

## 7.0 REGULATORY IMPACT REVIEW AND REGULATORY FLEXIBILITY ANALYSIS

None of the proposed changes would be a significant action according to Executive Order (EO) 12866. This action will not have a cumulative effect on the economy of \$100 million or more, nor will it result in a major increase in costs to consumers, industries, governmental agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises (see RIR below in Section 7.1). The Small Business/Entities analysis addresses requirements of the Regulatory Flexibility Act. In addition to the information presented in the EA above, a basic economic profile of the fishery is provided in the Council's annual Groundfish Stock Assessment and Fishery Evaluation (SAFE) document.

### 7.1 Executive Order 12866 - Regulatory Impact Review (Elements Beyond Those Considered in the Environmental Assessment)

The purpose of an RIR is to determine whether any of the proposed actions could be considered "significant regulatory actions" according to EO 12866. This analysis has many aspects in common with an EA. Much of the information required for RIR analysis is contained in the EA. Table 7-1 provides references for those required elements of RIR analysis that have already been addressed above.

TABLE 7-1. Regulatory Impact Review - Elements of Analysis

RIR Elements of Analysis	Corresponding Sections in EA
Description of management objectives	Section 1.3, also Chapter 4
Description of the fishery	Chapter 3 (also see the Groundfish SAFE document, and 2003 Groundfish Annual Specs EIS)
Statement of the problem	Section 1.2
Description of each alternative	Chapter 2
Economic analysis of the expected effects of each selected alternative relative to <i>status quo</i>	See below and discussion in Chapter 4

The proposed action in this amendment affects only the administrative process by which individual species rebuilding plans are formulated and so does not have significant adverse economic effects on consumers, producers, or processors of groundfish. The EA defines four issues for which options (alternatives) were identified and selected by the Council. Of these four issues, only the options identified under Issue 1 have regulatory implications. The remaining issues are concerned with setting internal Council standards for periodic review and modification of rebuilding plans (Issues 2 and 3), and defining the interaction of a rebuilding plan with recovery plans for a rebuilding species that is subsequently listed under the ESA (Issue 4).

While there may be slight differences between the alternatives in the amount of administrative capacity required to formulate and implement individual species rebuilding strategies, these differences are not quantifiable and will depend more on the variability of periodic stock assessments once a particular rebuilding plan is adopted than on the effects of these proposed actions or the subsequent adoption of individual rebuilding plans.

Table 7-2 summarizes the analysis of the possible regulatory actions under Issue 1 for the relevant RIR evaluation factors.

TABLE 7-2. RIR Tests of "Significant Regulatory Actions" for Issue 1: Form and required elements of rebuilding plans.

EO 12866 Test of "Significant Regulatory Actions"	Option 1a: status quo	Option 1b: numerically specify rebuilding parameters in the FMP	Option 1c: numerically specify $T_{TARGET}$ and harvest control rule in regulations	Option 1d: numerically specify $T_{TARGET}$ and harvest control rule in regulations, and describe the formulas and methodology for determining the other rebuilding parameters in the FMP
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 or the environment, public health or safety, or state, local, or tribal governments or communities?	NO	NO	NO	NO
Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency?	NO	NO	NO	NO
Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof?	NO	NO	NO	NO
Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in EO 12866?	NO	NO	NO	NO

## 7.2 Impacts on Small Entities – Initial Regulatory Flexibility Analysis

The RFA requires government agencies to assess the effects that various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those effects. A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.5 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$5.0 million.

Many of the vessels, processors, and related businesses engaged in the West Coast groundfish fishery are entities that would be classified as small businesses under the above definitions. While there will be no direct impact on small entities as a result of adopting any particular process for formulating rebuilding plans, the implementation of specific rebuilding plans for overfished species may entail substantial economic impacts for groundfish processors, commercial harvesters, and recreational charter vessels. However, these types of impacts are specific to particular stocks or species and so will be addressed in the individual rebuilding plans themselves.

Section 603 (b) of the RFA identifies the elements that should be included in the IRFA. These are bulleted below, followed by information that addresses each element.

- A description of the reasons why action by the agency is being considered.

The purpose and need for the proposed action are discussed in Section 1.2. In summary, there is an immediate need for this action to establish a framework describing how rebuilding plans for stocks that have been declared overfished will be adopted and how the contents of those plans will be codified in regulations or the FMP. National Standard 1 in the Magnuson-Stevens Act requires conservation and management

measures that prevent overfishing. This framework is needed to guide the development and adoption of subsequent rebuilding plans.

- A succinct statement of the objectives of, and legal basis for, the proposed rule.

The objective of the proposed action is to establish consistent process and standards for formulating rebuilding plans for overfished species. The proposed action is also consistent with the Magnuson-Stevens Act and National Standards.

- A description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.

The proposed action applies directly to the administrative process used to formulate and adopt rebuilding plans for overfished species and only indirectly affects rebuilding plans adopted for individual species. As such, the proposed action has no impact or differential effects on small entities. The economic impacts of subsequent individual rebuilding plans on groundfish processors, commercial harvesting, and recreational charter vessels will be addressed in the rebuilding plans themselves.

- 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 requirements of the report or record.

The proposed action would not require new reporting, record-keeping, or other compliance requirements.

- An identification, to the extent practicable, of all relevant federal rules, which may duplicate, overlap, or conflict with the proposed rule.

The proposed action would not duplicate, overlap, or conflict with relevant federal rules.

- Summary of impacts

The proposed action would affect only the process by which rebuilding measures are formulated and adopted. As such, it would have no impact on consumers, groundfish processors, commercial harvesters, or recreational charter vessels.

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