

Appendix D
**REGULATORY IMPACT REVIEW AND INITIAL
REGULATORY FLEXIBILITY ANALYSIS**

**RATIONALIZATION OF THE PACIFIC COAST GROUND FISH LIMITED ENTRY TRAWL
FISHERY PRELIMINARY
DRAFT ENVIRONMENTAL IMPACT STATEMENT**

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D.1 Regulatory Flexibility Act

The purpose of the Regulatory Flexibility Act (RFA) is to relieve small businesses, small organizations, and small governmental entities of burdensome regulations and record-keeping requirements. 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 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 the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. An “Initial Regulatory Flexibility Analysis” (IRFA) is prepared unless it is determined that an action will not have a “significant economic impact on a substantial number of small entities.” A summary of the IRFA is published in the preamble to the proposed rule, and public comments are solicited. At the final rule stage a “Final Regulatory Flexibility Analysis” (FRFA) must be prepared, and must respond to the public comments received on the IRFA. In cases where the agency believes the proposed action will not have a “significant economic impact on a substantial number of small entities,” it may avoid the IRFA/FRFA requirements by making a “certification” of this finding. The certification is a fact-based determination that must be supported by facts in the record.

D.2 Regulatory Impact Review (EO 12866)

Executive Order 12866, Regulatory Planning and Review, was signed on September 30, 1993, and established guidelines for promulgating new regulations and reviewing existing regulations. The EO covers a variety of regulatory policy considerations and establishes procedural requirements for analysis of the benefits and costs of regulatory actions. It is intended to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. The EO promotes these goals by requiring Federal agencies to:

- Follow 12 principals of regulation set forth in the EO, to the extent allowed by law.
- Publish a notice of planned upcoming rulemaking every 6 months in a “regulatory agenda.”
- Submit to the Office of Management and Budget (OMB) a list of planned actions, and for those that are “significant” provide up to 90 days for OMB review.
- Make a determination for each rule that the benefits will justify the costs.

A Regulatory Impact Review (RIR) is used to assess the costs and benefits of a regulation as required by EO 12866 in support of the aforementioned agency determination. The RIR reviews the problems and policy objectives prompting the regulatory proposal. Based on this analysis, NMFS should choose those approaches that maximize net benefits to society, unless a statute requires another regulatory approach.

D.3 Completion of the IRFA and RIR

Preparation of the IRFA and RIR supports the rulemaking process needed to implement the elements of the trawl rationalization program identified in the Council’s preferred alternative. Information in this EIS be used to prepare both the IRFA and RIR, because these analyses mainly summarize information also found in the EIS. Rulemaking is initiated by the National Marine Fisheries Service once the Council has made its recommendation and transmitted it to the agency. This is scheduled to occur in

2009. The Council will have the opportunity to review draft regulatory language in order to ensure it is consistent with the intent of the Council's recommendation, although NMFS may make modifications necessary to comply with applicable law. Prior to rulemaking the draft EIS (DEIS) will be published for a minimum 45-day public comment period, as required by NEPA regulations at 40 CFR 1506.10. This appendix will contain the IRFA and RIR released with the DEIS.

D.4 A Few Central Findings

One of the main elements required for the regulatory impact review is a cost benefit analysis. Cost benefit analysis can be both quantitative and qualitative. The main quantitative results contained in the EIS, which will be summarized for the cost-benefit analysis, are the expected effects on fleet efficiency and the program administrative costs.

The potential benefits from a rationalized fleet have been estimated at roughly \$14 million to \$21 million per year (see Section 4.6.2.1). Administrative and enforcement costs (including both stated and federal costs and not including the costs of paying observers) have been estimated at \$5.2 million per year (Section 4.16.1.1).