Program or the "CP Ex-vessel Values" calculated for the Crab Rationalization Program. This action

would not impose any costs on fishermen subject to the cost recovery fee. There would be no change in the fishery management costs subject to recovery from the fishermen, nor would there be any change in the timing of the notice the fishermen receive with respect to reductions in annual cost recovery rates. There is no reason to expect that these measures would result in a change in the amount, or the distribution, of the cost recovery fees.

NMFS proposes to make minor changes to the current fee regulations to ensure full compliance with the Administrative Procedure Act (“APA”; 5 U.S.C. §§ 501 *et seq.*, 701 *et seq.*), while improving administrative efficiency.

8 Summary of the significance criteria

NMFS has not identified any factors that would be expected to have the potential to result in 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. Nor, have the potential to (a) “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 the executive order.”

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