UNITED STATES DEPARTMENT OF COMMERCE
Office of the Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

APR 15 1999

To all Interested Government Agencies and Public Groups:

Under the National Environmental Policy Act, an environmental review has been performed on the following action.

TITLE: Environmental Assessment for Regulatory Amendments Affecting Management of Halibut Fishing Under the Multispecies Community Development Quota Program

LOCATION: Federal Waters of the Bering Sea and Aleutian Islands and Gulf of Alaska

SUMMARY: The final rule defines how halibut CDQ fishing will be managed in 1999 and thereafter; removes regulations governing groundfish and halibut CDQ fishing that expired on December 31, 1998; and makes miscellaneous technical and editorial revisions to the CDQ Program regulations.

RESPONSIBLE OFFICIAL: Steven Pennoyer
Regional Administrator
Alaska Region
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The environmental review process led us to conclude that this action will not have a significant impact on the environment. Therefore, an environmental impact statement was not prepared. A copy of the finding of no significant impact, including the environmental assessment, is enclosed for your information. Also, please send one copy of your comment to me in Room 5805, PSP, U.S. Department of Commerce, Washington, D.C. 20230.

Sincerely,

Susan Fruchter

Director of the Office of Policy and Strategic Planning

Enclosure

Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis for Regulatory Amendments Affecting Management of Halibut Fishing under the Multispecies Community Development Quota Program

March 11, 1999

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 (FMP) were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). 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 FMPs or implement other regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations. In addition to the 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, and the Regulatory Flexibility Act (RFA).

This Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) analyzes the impact of proposed regulatory amendments to 50 CFR part 679 implementing the catch monitoring requirements for vessels, registered buyers, shoreside processors, and Community Development Quota (CDQ) groups participating in halibut CDQ fisheries under the Multispecies (MS) CDQ Program.

1.1 Purpose of and Need for the Action

In the proposed rule for the MS CDQ program (62 FR 43865; June 16, 1997), NMFS proposed to integrate all CDQ fisheries under one set of regulations and require the accounting of all CDQ species in all CDQ fisheries. Under this proposal, the fixed gear halibut and sablefish CDQ fisheries would no longer be managed under the IFQ regulations and would be managed under the MS CDQ regulations with the other CDQ species managed by NMFS.

NMFS proposed to integrate the groundfish and halibut CDQ fisheries under one set of monitoring and catch accounting regulations to implement the Council's and NMFS' intent that all catch in the groundfish and halibut CDQ fisheries be accounted for by a CDQ allocation. The MS CDQ program catch accounting system is designed to provide full accounting of all catch (retained and discarded) and does not allow the discard of some CDQ species once quotas are reached in order to continue groundfish CDQ fishing for species with available quota.

NMFS believed that another advantage of integrating the groundfish and halibut CDQ catch monitoring regulations was that CDQ groups and industry participants would not be required to fill out two different sets of reports (one for halibut, the other for groundfish) and have these reports sent to different parts of NMFS. The objective of this proposal was to reduce and simplify the reporting burden on small entities (halibut CDQ fishermen) as required under the RFA.

Public comments on the proposed rule stated that the proposal to combine vessels and processors participating in the groundfish and halibut CDQ fisheries under one set of regulations was burdensome for participants in the halibut CDQ fisheries, did not consider the differences between the groundfish fisheries and the halibut fisheries, and generated information not worth the additional effort and cost to the CDQ participants or NMFS. Specifically, the public comments stated that proposed requirements for CDQ observers in shoreside processors taking deliveries of halibut CDQ and retention and delivery of all groundfish CDQ species by small vessels were not necessary for the halibut CDQ fisheries.

Although NMFS had proposed different observer coverage, equipment, and reporting requirements for different size and gear type vessels, no distinction was made in the proposed rule between the requirements for vessels of the same size fishing in the halibut CDQ fisheries or fishing in the groundfish CDQ fisheries. In the final rule for the MS CDQ program FR 63 30381; June 4, 1998), NMFS agreed that differences between the small-scale halibut CDQ fisheries and the groundfish CDQ fisheries warrant consideration of different catch monitoring and CDQ accounting regulations. Alternatives for managing the halibut CDQ fisheries after December 31, 1998 are the subject of this analysis.

Throughout this analysis, and in the final rule, a distinction is made between vessels halibut CDQ fishing and groundfish CDQ fishing. The definition of halibut CDQ fishing follows:

Halibut CDQ fishing means fishing that results in a delivery by a catcher vessel or a set by a catcher/processor in which the following conditions are met:

(1) retained halibut CDQ represents the largest proportion of the retained catch in round weight equivalent, and

(2) the round weight equivalent of other retained groundfish does not exceed the maximum retainable bycatch amounts for these species or species groups as established in § 679.20(e) and (f).

Groundfish CDQ fishing refers to fishing that results in the catch of any groundfish CDQ species, but does not meet the definition of halibut CDQ fishing.

1.2 Alternatives Considered

Alternative 1: No Action Allow current regulations that sunset on December 31, 1998 to expire. This alternative would result in no regulations governing the permitting, catching, recordkeeping, reporting, and monitoring of halibut or groundfish harvested by vessels while halibut CDQ fishing.

Alternative 2: THE PREFERRED ALTERNATIVE
Implement regulations that would continue to require that, after December 31, 1998, the catch of halibut CDQ be managed under the regulations for the Individual Fishing Quota (IFQ) Program.

This alternative also would require that groundfish bycatch by vessels equal to or greater than 60 ft length overall (LOA) while halibut CDQ fishing would be accounted for under the MS groundfish CDQ regulations, which are described below in Section 1.3.

Alternative 3: Implement regulations that would require that, after December 31, 1998, the catch of halibut CDQ would be managed under the regulations for the multispecies groundfish CDQ fisheries.

This alternative also would require that groundfish bycatch by vessels equal to or greater than 60 ft LOA while halibut CDQ fishing would be accounted for under the MS groundfish CDQ regulations, which are described below in Section 1.3.

1.3 Description of the Alternatives

Alternative 1: No Action Allow current regulations that sunset on December 31, 1998 to expire.

NMFS would not have any regulations governing the permitting, catching, recordkeeping, reporting, and monitoring of halibut CDQ catch.

Alternative 2: THE PREFERRED ALTERNATIVE

Implement regulations that would continue to require that, after December 31, 1998, the catch of halibut CDQ be managed under the regulations for the Individual Fishing Quota (IFQ) Program. In addition, groundfish bycatch by vessels equal to or greater than 60 ft LOA while halibut CDQ fishing would be accounted for under the MS groundfish CDQ regulations.

Halibut CDQ groups, fishermen, and processors would continue to be required to:

1. Obtain a CDQ permit from NMFS' Restricted Access Management (RAM) Division each year for halibut CDQ fishing,

2. Obtain a CDQ landing card from RAM each year for each person landing halibut CDQ,

3. Fish for halibut CDQ under the IFQ regulations (12-hour landings window, retention of all legal sized halibut, etc.)

4. Land halibut CDQ by or to a registered buyer who would file a landings report under the IFQ regulations.

Vessels harvesting halibut CDQ while groundfish CDQ fishing would be required to comply with all requirements for the MS groundfish CDQ fisheries, except that halibut CDQ would be permitted, harvested, and landed under the IFQ regulations.

Halibut CDQ catch would not be reported on the CDQ delivery report or CDQ catch report unless groundfish CDQ species also were landed. In that case, the weight of halibut CDQ and IFQ reported to RAM also would be required to be reported on the CDQ delivery report and CDQ catch report in order to account for all catch in the delivery and to identify halibut CDQ, IFQ, and PSQ separately. However, the halibut CDQ quotas would be managed solely on the basis of the landing reports submitted to RAM.

Observer data would not be required to be used as a basis for determining halibut CDQ catch by observed vessels.

The same catch accounting requirements would apply to operators of catcher vessels equal to or greater than 60 ft LOA and catcher/processors while halibut CDQ fishing as would apply to the operators of the same vessels while groundfish CDQ fishing. This would include the accrual of all groundfish CDQ catch against the CDQ group's groundfish CDQ allocations, and the requirement to carry CDQ observers (one for catcher vessels and two for catcher/processors) in order to monitor and verify their catch of groundfish CDQ species that accrue to the MS groundfish CDQs. In addition, catcher vessels equal to or greater than 60 ft LOA would be required to notify NMFS in the Community Development Plan (CDP) whether they were going to (1) retain and deliver all groundfish CDQ species to a shoreside processor (Option 1 under § 679.32(c)(2)(ii)(A)), or (2) discard some groundfish CDQ species at sea (Option 2 under § 679.32(c)(2)(ii)(B)), in which case the owner or operator of the catcher vessel must provide an observer sampling station that complies with the requirements of § 679.28(d). Finally, shoreside processors would be required to have deliveries by catcher vessels equal to or greater than 60 ft (18.3 m) LOA monitored by a CDQ observer at the shoreside processor.

The list of vessels less than 60 ft LOA participating only in the halibut CDQ fisheries, shoreside processors or registered buyers taking deliveries from these vessels, or the names of halibut CDQ cardholder would no longer be required to be reported in the CDP. Requests for CDQ permits and cards would be made directly to RAM with no changes in CDPs or involvement by the Sustainable Fisheries (SF) Division staff.

> **Alternative 3:** Implement regulations that would require that, after December 31, 1998, the catch of halibut CDQ be managed under the regulations for the multispecies groundfish CDQ fisheries. In addition, groundfish bycatch by vessels equal to or greater than 60 ft LOA while halibut CDQ fishing would be accounted for under the MS groundfish CDQ regulations.

Under this alternative, no CDQ catch would be reported to RAM or NMFS Enforcement under the IFQ regulations. CDQ groups would not be issued halibut CDQ permits from RAM. Halibut CDQ fishermen would not be required to have CDQ landing cards. Halibut CDQ would not be required to be delivered to registered buyers and dockside sales of halibut CDQ could be made without the person being a registered buyer. Halibut CDQ catch would be reported to NMFS on the CDQ delivery report and the CDQ catch report.

CDQ groups would have to provide the CDQ fishermen with some documentation that they are authorized by the CDQ group to catch halibut CDQ allocated to that group. This document could be shown to processors or enforcement officers to verify the individual's participation in the halibut CDQ fisheries. The MS

CDQ program does not require permits or cards as does IFQ program, so there would be nothing issued by SF to show the processor to document that CDQ halibut catch should be handled differently that IFQ halibut catch. CDQ groups would be required to provide NMFS with a current list of halibut fishermen.

The CDP would be required to contain a description of the halibut CDQ management measures that will be employed by the CDQ group. This description should be reviewed and approved by NMFS in the CDP process and NMFS Enforcement should participate in review. The CDQ group would be required to provide in-season notification to NMFS before the small boat halibut CDQ fisheries start.

The same catch accounting requirements would apply to operators of catcher vessels equal to or greater than 60 ft LOA and catcher/processors while halibut CDQ fishing as would apply to the operators of the same vessels while groundfish CDQ fishing. This would include the accrual of all groundfish CDQ catch against the CDQ group's groundfish CDQ allocations, and the requirement to carry CDQ observers (one for catcher vessels and two for catcher/processors) in order to monitor and verify their catch of groundfish CDQ species that accrue to the MS groundfish CDQs. In addition, catcher vessels equal to or greater than 60 ft LOA would be required to notify NMFS in the CDP whether they were going to (1) retain and deliver all groundfish CDQ species to a shoreside processor (Option 1 under § 679.32(c)(2)(ii)(A)), or (2) discard some groundfish CDQ species at sea (Option 2 under § 679.32(c)(2)(ii)(B)), in which case the owner or operator of the catcher vessel must provide an observer sampling station that complies with the requirements of § 679.28(d). Finally, shoreside processors would be required to have deliveries by catcher vessels equal to or greater than 60 ft (18.3 m) LOA monitored by a CDQ observer at the shoreside processor.

Alternative 2 and 3 differ in the way in which catch of halibut CDQ would be reported - under the IFQ regulations (Alternative 2) or under the MS groundfish CDQ regulations (Alternative 3). Both alternatives propose that (1) groundfish bycatch by vessels less than 60 ft LOA would not be required to be reported under the MS groundfish CDQ regulations, and (2) groundfish caught by vessels equal to or greater than 60 ft LOA while halibut CDQ fishing would be required to be reported and monitored under the MS groundfish CDQ regulations.

1.4 Description of the 1997 Halibut CDQ Fisheries

Table 1 summarizes 1997 halibut CDQ landings by vessel length category. Approximately 77 percent of the halibut CDQ was harvested by vessels less than 60 ft LOA and 22 percent was harvested by vessels greater than or equal to 60 ft LOA.

Table 1. 1997 Halibut CDQ Landings by Vessel Length Category.

Vessel Length	# of Vessels	Ttl Landings (Net lbs)	% of Ttl Landings
< 60 ft	232	1,464,708	77%
>= 60 ft (range 68-80)	4	421,382	22%
Unknown	11	2817	1%
Total	247	1,888,907	100%

Source: RAM halibut CDQ landing reports

Landings by vessels equal to or greater than 60 ft LOA were made in Atka and Dutch Harbor. Landings by vessels between 35 ft and 60 ft LOA were made in Atka and St. Paul. Landings in all other ports were from vessels 32 ft LOA or less.

Of the 2,228 landings, 707 (32%) were filed electronically, the remainder were filed manually via a fax to NMFS Enforcement in Kodiak.

Table 2. 1997 Halibut CDQ Landings by Port.

Port	Halibut CDQ (lbs)	% of Total Landings	# of Landings	Average Landing (lbs)	Min. Landing (lbs)	Max. Landing (lbs)
Atka	468,778	25%	290	1,616	0	17,382
Dillingham/ Bristol Bay	2,796	<1%	7	456	44	894
Dutch Harbor	395,585	21%	19	20,820	1,040	50,351
Egegik	41,752	2%	85	491	14	2,550
Kipnuk	1,478	<1%	13	114	21	243
Mekoryuk	67,083	3%	291	231	0	1,480
Naknek	19,719	1%	30	657	50	2,520
Savoonga	69,509	4%	127	547	0	1,794
St. George	53,455	3%	118	453	0	1,969
St. Paul	644,669	34%	304	2,121	0	48,796
Togiak	14,098	1%	28	504	20	2,032
Toksook Bay	75,305	4%	633	119	0	641
Tununak	34,680	2%	283	123	11	515
Total	1,888,907	100%	2,228			

Source:- RAM halibut CDQ landing reports

2.0 NEPA REQUIREMENTS: ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact statement (EIS) must be prepared for major Federal actions significantly affecting the human environment.

An EA must include a brief discussion of the need for the proposal, the alternatives considered, the environmental impacts of the proposed action and the alternatives, and a list of document preparers. The purpose and alternatives were discussed in Sections 1.1, 1.2, and 1.3. The list of preparers is in Section 6. This section contains the discussion of the environmental impacts of the alternatives including impacts on threatened and endangered species and marine mammals.

2.1 Environmental Impacts of the Alternatives

The environmental impacts generally associated with fishery management actions are effects resulting from (1) harvest of fish stocks which may result in changes in food availability to predators and scavengers, changes in the population structure of target fish stocks, and changes in the marine ecosystem community structure; (2) changes in the physical and biological structure of the marine environment as a result of fishing practices (e.g., effects of gear use and fish processing discards); and (3) entanglement/entrapment of non-target organisms in active or inactive fishing gear.

This analysis addresses the impact of proposed regulatory amendments to 50 CFR part 679 implementing the catch monitoring requirements for halibut under the MS CDQ Program. No changes are proposed to the method for determining how much halibut CDQ is harvested annually and no changes in timing or location of halibut CDQ harvests are expected as a result of this proposed action.

A summary of the effects of the annual groundfish total allowable catch amounts on the biological environment and associated impacts on marine mammals, seabirds, and other threatened or endangered species are discussed in the Final Supplemental Environmental Impact Statement (FSEIS) for the groundfish total allowable catch specifications and prohibited species catch limits under the authority of the FMPs for the GOA and BSAI (December 1998). Additional environmental impacts resulting from

the 1999 groundfish fisheries in the GOA and BSAI are discussed in an environmental assessment for the 1999 groundfish total allowable catch specifications.

The environmental impacts of the overall allocation of halibut to the CDQ fisheries were considered in the Environmental Impact Statement prepared for the fixed gear halibut and sablefish IFQ/CDQ Programs.

Alternative 1 would allow current regulations to expire on December 31, 1998, leaving NMFS with no regulations governing the permitting, catching, recordkeeping, reporting, and monitoring of halibut CDQ catch. This alternative could result in negative environmental impacts because NMFS would not collect information about the catch of halibut in the CDQ fisheries. Therefore, NMFS considers Alternative 1 unacceptable.

Alternative 2, the preferred alternative, would continue the current regulations governing the catch reporting for halibut CDQ. Alternative 3 would integrate the catch reporting of halibut CDQ in with the multispecies groundfish CDQ fisheries. Both alternatives 2 and 3 would collect the information necessary to determine the catch of halibut CDQ. Both Alternatives 2 and 3 require that groundfish caught by vessels equal to or greater than 60 ft LOA while halibut CDQ fishing accrue against the MS groundfish CDQs.

Neither Alternatives 2 or 3 would have additional environmental impacts that are not considered in previous environmental impact statements or environmental assessments for the CDQ fisheries and the BSAI groundfish fisheries in general.

2.2 Impacts on Endangered or Threatened Species

Background. The ESA provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The program is administered jointly by NMFS for most marine species, and the US Fish and Wildlife Service (FWS) for terrestrial and freshwater species.

The ESA procedure for identifying or listing imperiled species involves a two-tiered process, classifying species as either threatened or endangered, based on the biological health of a species. Threatened species are those likely to become endangered in the foreseeable future [16 U.S.C. § 1532(20)]. Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range [16 U.S.C. § 1532(20)]. The Secretary of Commerce, acting through NMFS, is authorized to list marine mammal and fish species. The Secretary of the Interior, acting through the FWS, is authorized to list all other organisms.

In addition to listing species under the ESA, the critical habitat of a newly listed species must be designated concurrent with its listing to the "maximum extent prudent and determinable" [16 U.S.C. § 1533(b)(1)(A)]. The ESA defines critical habitat as those specific areas that are essential to the conservation of a listed species and that may be in need of special consideration. The primary benefit of critical habitat designation is that it informs Federal agencies that listed species are dependent upon these areas for their continued existence, and that consultation with NMFS on any Federal action that may affect these areas is required. Some species, primarily the cetaceans, listed in 1969 under the ESA and carried forward as endangered under the ESA, have not received critical habitat designations.

Listed Species. The following species are currently listed as endangered or threatened under the ESA and occur in the GOA and/or BSAI:

Endangered

Northern Right Whale	*Balaena glacialis*
Bowhead Whale[1]	*Balaena mysticetus*
Sei Whale	*Balaenoptera borealis*
Blue Whale	*Balaenoptera musculus*
Fin Whale	*Balaenoptera physalus*
Humpback Whale	*Megaptera novaeangliae*
Sperm Whale	*Physeter macrocephalus*
Snake River Sockeye Salmon	*Oncorhynchus nerka*
Short-tailed Albatross	*Diomedia albatrus*
Steller Sea Lion[2]	*Eumetopias jubatus*

Threatened

Snake River Fall Chinook Salmon	*Oncorhynchus tshawytscha*
Snake River Spring/Summer Chinook Salmon	*Oncorhynchus tshawytscha*
Steller Sea Lion[3]	*Eumetopias jubatus*
Spectacled Eider	*Somateria fishcheri*

[1]species is present in Bering Sea area only.

[2]listed as endangered west of Cape Suckling.

[3]listed as threatened east of Cape Suckling.

Alternative 2, the preferred alternative will not affect endangered and threatened species or critical habitat in any manner not considered in prior consultations on the halibut fishery.

2.3 Impacts on Marine Mammals Not Listed Under the ESA

Marine mammals not listed under the ESA that may be present in the GOA and BSAI include cetaceans, [minke whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon spp.*)] as well as pinnipeds [northern fur seals (*Callorhinus ursinus*), and Pacific harbor seals (*Phoca vitulina*)] and the sea otter (*Enhydra lutris*).

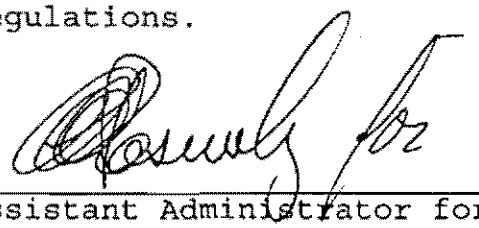
Alternative 2, the preferred alternative, will not affect takes of other marine mammals not listed under the ESA. Therefore, this alternative is not expected to have a significant impact on marine mammals not listed under the ESA.

2.4 Coastal Zone Management Act

Implementation of the preferred alternative would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Management Program within the meaning of section 30(c)(1) of the Coastal Zone Management Act of 1972 and its implementing regulations.

2.5 Conclusions or Finding of No Significant Impact

Alternative 2, the preferred alternative, is not likely to significantly affect the quality of the human environment, and the preparation of an environmental impact statement for the proposed action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.



Assistant Administrator for Fisheries, NOAA

APR 9 1999

Date

3.0 Regulatory Impact Review

The requirements for all regulatory actions specified in Executive Order (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 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.

A regulatory program is "economically significant" if it is likely to result in any of the effects described above. In part, the RIR is designed to provide information to determine whether the proposed regulation is likely to be "economically significant."

3.1 Impact of the Alternatives

Alternative 1 would allow current regulations to expire on December 31, 1998, leaving NMFS with no regulations governing the permitting, catching, recordkeeping, reporting, and monitoring of halibut CDQ catch.

Alternative 2 would continue the current regulations governing the catch reporting for halibut CDQ and would require vessels equal to or greater than 60 ft (18.3 m) LOA and catcher/processors while halibut CDQ fishing, and the shoreside processors taking deliveries from these vessels, to comply with the MS groundfish CDQ requirements.

Alternative 3 would integrate the catch reporting of halibut CDQ in with the multispecies groundfish CDQ fisheries. Alternative 3 also would require all vessels equal to or greater than 60 ft LOA while halibut CDQ fishing, the shoreside processors taking deliveries from these vessels, and the CDQ groups to comply with the MS groundfish CDQ requirements.

3.1.1 Comparing estimated costs of Alternative 2 and Alternative 3 for the reporting of halibut CDQ catch

NMFS estimates the costs associated with reporting requirements in the supporting statements for collections of information that must be approved by the Office of Management and Budget for all recordkeeping and reporting requirements under the requirements of the Paperwork Reduction Act (PRA). Alternative 1 would not require any catch reporting, so would have no reporting costs to the CDQ groups and the industry. Tables 3 and 4 provide estimates of the costs of reporting halibut CDQ catch under Alternative 2 and Alternative 3 based on the estimated number of respondents and cost per response reported in the supporting statements for the IFQ program and the CDQ program (see section 4.0 references for more information on how to obtain these documents).

Table 3. Estimated reporting costs under Alternative 2, in which halibut CDQ landings are reported under the IFQ regulations.

Reporting Requirement	# of Respondents	Total # of Responses per Year	Estimated Cost per Response per Year	Estimated Cost for all Respondents per Year
CDQ Permit	6	6	$10	$60
CDQ Card	250	250	$10	$2,500
Registered Buyer Permit	20	20	$10	$200
Prior notice of landings	20	2228	$4	$8,912
Landings Report	250	2228	$4	$8,912
Shipment Report	20	2228	$4	$8,912
Total				$29,496

Table 4. Estimated reporting costs under Alternative 3, in which halibut CDQ is reported under the MS groundfish CDQ regulations.

Reporting Requirement	# of Respondents	Total # of Responses per Year	Estimated Cost per Response per Year	Estimated Cost for all Respondents per Year
Technical amendment [1/]	6	12	$200	$2,400
CDQ Delivery Report	20	2228	$13	$28,964
CDQ Catch Report	6	2228	$12.50	$27,850
Total				$59,214

[1/] Technical amendment to the Community Development Plan to authorize vessels and people who will harvest halibut CDQ.

Estimates of reporting costs in the PRA supporting statements require analysts to estimate (1) how long it takes to gather

information, conduct research, read instructions, fill out forms, and submit the forms, and (2) the cost per hour for the person filling out the forms. These estimates are difficult to make and NMFS does not undertake industry surveys or other comprehensive research to make these estimates. Therefore, the information in Tables 3 and 4 should be used to make a general comparison between the two reporting systems. Although the IFQ program has a greater number of requirements for permitting individuals and tracking catch, the estimated time and cost to complete these requirements is less in total than the estimated time and cost to complete catch reporting requirements under the MS groundfish CDQ requirements. In addition, NMFS' estimates of the relative reporting costs of the two alternatives is consistent with public comment that our original proposal to incorporate halibut CDQ reporting under the MS groundfish CDQ program was too costly.

3.1.2 Comparing estimated costs of Alternative 2 and Alternative 3 for the reporting of groundfish CDQ that is caught while halibut CDQ fishing

Alternatives 2 and 3 would require vessels equal to or greater than 60 ft LOA, and the shoreside processors taking deliveries from these vessels, to comply with the observer coverage and catch monitoring requirements for the MS groundfish CDQ requirements while they are halibut CDQ fishing. Specifically, the following requirements that did not apply to vessels and processors under the separate fixed gear halibut and sablefish CDQ fisheries through the end of 1998, would apply in the future:

- Each catcher vessel equal to or greater than 60 ft LOA would be required to carry one CDQ observer in order to monitor and verify their catch of groundfish CDQ species that accrue to the MS groundfish CDQs.

- The CDQ group and the owners of catcher vessels equal to or greater than 60 ft LOA would be required to notify NMFS in the CDP whether they were going to (1) retain and deliver all groundfish CDQ species to a shoreside processor (Option 1 under § 679.32(c)(2)(ii)(A)), or (2) discard some groundfish CDQ species at sea (Option 2 under § 679.32(c)(2)(ii)(B)), in which case the owner of the catcher vessel must provide an observer sampling station that complies with the requirements of § 679.28(d).

- Shoreside processors would be required to have a CDQ observer in the plant to monitor deliveries by catcher vessels equal to or greater than 60 ft LOA that had been halibut CDQ fishing.

- Shoreside processors would be required to complete and submit a CDQ delivery report for each delivery of groundfish CDQ from vessels halibut CDQ fishing.

- Catcher/processors would be required to carry two CDQ observers and provide an observer sampling station while halibut CDQ fishing.

- The CDQ group would be required to submit CDQ catch reports documenting the catch of groundfish CDQ by vessels while halibut CDQ fishing.

Estimates of the costs to vessels, processors, and CDQ groups to comply with these requirements follow.

1. Requirement for a CDQ observer on the vessel

Each catcher vessel equal to or greater than 60 ft LOA would be required to carry one CDQ observer at all times while halibut CDQ fishing. This is the same requirement that currently applies to vessels of this category while groundfish CDQ fishing.

The following cost estimate for this requirement is based on 1997 halibut CDQ catch information:

(a)	Number of vessels	4
(b)	Total number of deliveries	11
(c)	Average trip length (days)	12
(d)	$/day observer costs	$ 250
(e)	Total observer costs	$33,000 [(b)*(c)*(d)]
(f)	Average cost per vessel	$ 8,250 [(e)/(a)]

2. Requirement for a CDQ observer in the shoreside plant

Under this action, each shoreside processor taking delivery from a vessel equal to or greater than 60 ft LOA that had been halibut CDQ fishing would be required to have a CDQ observer in the plant to monitor the CDQ delivery.

The following cost estimate for this requirement is based on 1997 halibut CDQ catch information:

(a)	Number of shoreside processors	3
(b)	Total number of deliveries	11

(c)	$/day observer costs	$ 250
(d)	Total observer costs	$2,750 [(b)*(c)]
(e)	Average cost per processor	$ 920 [(d)/(a)]

In addition, a processing plant in a remote location such as Atka also would be required to pay for transporting the observer from Dutch Harbor to Atka, which could range between $300 and $500 per trip.

3. Catcher/processors

No additional costs are anticipated for catcher/processors due to this action because NMFS expects that they will harvest their halibut CDQ while groundfish CDQ fishing. Under that assumption, they already are required to comply with the MS groundfish CDQ regulations. Therefore, this action would not result in additional costs to catcher/processors.

4. Observer sampling stations on catcher vessels

Two catcher vessels equal to or greater than 60 ft LOA currently are listed in CDPs to fish for halibut CDQ in 1999 and 2000. Neither of these vessels selected Option 2, which would require an observer sampling station. Therefore, NMFS does not anticipate that other catcher vessels participating in the halibut CDQ fisheries will select this option.

In selecting option 1, these catcher vessel operators have decided to retain all bycatch of groundfish CDQ species and to deliver them to the shoreside processor where they will be sorted, weighed by species, and reported by the shoreside processor on a CDQ delivery report.

5. Estimated cost of the CDQ delivery report

Each shoreside processor would be required to submit a CDQ delivery report for any groundfish CDQ landed by a catcher vessel equal to or greater than 60 ft LOA that had been halibut CDQ fishing. The CDQ delivery report is the means through which NMFS and the CDQ groups obtain information about the weight of CDQ species delivered to the plant.

Under Alternative 2, the CDQ delivery report would be required to report the delivery of groundfish CDQ. The following cost estimate for this requirement is based on 1997 halibut CDQ catch information:

(a)	Number of shoreside processors	3
(b)	Total number of CDQ delivery reports	11
(c)	Estimated preparation time per report	1 hour
(d)	Estimated cost per hour	$ 13
(e)	Total cost all reports	$143
(f)	Average cost per processor	$ 50

Under Alternative 3, the CDQ delivery report would be required to report the delivery of both halibut CDQ and groundfish CDQ, because both would be managed under the MS groundfish CDQ regulations. The estimated cost of the CDQ delivery reports under Alternative 3 is included in the cost estimates provided in Table 4 above for all deliveries from vessels halibut CDQ fishing.

6. Estimated cost of the CDQ catch report

Each CDQ group would be required to submit a CDQ delivery report for any groundfish CDQ landed by a catcher vessel equal to or greater than 60 ft LOA that had been halibut CDQ fishing. The CDQ catch report is the means through which NMFS obtains a report from the CDQ group about the catch of CDQ species by a particular vessel.

Under Alternative 2, the CDQ catch report would be required to report only the catch of groundfish CDQ species (the catch of halibut CDQ would be reported on an IFQ landing report). The following cost estimate for this requirement is based on 1997 halibut CDQ catch information:

(a)	Total number of CDQ catch reports	11
(c)	Estimated preparation time per report	15 minutes
(d)	Estimated cost per hour	$ 50
(e)	Total cost all reports	$140

3.1.3 Summary of estimated costs

Alternative 2:

- Reporting halibut CDQ under the IFQ program regulations: $29,000

- CDQ observer costs for catcher vessels equal to or greater than 60 ft LOA: $33,000

- CDQ observer costs for shoreside processors taking deliveries from catcher vessels equal to or greater than 60 ft LOA that have been halibut CDQ fishing: $2,750, plus additional travel costs associated with placing observers in remote ports.

- CDQ delivery report for groundfish CDQ bycatch $143

- CDQ catch report for groundfish CDQ bycatch $140

Estimated total: $65,000

Alternative 3:

- Reporting halibut CDQ for all vessels and groundfish CDQ bycatch by vessels equal to or greater than 60 ft LOA under the MS groundfish CDQ regulations: $59,000

- CDQ observer costs for catcher vessels equal to or greater than 60 ft LOA: $33,000

CDQ observer costs for shoreside processors taking deliveries from catcher vessels equal to or greater than 60 ft LOA that have been halibut CDQ fishing: $2,750, plus additional travel costs associated with placing observers in remote ports.

Estimated total: $95,000

3.1.4 Recommendations for Alternative 2 as the preferred alternative

In considering the three alternatives for future management of the halibut CDQ fisheries, NMFS makes the following determinations about the costs and benefits of these alternatives.

Although Alternative 1 has no reporting costs, so would be less expensive for the CDQ groups and the industry, NMFS did not select this as the preferred alternative because it does not provide any information about the catch of halibut CDQ or the groundfish CDQ bycatch in the halibut CDQ fisheries. NMFS has a responsibility to establish a system for reporting and monitoring halibut catch under the CDQ program that could not be met under Alternative 1.

Alternative 3 would provide an adequate halibut CDQ catch reporting system under the MS groundfish CDQ regulations.

However, this alternative likely would have higher reporting costs to the CDQ groups, the fishing industry, and to NMFS. In addition, based on public comment and information obtained by the Council's CDQ Implementation Committee, Alternative 3 is regarded as unnecessarily burdensome by the CDQ groups and the fishermen catching halibut CDQ.

Alternative 2 is selected by NMFS as the preferred alternative because it provides an acceptable level of catch monitoring for halibut CDQ and groundfish bycatch in the halibut CDQ fisheries, and it minimizes the cost to the CDQ groups, the industry, and NMFS by continuing the current catch reporting system,

Alternative 2, 1) contains elements recommended to NMFS by the CDQ groups and the fishermen catching halibut CDQ, 2) is the most cost effective and least burdensome of the alternatives under consideration, 3) is fully consistent with the agency's obligations and objectives for this action, and, therefore, 4) maximizes net benefits to the Nation, as defined under E.O. 12866, when compared to the other available alternatives.

In addition, based on the criteria listed in section 3.0, NMFS determines that the proposed regulatory amendments to govern management of halibut CDQ after December 31, 1998 are not significant for purposes of E.O. 12866.

4.0 Final Regulatory Flexibility Analysis

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.

When an agency issues any final rule, it must either prepare an FRFA or certify that the rule will not have a significant economic impact on a substantial number of small entities. The FRFA must discuss the comments received, the alternatives considered and the rationale for the final rule. Each FRFA must contain:

- A succinct statement of the need for, and objectives of, the rule;

See Section 1.0 and 1.1 on page 1 of this analysis.

- A summary of significant issues raised by the public comments in response to the IRFA, the agency's response to those comments, and a statement of any changes made to the rule as a result of the comments;

NMFS received no comments on the IRFA.

- A description and estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;

  See Section 4.1.

- A description of the reporting, recordkeeping, or other compliance requirements of the rule; and

  See Section 1.3 and 3.1 for a description of the reporting, recordkeeping, and other compliance requirements of the proposed rule under Alternative 2.

- A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected.

The economic impact of the preferred alternative on small entities occurs because these recordkeeping, reporting, equipment, and observer coverage requirements impose costs on vessel owners, shoreside processors, and CDQ groups. The factual, policy, and legal reasons for selecting the preferred alternative are discussed above in Section 3.1.4.

The final rule would satisfy NMFS' fishery management obligations in a manner consistent with the RFA by removing some requirements and compliance costs for small entities. Specifically, it would remove the requirement that the CDQ groups (1) list vessels less than 60 ft (18.3 m) LOA that conduct halibut CDQ fishing only, and the processors taking deliveries of CDQ only from these vessels in their CDPs, and (2) submit technical amendments to their CDPs to add or remove these vessels and processors. NMFS also did not extend requirements that current apply for vessels groundfish CDQ fishing to similar vessels while halibut CDQ

fishing. Specifically, NMFS did not extend requirements for observers in shoreside processing plants that take deliveries from vessels less than 60 feet (18.3 m) LOA who have been halibut CDQ fishing or requirements that these catcher vessels retain all groundfish species and report them under the MS groundfish CDQ reporting requirements.

4.1 Small Entities in the Halibut CDQ Fisheries

Small businesses. The approximately 250 fishing vessel owners or operators who harvest halibut CDQ are small entities. In addition, the approximately 20 processors or registered buyers who purchased halibut CDQ also are small entities.

Small organizations. The six CDQ groups participating in the halibut CDQ fisheries are the only organizations that are directly affected by the proposed rule, and are all "small entities" within the RFA definition of small organizations.

Small governmental jurisdictions. The governmental jurisdictions with direct involvement in the halibut CDQ fisheries are the 56 CDQ communities, and are all "small entities", within the RFA definition for small jurisdictions.

An estimate of the classes of small entities that will be subject to the requirement:

The classes of small entities that will be subject to this requirement include:

1. The CDQ groups - their administrative staff or contracted employees submit permit applications, CDQ cardholder applications, and CDQ catch reports (for any groundfish CDQ caught with the halibut CDQ).

2. Registered buyers landing or taking delivery of halibut CDQ - they submit prior notice of landings and landings reports.

3. Individual fishermen catching and landing halibut CDQ must assist the registered buyer in submitting prior notice of landings and landings reports.

4. Owners of catcher vessels equal to or greater than 60 ft LOA would be required to provide CDQ observers while halibut CDQ fishing.

5. Shoreside processors (who also may be a registered buyer) must submit a CDQ delivery report for any groundfish CDQ delivered by vessels equal to or greater than 60 ft LOA that had been halibut CDQ fishing, and must provide a CDQ observer to monitor each delivery.

The type of professional skills necessary for preparation of the report or record:

The most important skill necessary to prepare these reports and records is the ability to read, speak, and write in English. English is a second language for some of the fishermen catching halibut CDQ and some of the registered buyers reporting landings and sometimes communication problems occur between NMFS and the person preparing or submitting a report.

Fishermen and registered buyers sorting and weighing fish must have the ability to identify various species of fish and must have basic math skills in order to weigh fish, record fish weights, and add fish weights. In some cases, persons submitting reports may not accurately identify fish species, particularly those with little commercial value.

Applications for CDQ cards, which are submitted by the CDQ group representative, must be notarized. Therefore, the CDQ group must have access to a notary public.

Alternative 1, to allow current regulations to expire December 31, 1998 would result in no regulations governing the permitting, catching, recordkeeping, reporting, and monitoring of halibut CDQ catch. While this alternative may appear to minimize the economic impact of the action on small entities, it is not consistent with NMFS' fishery management objectives and obligations under the Magnuson-Stevens Act and the North Pacific Halibut Act. Furthermore, it would not be supported by the fishing industry, the CDQ groups, the State of Alaska, or the International Pacific Halibut Commission, all of whom have an interest in the collection of catch data to manage the halibut CDQ fisheries.

Alternative 2 was preferred over Alternative 3 by the CDQ groups for the reporting of halibut CDQ because it minimizes the reporting costs to the groups and the industry participants. In addition, Alternative 2 removes the requirement that the CDQ groups (1) list the vessels less than 60 ft LOA, halibut CDQ cardholders, and registered buyers be listed in the CDP, and (2) submit technical amendments to add or remove vessels and processors. NMFS determined that these reporting requirements were burdensome to the CDQ groups and industry participants and did not provide sufficient benefits to the agency to justify continuing to require them.

Alternative 2 also does not require observers in shoreside processing plants that take deliveries from vessels less than 60 feet LOA who have been halibut CDQ fishing. This proposed exemption provides a significant cost savings to the small entities, consistent with the objectives of the RFA.

4.3 Impacts of the Alternatives on the Small Entities

All of the entities involved in the halibut CDQ fisheries are small entities and all of these small entities incur some economic impact as a result of the proposed regulations. NMFS has determined that an economic impact is significant for the purposes of the RFA if a regulation is likely to result in:

- More than a 5 percent decrease in annual gross revenues,
- Annual compliance costs (e.g., annualized capital, operating, reporting) that increase total costs of production by more than 5 percent,
- Compliance costs as a percent of sales that are 10 or more percent higher for small entities than compliance costs for large entities,
- Capital costs of compliance that represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities, or
- The regulation is likely to result in 2 or more percent of the small entities affected being forced to cease business operations.

NMFS does not believe that the proposed action will reach these thresholds. However, the agency does not currently have sufficient information about the operating and production costs of the potentially affected small entities. Therefore, because NMFS cannot certify that the preferred alternative would not result in a significant impact, NMFS determines that the preferred alternative may have a significant impact on a substantial number of small entities, as described in Section 4.1, and has provided the requisite analytical information needed for an IRFA.

5.0 References

The supporting statements for the halibut and sablefish IFQ program and the multispecies groundfish CDQ program under the requirements of the PRA are available from NMFS at the address below.

6.0 Prepared by

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