

**Regulatory Impact Review/ Initial Regulatory Flexibility Analysis for  
Amendment XX to the Fishery Management Plan for Groundfish of the  
Gulf of Alaska**

**Data Collection for Vessels Using  
Trawl Gear in the Gulf of Alaska**

**Initial Review Draft**

**May 22, 2013**

## Executive Summary

This amendment package proposes management measures that would apply to vessels that use trawl gear to harvest groundfish in the Federal and parallel fisheries of the GOA. The measures under consideration include implementing economic data collection for catcher vessels that is similar to the Crab data collection program in the BSAI, adding check boxes to the logbook that identify when excluder devices are being used, making minor modifications to the Amendment 80 data collection program, and collecting data on electric and water usage by processing plants in Kodiak. The Council has tentatively signaled that it will select a preliminary preferred alternative at initial review, in June 2013. The Council may then take final action on this issue in October 2013, which could allow implementation of the proposed action in 2014.

### Council problem statement

*The Council is interested in developing a data collection program that can be established prior to the implementation of a trawl catch share program in the GOA. This fast-tracked data collection would provide the Council and analysts with relevant baseline information that can be used to assess the impacts of a catch share program on affected harvesters, processors, and communities in the GOA.*

*In developing a data collection program that can be implemented quickly, efficiently, and with minimal burden on participating stakeholders, the Council intends to prioritize the collection of information that is relevant, reliable, and for which existing data sources do not exist. Given the potential for implementation of catch shares in both the Central and Western GOA, the scope of the analysis should include participants in both management areas.*

### Alternatives

The Council adopted the following alternatives for analysis.

*Alternative 1. No action.*

*Alternative 2. Implement a fast-track program to collect economic baseline data for the WGOA and CGOA trawl harvesting and processing sectors.*

The no action alternative would maintain current data collection efforts in the GOA. Currently economic data are collected from participants in the GOA Rockfish program and Amendment 80 vessels. Most catcher vessels that participate in the GOA trawl fisheries are not subject to economic data collection. Maintaining the status quo would limit the amount of economic data that are available for vessels that operate in GOA trawl fisheries that are not currently included in an economic data collection program.

Alternative 2 would implement an economic data collection program to collect baseline data from harvesters and processors of groundfish that is harvested with trawl gear from the GOA. The purpose of collecting this information is to better understand the current structure of the GOA trawl fishing industry, so that if the Council proposes and the Secretary of Commerce implements management changes to these fisheries, the impacts of those changes can be better understood.

## **Probable impacts of the alternatives**

The no action alternative will not change costs borne by either industry or NMFS. However, certain baseline economic information on the GOA trawl fleet and the processors that take delivery of their catch will not be available to analysts and the Council.

Implementing Alternative 2 would slightly increase the reporting burden on one catcher processor (about 20 hours), 70 catcher vessels (about 18 hours for each submission), and 17 shorebased or floating processors (about 10 hours for each submission). Agency costs would increase, but those cost increases would be almost exclusively associated with the data collection from catcher vessels and processors. Those cost increases would provide the Council, NMFS, and other interested stakeholders data on the employment and specific variable costs. Those data will be of interest as the stakeholders review the impact of the trawl bycatch management program on employment and specific costs in the future.

If the Council moves forward with adding a checkbox to the catcher vessel logbook, it should consider requiring GOA catcher vessels to submit eLogbooks. Moving to eLogbooks would likely increase the reporting burden for some vessel owners and decrease the burden for others, depending on the structure of their computer system. This would make the data being submitted accessible to fishery managers, fishery analysts, policy makers. The Council could also consider requiring trawl catcher vessels that are less than 60 feet LOA to submit eLogbooks. Current catcher vessel logbooks are assumed to take 18 minutes per submission. The amount of time required depends on the days fished, if 50 days are assumed the reporting burden is 15 hours per year. That estimate changes in a linear fashion depending on whether the vessel is fished in the GOA trawl fishery more or less than the assumed 50 days.

## **Roadmap to the document**

The document begins by describing the purpose for this amendment (Section 1) and a description of the alternatives (Section 2). The Regulatory Impact Review is in Section 3. The RIR provides background information on the sectors subject to the EDR, describes the EDR elements, and costs to industry and NMFS. The EDR alternatives are not expected to change fleet behavior or have economic and socioeconomic impacts beyond the cost of supplying the data.

The document also contains an Initial Regulatory Flexibility Analysis (Section 4), which evaluates the impact of the action on small businesses. Sections 5 and 6 discuss the alternatives with respect to the requirements of the Magnuson-Stevens Act and other analytical considerations.

## Table of Contents

I

Executive Summary .....	ii
Table of Contents .....	iv
List of Tables .....	v
List of Figures .....	v
List of Acronyms and Abbreviations .....	vi
<b>1 INTRODUCTION .....</b>	<b>1</b>
1.1 Purpose and need .....	1
1.2 History of this action .....	1
<b>2 DESCRIPTION OF ALTERNATIVES .....</b>	<b>3</b>
2.1 Alternative 1 – No Action .....	3
2.2 Alternative 2 – Implement a Fast-Track Data Collection Program .....	3
2.3 Preliminary preferred alternative .....	3
2.4 Alternatives considered but not advanced .....	3
<b>3 REGULATORY IMPACT REVIEW .....</b>	<b>4</b>
3.1 What is a Regulatory Impact Review? .....	4
3.2 Statutory Authority .....	5
3.3 Purpose and Need for Action .....	5
3.4 Alternatives .....	5
3.5 Mandatory data collection program requirements .....	6
3.6 Data Confidentiality .....	8
3.7 Trawl Groundfish Fisheries .....	11
3.8 Data Collection Program .....	13
3.8.1 Data Lessons Learned .....	13
3.8.2 Data Elements .....	15
3.8.3 Data Submission Requirements .....	20
3.9 Program Costs .....	24
3.9.1 Public Reporting Burden .....	24
3.9.2 Agency Costs .....	25
<b>4 INITIAL REGULATORY FLEXIBILITY ANALYSIS .....</b>	<b>26</b>
4.1 Introduction .....	26
4.2 The purpose of an IRFA .....	26
4.3 What is required in an IRFA? .....	26
4.4 What is a small entity? .....	27
4.5 Why the action is being considered? .....	28
4.6 Number and description of small entities directly regulated by the proposed action .....	30
4.7 Recordkeeping and reporting requirements .....	31
4.8 Federal rules that may duplicate, overlap, or conflict with proposed action .....	31
4.9 Significant alternatives .....	31
<b>5 CONSISTENCY WITH APPLICABLE LAW AND POLICY .....</b>	<b>33</b>
5.1 National Standards .....	33
5.2 Section 303(a)(9) Fisheries Impact Statement .....	34
5.2.1 Fishery Participants .....	35
5.2.2 Fishing Communities .....	35
5.2.3 Participants in Fisheries in Adjacent Areas .....	35
<b>6 NEPA SUMMARY .....</b>	<b>36</b>
<b>7 PREPARERS AND CONTRIBUTORS .....</b>	<b>37</b>

**8 REFERENCES..... 38**

**9 APPENDICES ..... 39**

Appendix 1 Amendment 80 EDR

Appendix 2 Crab Catcher Vessel EDR

Appendix 3 Chinook Salmon EDRs

### List of Tables

Table 1 Number of vessels and groundfish LLPs held by GOA trawl area endorsement..... 11

Table 2 Number of vessels using trawl gear that harvested groundfish from the GOA ..... 12

Table 3 Shorebased and floating processors taking deliveries of Central and Western GOA groundfish, 2008-2012..... 13

Table 4 Number of entities directly regulated by this action, and the number classified as small entities. .... 30

### List of Figures

Figure 1 Regulatory and reporting areas in the GOA ..... 2

Figure 2 Catcher Vessel Trawl Gear Daily Fishing Logbook..... 19

## List of Acronyms and Abbreviations

### List of Acronyms

ABC	Acceptable Biological Catch
ADF&G	Alaska Department of Fish and Game
AFA	American Fisheries Act
AP	Advisory Panel
BSAI	Bering Sea and Aleutian Islands Management Area
CEY	Constant Exploitation Yield
CDQ	Community Development Quota
CH	Critical habitat
CP	Catcher processor
CV	Catcher vessel
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FMP	Fishery Management Plan
FOIA	Freedom of Information Act
FONSI	Finding of no significant impact
GCAK	NOAA General Counsel, Alaska Region
GHL	Guideline Harvest Level
GOA	Gulf of Alaska Management Area
IBQ	Individual Bycatch Quota
IFQ	Individual Fishing Quota
IPHC	International Pacific Halibut Commission
IRFA	Initial Regulatory Flexibility Act
LOA	Length overall
MSA	Magnuson-Stevens Fishery Conservation and Management Act
mt	metric ton
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NPFMC	North Pacific Fishery Management Council
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
PSC	Prohibited Species Catch
PSMFC	Pacific States Marine Fisheries Commission
RIR	Regulatory Impact Review
SAFE	Stock Assessment and Fishery Evaluation Report
SSC	Scientific and Statistical Committee
TAC	Total Allowable Catch
USFWS	U.S. Fish and Wildlife Service

# 1 Introduction

This document analyzes proposed measures that would apply to vessel owners and processors of groundfish harvested from the western and central Gulf of Alaska (GOA). The measures under consideration include requiring the reporting of economic data. These data focus on employment in the harvesting and processing sectors, limited cost data collection from trawl catcher vessels, and the processors usage of Kodiak community water and electric resources. The amendment also considers adding check boxes to logbooks that identifies whether excluder devices are used in trawl gear and whether the vessel moved to avoid halibut PSC<sup>1</sup>. For this information to be useful, modifications may be necessary to the logbooks and logbook reporting requirements.

This document is an Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA). An RIR/IRFA provides assessments of the economic benefits and costs of the action alternatives, as well as their distribution (the RIR), and the impacts of the action on directly regulated small entities (the IRFA). An EA was not prepared because the nature of the proposed action does not result in environmental impacts that trigger its development. This RIR/IRFA addresses the statutory requirements of the MSA, the National Environmental Policy Act (NEPA), Presidential Executive Order 12866, and Regulatory Flexibility Act (RFA). The RIR/IRFA provides the required analytical background for decision-making.

## 1.1 Purpose and need

The Council developed the following purpose and need statement for this action at their February 2013 meeting:

*The Council is interested in developing a data collection program that can be established prior to the implementation of a trawl catch share program in the GOA. This fast-tracked data collection would provide the Council and analysts with relevant baseline information that can be used to assess the impacts of a catch share program on affected harvesters, processors, and communities<sup>2</sup> in the GOA.*

*In developing a data collection program that can be implemented quickly, efficiently, and with minimal burden on participating stakeholders, the Council intends to prioritize the collection of information that is relevant, reliable, and for which existing data sources do not exist. Given the potential for implementation of catch shares in both the Central and Western GOA, the scope of the analysis should include participants in both management areas.*

## 1.2 History of this action

Since the implementation of the groundfish fishery management plans for Alaska, the Council has adopted measures intended to control the catch of species taken incidentally in groundfish fisheries. Certain species, including halibut and all Pacific salmon species, are designated as ‘prohibited’ in the groundfish fishery management plans, as they are the target of other domestic fisheries. To further reduce the use of these prohibited species, various bycatch control measures have been instituted in the Alaska groundfish fisheries (a history is provided in NMFS 2004, Appendix F.5), in the GOA halibut PSC reduction amendment for the GOA trawl and hook-and-line fisheries (NPFMC 2012), and the GOA Chinook salmon PSC limit for the GOA pollock fishery (NPFMC 2011). In the Gulf of Alaska (GOA) groundfish fisheries, PSC limits (which close the groundfish target fisheries after the limits are reached) have been set for halibut, and seasonal and permanent area closures have been established to protect red king crab and Tanner crab. To date, PSC control measures have been implemented specifically for Chinook salmon in the directed pollock fishery. The Council is also considering setting PSC limits for Chinook salmon taken in other GOA groundfish target fisheries. Final action on that management measure is scheduled for June 2013.

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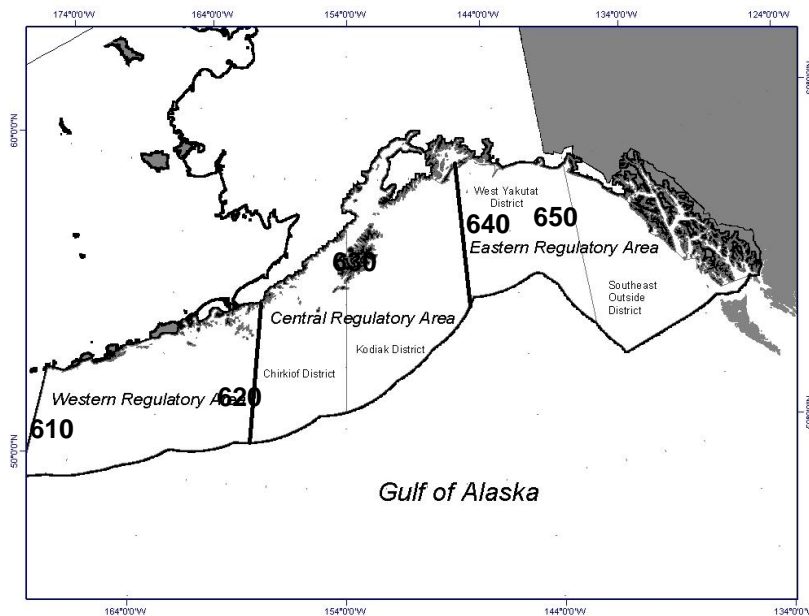
<sup>1</sup> A checkbox if the vessel moved to avoid salmon is already included in the logbook, but is not required to be filled out when operating in the GOA.

<sup>2</sup> Community data are specific to the location of crew participating in the GOA trawl fishery.

The Council is considering potential management measures to provide persons fishing GOA groundfish TACs, with trawl gear, additional tools to more effectively use available PSC. Implementation of some tools being considered (IFQs, IBQs, cooperatives, etc.) will result in fundamental changes to the fishery. These changes may have adverse, beneficial, or neutral impacts on specific business, communities, and employees dependent on the GOA trawl fisheries. To better understand the impacts the potential economic and employment impacts the proposed actions will have on specific classes of persons, additional data are needed to augment data that are currently available. With the information proposed to be collected the Council will have information that provides a better understanding of the crew members that participate in the GOA trawl fishery and their compensation. Information on costs will be focused and only provide data on fuel and gear purchases. Cost data at that level will not allow estimates of net benefits or total costs to be generated. However, since the information on fuel is a major component of variable costs and gear purchases may provide some insights into efforts to improve PSC management, the Council may find those data useful.

The annual economic data reports will be structured differently for catcher vessels, catcher processors, motherships, and shorebased processors. Survey structures are discussed in detail in Section 3.8.2. Catcher vessel surveys apply to vessels that used trawl gear to harvest groundfish in a federal or parallel fishery in the western GOA (area 610) and the central GOA (areas 620 and 630). Figure 1 is a map of those areas. Information associated with a vessel's GOA trawl activities will be collected. Catcher processor surveys will continue and extend the current Amendment 80 Economic Data Reports (EDR). Processor surveys will focus on monthly employment data for plants that take deliveries of groundfish harvested with trawl gear from the GOA at any time during the year. The Council is also considering collecting processing plants usage of community supplied water and electric resources.

**Figure 1 Regulatory and reporting areas in the GOA**





## **2 Description of Alternatives**

The Council adopted the following alternatives for analysis. Their intent was to develop a focused set of alternatives that could be implemented in a timely fashion. The Council felt it was important to narrow the alternatives so that a focused time series of baseline data could be collected prior to implementation of a trawl catch share program that is currently under consideration. To meet its objectives one alternative was forwarded for analysis in addition to the no action alternative.

*Alternative 1. No action.*

*Alternative 2. Implement a fast-track program to collect economic baseline data for the WGOA and CGOA trawl harvesting and processing sectors.*

### **2.1 Alternative 1 – No Action**

The no action alternative would maintain current data collection efforts in the GOA. Currently economic data are collected from catcher processor vessels in the Amendment 80 sector. Catcher vessels that participate in the GOA trawl fisheries are not subject to economic data collection. Processors of GOA groundfish do not submit data that provides information on total monthly and compensation to processing employees. Maintaining the status quo would limit the economic data that are available for vessels that operate in GOA trawl fisheries that are not currently included in an economic data collection program. It would also limit the data that are available to analysts on employment in the harvesting and processing sectors.

### **2.2 Alternative 2 – Implement a Fast-Track Data Collection Program**

Alternative 2 would implement an economic data collection program to obtain baseline data from harvesters and processors of groundfish that is harvested with trawl gear from the GOA. The purpose of collecting this information is to better understand the current structure of the GOA trawl fishing industry, so that if the Council approves and the Secretary of Commerce implements management changes to these fisheries, the impacts of those changes can be better understood.

### **2.3 Preliminary preferred alternative**

The Council anticipates selecting a preliminary preferred alternative at initial review.

### **2.4 Alternatives considered but not advanced**

The Council considered a discussion paper in February that described various data collection options. Based on their review of that paper it determined that only data elements that it considered relevant, reliable, and for which no currently available data sources provide the necessary information at this time. The Council noted that as they develop their trawl bycatch management program, they may amend or expand the economic data collection program to collect additional data of interest.

### 3 Regulatory impact review

This Regulatory Impact Review (RIR) examines the costs and benefits of a proposed regulatory amendment to implement economic data collection associated with trawl harvested groundfish in the Central (regulatory areas 620 and 630) and Western Gulf (regulatory area 610) of Alaska<sup>3</sup>. The preparation of an 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 E.O.:

*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.*

Under the Magnuson-Stevens Act, the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone (EEZ). The management of these marine resources is vested in the Secretary of Commerce and in the Regional Fishery Management Councils. The pollock fishery in the Gulf of Alaska EEZ is managed under the Gulf of Alaska (GOA) Fisheries Management Plan (FMP).

This RIR examines the costs and benefits of proposed alternative, relative to the no action alternative, which includes implementing a focused data collection program on all harvesters and processors of GOA groundfish harvested with trawl gear.

#### 3.1 What is a Regulatory Impact Review?

The preparation of an 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 E.O.:

*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 requires that the Office of Management and Budget (OMB) 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;

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<sup>3</sup> The proposed action is a change to previously analyzed and approved programs and the proposed change has no effect individually or cumulatively on the human environment (as defined in NAO 216-6). The only effects of the action are economic, as analyzed in this RIR/IRFA. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

- 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.

### **3.2 Statutory Authority**

Under the Magnuson-Stevens Act (16 USC 1801, et seq.), the United States has exclusive fishery management authority over all marine fishery resources found within the EEZ. The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the Council has the responsibility for preparing FMPs and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the federal mandates of the Department of Commerce with regard to marine and anadromous fish.

The Central and Western Gulf of Alaska groundfish trawl fisheries in the EEZ off Alaska are managed under the FMP for Groundfish of the Gulf of Alaska. Federal regulations can be extended in the State waters by the State of Alaska, using the parallel fisheries model. Actions taken to amend FMPs or implement other regulations governing these fisheries must meet the requirements of federal law and regulations.

### **3.3 Purpose and Need for Action**

The purpose of economic data collection for the Central and Western Gulf of Alaska trawl fisheries is to collect baseline information to better understand the economic impacts of trawl PSC management. Data that are proposed to be collected are similar to those being collected for other fisheries, or are maintained by harvesters and processors in a way that they could be provided. Requesting data that are of most interest to stakeholders, reliable, and can be provided with minimal burden meets the objectives of the Council's purpose and need statement. The Council's purpose and need statement states that:

*The Council is interested in developing a data collection program that can be established prior to the implementation of a trawl catch share program in the GOA. This fast-tracked data collection would provide the Council and analysts with relevant baseline information that can be used to assess the impacts of a catch share program on affected harvesters, processors, and communities in the GOA.*

*In developing a data collection program that can be implemented quickly, efficiently, and with minimal burden on participating stakeholders, the Council intends to prioritize the collection of information that is relevant, reliable, and for which existing data sources do not exist. Given the potential for implementation of catch shares in both the Central and Western GOA, the scope of the analysis should include participants in both management areas.*

### **3.4 Alternatives**

The Council adopted the following alternatives for analysis. Their intent was to develop a focused set of alternatives that could be implemented in a timely fashion. The Council felt it was important to narrow the alternatives so that a sufficient time series of baseline data could be collected prior to implementation of a GOA trawl catch share program that is currently under consideration. To meet their objectives one alternative was forwarded for analysis in addition to the no action alternative.

*Alternative 1. No action.*

*Alternative 2. Implement a fast-track program to collect economic baseline data for the WGOA and CGOA trawl harvesting and processing sectors.*

The proposed action would collect specific economic information from catcher vessels, catcher processors, and shorebased/floating processors that are currently not being reported to NMFS or other government agencies in a way that allows Federal fisheries analyst and policy makers to access the data. As proposed, the data collection program will focus on of harvesting crew employment. However, data will also be collected for specific variable costs that are readily available and, likely, comprise a substantial amount of each catcher vessel operation's variable costs. Data collection for catcher vessels will focus on identifying crew members, crew payments, gear purchases, fuel usage and cost, and observer program costs.

Data from all but one trawl catcher processor operating in the GOA is currently being collected under the Amendment 80 Economic Data Report (EDR). This action would extend the Amendment 80 EDR to that vessel. In doing so, economic information would be available from all trawl catcher processors operating in the GOA. It is also proposed that all trawl catcher processors be required to submit an addendum to their EDR that provides fishing crew permit numbers, so that consistent information is being collected from both catcher processors and catcher vessels.

Monthly employment data would be collected from all processors of GOA groundfish harvested with trawl gear, as well as utility usage from the Kodiak processors. Employment data on the number of employees, the hours worked, and their compensation is currently unavailable to policy makers. The State of Alaska collects information on the number of persons employed on the 12<sup>th</sup> of each month from all processors. That information does not provide sufficient detail to determine the impacts of a catch sharing plan on local and more transient work forces employed by processors. Finally, information on community owned water and electric system usage is proposed to be collected. Those data will provide information on peak utility usage. The Council could include having shorebased processing employee counts, hours and compensation broken out by whether they live on the local economy or stay in processor provided housing facilities.

Finally, the Council is proposing that the Secretary consider adding four check boxes to the GOA Groundfish logbook to collect behavioral information on actions taken by the trawl fleet to reduce PSC in the GOA. Those proposed check boxes would be:

1.  Check the box if you moved to avoid salmon
2.  Check the box if you moved to avoid halibut
3.  Check the box if you used a salmon excluder as part of your trawl gear
4.  Check the box if you used a halibut excluder as part of your trawl gear.

While these check boxes do not provide detailed information regarding the thought process used to determine whether to move fishing areas or how an excluder device was employed, it is intended to provide baseline information on actions taken to avoid PSC prior to implementing a trawl bycatch management program. For these data to be useful, they could be reported on eLogbooks that are available electronically. This type of information is not currently being collected.

### **3.5 Mandatory data collection program requirements**

Mandatory data collections require two elements for NMFS to implement: (1) regulations requiring submission of the data, and (2) approval from The Office of Management and Budget (OMB) for the information collection under the Paperwork Reduction Act (PRA). Proposed regulations are submitted to the Department of Commerce for review and ultimately published in the Federal Register. Requests for approval of information collections and the associated "PRA analyses" are submitted for approval through NOAA to OMB.

OMB requires that the PRA analysis include a description of the data requested, why the data are needed, what the data will be used for, and an estimate of the cost, in terms of time and money, of the data collection to the industry and the Federal government. OMB approval for a data collection is indicated by an OMB "control

number” and expiration date. When forms are involved in a collection, the OMB control number and expiration date must be displayed on the form.

Requests for OMB approval pertaining to information collections under the PRA may take one of five forms:

1. new collection-of-information (usually associated with a proposed/final rule);
2. renewal of an existing collection every three years (with or without revisions to the requirements through a proposed/final rule),
3. revision of an existing collection (usually associated with a proposed/final rule),
4. change request of an existing collection, or
5. removal of an existing collection.

The first three formats are formal and require submittal of a PRA analyses and public comment on the proposed information collection. This action to collect information that was not previously collected would fall under the first format.

NMFS Alaska Region submits a PRA analysis through NOAA and DOC for OMB review and approval when the draft proposed rule is submitted to NMFS Headquarters for review. NMFS may not require the submission of data until OMB approval is obtained. Public comments are sought by OMB for each information collection. When the information collection is associated with a proposed/final rule, comments are solicited through the proposed rule published in the Federal Register. When the information collection is not associated with a proposed rule, a notice is published in the Federal Register soliciting comments on the proposed information collection. Public comments are not solicited on change requests for revisions NMFS determines are minor or non-substantive and are not associated with a proposed rule.

Generally, revisions to NMFS regulations governing the fisheries off Alaska are approved by the Council (NPFMC, 2012b). Council review occurs either because a regulatory amendment was developed and approved by the Council or because NMFS requested review of the proposed regulatory amendment by the Council. In recent years, and by agreement of the Council, most revisions to recordkeeping and reporting (R&R) regulations have been done by NMFS without review and approval by the Council. NMFS reports to the Council about the status of the proposed R&R regulatory amendment in its management report, but the Council does not agenda these proposed regulatory amendments for review, public comment, or Council action. This procedure is followed primarily to save the Council the time of reviewing routine or noncontroversial revisions to regulations. Generally, PRA analyses associated with requests for OMB approval of information collections are not reviewed and approved by the Council. However, the Council used a different procedure in the collection of economic data in the Bering Sea pollock fishery<sup>4</sup>. In that case, the Council suggested that NMFS develop more general regulations for the data collection program allowing a more flexible, adaptable program because future revisions to the elements of the data collection that are not specified in regulation could be implemented through OMB approval only, which could be less time consuming than a rulemaking process. This process is intended to allow regulatory flexibility to adapt the forms to ensure they are effective, but retain Council oversight of those modifications.

This process will provide the Council with an opportunity to review and approve changes that might appear to be insignificant, but, in fact, make substantial changes in the nature of the information collected and the burden of that reporting. For example, a direction to collect annual fuel costs could be interpreted in a few different ways. Under one interpretation, a vessel owner could be required to report all fuel purchases in a year, by simply consolidating fuel invoices from the year. Alternatively, an owner could be required to report the cost of all fuel used in a year, requiring the vessel owner to monitor fuel consumption, particularly at the start and end of the year and pro rate costs of its initial and final tank of fuel during the year. Modification of the reporting requirement

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<sup>4</sup> A major difference in the Council’s process for the Amendment 91 EDR was relative to the previous crab and Amendment 80 EDR programs. For the latter, the Council formally recommended detailed specifications for design and implementation of EDR’s, which were then set forth in regulation, whereas the Amendment 91 regulations were structured to be general to enable modification of the EDR forms without regulatory amendment.

between these two interpretations would change both the burden associated with reporting and the nature and uses of the data reported. Substantial changes to the data collection between these interpretations could be costly to industry and, if undertaken in a piecemeal fashion over time, could confuse both those submitting data reports and data users.

Council review of the PRA analysis (including its accompanying forms) and any subsequent changes to those forms could ensure that the Council is the arbiter of disputes over the scope of data collection that might otherwise be decided through a public comment process employed by NOAA Fisheries and the Office of Management and Budget. Council involvement in these determinations may not only ensure that the Council's intent is followed, but might also provide a forum that achieves greater stakeholder acceptance. To date, the process of modifying data collection has been contentious, with industry and NOAA Fisheries both expressing concern that the other has overreacted to issues and proposed changes to forms.

### **3.6 Data Confidentiality**

NOAA is authorized under the Magnuson-Stevens Act and other statutes to collect proprietary or confidential commercial or financial information. NOAA responsibility for maintaining the confidentiality of these data is defined at § 600.4. This applies to all pertinent data required to be submitted to the Secretary with respect to any FMP including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing occurred, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, U.S. fish processors.

Access to statistic for federal and state employees is regulated at § 600.415. For federal employees, statistics submitted as a requirement of an FMP and that reveal the identity of the submitter will only be accessible by:

- Personnel within NMFS responsible for the collection, processing, and storage of the statistics.
- Federal employees who are responsible for FMP development, monitoring, and enforcement.
- Personnel within NMFS performing research that requires confidential statistics.
- Other NOAA personnel on a demonstrable need-to-know basis.
- NOAA/NMFS contractors or grantees who require access to confidential statistics to perform functions authorized by a Federal contract or grant.

Confidential statistics will only be accessible by state employees upon written request when a written agreement between the Assistant Administrator and the head of the state's agency that manages marine and/or anadromous fisheries exists. State employees must also demonstrate a need for confidential statistics for use in fishery conservation and management.

The council Executive Director, upon written request, may be granted access to confidential data will be used by council employees who are responsible for FMP development and monitoring. The Council may be granted access to confidential data for use for conservation and management purposes. Approval by the Assistant Administrator is required, and a must consider the possibility that Council members might gain personal or competitive advantage from access to the data. Also, the possibility that the suppliers of the data would be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings, must be considered.

Contractors of the Council may access confidential data for use in analysis or studies necessary for conservation and management purposes, with approval of the Assistant Administrator and execution of an agreement with NMFS as described by NOAA Administrative Order (NAO) 216-100.

Finally, persons having access to these data are prohibited from unauthorized use or disclosure and are subject to the provisions of 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NAO 216-100. Under 18 U.S.C. 1905, persons that release data related to trade secrets shall be fined, imprisoned not more than one year, or both; and shall be removed from office or employment. The penalties and control over confidential data has resulted in confidential data being well protected.

To provide further clarity on confidential data requirements, NMFS is in the proposed rule stage of amending requirements that must be met before confidential data may be released. At the time this paper was being drafted, NMFS was seeking specific public comment on the proposed definitional changes and other potential options to aggregation and summarization of information subject to the confidentiality requirements. The proposed rule (FR, Vol 77, No 100, Wednesday, May 23, 2012) states that:

*“when responding to FOIA requests for MSA confidential information, NMFS takes into consideration FOIA Exemption Three, 5 U.S.C. 552(b)(3), and other relevant FOIA exemptions. FOIA Exemption Three applies to information that is exempted from disclosure by another statute. NMFS interprets MSA section 402(b) to exempt from disclosure information that would directly or indirectly disclose the identity or business of any person. This rule would require NMFS to consider both factors—not just identity—when applying the aggregate or summary form provisions of the regulations. While this could result in more information being withheld, NMFS believes that detailed and useful information will continue to be disclosed under the aggregate or summary form provisions. NMFS intends to develop, and make available for public comment, aggregation guidelines based on the definition for aggregate or summary form and other elements of the final MSA confidentiality rule. NMFS’ preferred option is to adopt an approach that requires protection of submitters’ business information. Accordingly, the agency is disinclined to continue to allow for the disclosure of aggregated or summarized information that protects only submitters’ identifying information.”*

The proposed rules’ release of confidential data would be implemented at § 600.425 (Release of confidential information) and the proposed modified language would state that:

- (a) NMFS will not disclose to the public any confidential information except when:
  - (1) Authorized by an FMP or regulations under the authority of the North Pacific Council to allow disclosure of observer information to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification.
  - (2) Observer information is necessary in proceedings to adjudicate observer certifications.
- (b) Information is required to be submitted to the Secretary for any determination under a limited access program. This exception applies to confidential information that NMFS has used, or intends to use, for a regulatory determination under a limited access program. For the purposes of this exception:
  - (1) Limited Access Program means a program that allocates privileges, such as a portion of the total allowable catch, an amount of fishing effort, or a specific fishing area, to a person.
  - (2) Determination means a grant, denial, or revocation of privileges; approval or denial of a transfer of privileges; or other similar regulatory determinations by NMFS applicable to a person.
- (c) Required to comply with a federal court order. For purposes of this exception:
  - (1) Court means an institution of the judicial branch of the U.S. Federal government consisting of one or more judges who seek to adjudicate disputes and administer justice. Entities not in the judicial branch of the Federal government are not courts for purposes of this section.
  - (2) Court order means any legal process which satisfies all of the following conditions:
    - (i) It is issued under the authority of a Federal court;
    - (ii) A judge or magistrate judge of that court signs it; and
    - (iii) It commands NMFS to disclose confidential information as defined under § 600.10.
- (d) Necessary for enforcement of the Magnuson-Stevens Act, or any other statute administered by NOAA; or when necessary for enforcement of any State living marine resource laws, if that State has a Joint Enforcement Agreement that is in effect.

If this proposed rule is implemented, it would prevent the release of confidential data collected under this program through a Freedom of Information Act request. Data could still be released through an order from a federal court but would only apply to specific observations relevant to the court proceedings.

In the Crab EDR program, data are maintained by a third party data manager<sup>5</sup>, who provides those data to analysts in a blind format that does not allow analysts to directly identify the source of any observations. Blind format protection is unique to the crab data collection program and is intended to safeguard information that is perceived to be highly proprietary. While the use of the blind formatting may be intended to protect confidentiality, it does not likely provide additional protection beyond the general protection provided for all other mandatorily collected confidential data. Analysts (including contractors) are bound by rules governing confidentiality to protect data of submitters. These rules require aggregation of data across multiple respondents for their release in analyses. Analyst releases of confidential data are subject to punishment under federal law.

The blind formatting required for crab EDR data increases the burden for analysts, who cannot integrate individual records from this collection with data and information from other sources, or investigate data anomalies for the purpose of data validation and error detection. Instead, the third party data manager must integrate data sets for analysts and respond to analyst questions concerning data merges or apparent anomalies. This structure may contribute to less accurate analyses, in cases where an analyst would be able to detect errors if identifiers were available, either based on direct knowledge of a participant's fishing activity or consultation with agency personnel familiar with fishery operations and data collections that may support external validation. This has occurred in several cases with AFSC economists and the Amendment 80 EDR, which does not have blind formatting. The submission of data in a blind format may also contribute to data management costs, as additional costs are incurred to maintain the blind formatting. Costs include increased PSMFC time to merge blind format data. NMFS economists also noted that the increased time required for validation of data and preparation of analyses that is incurred by preventing NMFS from exercising direct oversight of EDR data collection and data management, was the greater of the two costs.

Removal of blind formatting would not reduce the extent of protections below that typically applicable to proprietary data. So, the protections applied to these data would be comparable to the protections applicable to other proprietary data. Some participants, however, may perceive a greater potential harm arising from disclosure of these data. In the absence of blind formatting, the likelihood of release of information remains low. The potential for release is likely greatest when data are used by contractors (particularly those who also work for private industry interests) who may be more likely to inadvertently disclose data (or use information derived from confidential data to serve interests of private clients). These disclosures (or uses) may be more likely as data are distributed outside the agency to contractors, if data are not blind formatted. In addition, if data are released, the removal of blind formatting may increase the resulting harm. If blind formatted, the data will not reveal the specific source. In a few cases, a participant may be able to identify data of another participant, based on their knowledge of that person's operations. With release of identifiers, the sources of data could be easily identified.

While the threat of federal penalties creates a substantial disincentive against disclosure of data, the removal of blind formatting may increase the vulnerability of data to disclosure. Some agency analysts and contractors use the same computers for both agency and non-agency (including personal) purposes. In addition, emails are sent frequently to a variety of people, many of whom have no authority to access confidential data. Although not highly likely, it is possible that persons without authority to obtain confidential data could inadvertently be provided access to data through these activities. The likelihood of release may be higher for Council and NMFS contractors, many of whom also work for private sector interests, as well as the Council or NMFS. These persons may be more likely to inadvertently release data (or information generated from those data) when communicating with persons (including clients) without access to confidential information, as a result of the potentially conflicting interests that arise from their private research and advocacy.

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<sup>5</sup> This role is filled by the Pacific States Marine Fisheries Commission staff.



### 3.7 Trawl Groundfish Fisheries

This section will provide an overview of the participants in the GOA groundfish fisheries that use trawl gear or take deliveries from vessels that use trawl gear. The focus is on the number of vessels and processors that could be subject to the proposed data collection program. Harvesting vessels will be considered in terms of the maximum number that could operate in the fisheries and those that have been active in the recent past. Vessels that could harvest groundfish in western and central GOA trawl fisheries are represented by the number of GOA groundfish LLPs that have been issued with a western or central GOA trawl endorsement<sup>6</sup>. Recent activity is determined by reported groundfish landings with trawl gear, using the eLandings reporting system. The number of processors is determined by counting the processors reported to have received landings of GOA groundfish from a vessel that harvested the fish with trawl gear (or tenders delivering fish harvested by trawl gear). Because processors are not subject to a limited entry program that defines the maximum number that may take deliveries of groundfish, it is not possible to define the maximum number of processors that could be subject to the data collection program. However, because of the capital investment required to enter the groundfish fish processing industry at the level to take deliveries from trawl vessels, it is assumed that past participation is a close proxy for future participation.

Information on the economic activity at the fleet and community level is presented in the 2012 Economic SAFE and not repeated in this document. That information is only included by reference because implementing an economic reporting requirement is not expected to change the amount of fish harvested with trawl gear or its value.

#### 3.7.1.1 Harvest Vessels

As of January 1, 2000 a Federal LLP license is required for vessels participating in directed fishing for LLP groundfish species in the GOA (and BSAI). A vessel must be named on an original LLP license that is onboard the vessel used to fish in the GOA unless the vessel does not exceed 26 feet in Length Overall (LOA). The LLP license requirement is in addition to all other permits or licenses required by federal regulations. The LLP is a Federal program and LLP licenses are not required for participation in fisheries that occur in the waters of the State of Alaska. Trawl licenses only need to have the appropriate area, gear, and operation type endorsements to harvest Pacific cod from the Central and Western GOA in Federal or Parallel fisheries. Fixed gear license currently also require a Pacific cod endorsement to participate in the directed Pacific cod fishery.

Table 1 reports the number of groundfish LLPs that have been issued with a Central or Western GOA trawl endorsement. The table also reports the number of vessels those LLPs are currently assigned based on the NMFS LLP data. Based on that information there are currently 106 vessels with a GOA LLP with a trawl endorsement. Twenty-two of the vessels are classified as catcher processors and 84 vessels classified as catcher vessels. It should be noted that three of the catcher processor vessels, held a catcher vessel license in addition to a catcher processor license.

**Table 1 Number of vessels and groundfish LLPs held by GOA trawl area endorsement**

	Vessels	Trawl Gear Area Endorsements			
		Central	Western	Both	Total
Catcher Vessels	84	33	12	45	90
Catcher Processors	22	5	5	12	22
<b>Total</b>	<b>106</b>	<b>38</b>	<b>17</b>	<b>57</b>	<b>112</b>

Six catcher vessel licenses and three catcher processor licenses were also attached to these vessels that did not have either a western or central GOA trawl endorsement.

Three vessels held both catcher vessel and catcher processor licenses.

<sup>6</sup> This is assumed to be the maximum number of vessels that could be included under the data collection program, because all trawl vessels are currently greater than 26 feet LOA.

Ninety-licenses with a Central and/or Western GOA trawl endorsement were associated with the 84 catcher vessels. Half (45) of the LLPs had both Central and Western GOA trawl endorsements. These 84 catcher vessels would be subject to the proposed economic data collection program, during years they make landings of Central or Western GOA groundfish using trawl gear.

The 22 catcher processor vessels, assigned a GOA LLP with a trawl endorsement for the Central and/or Western GOA, each held one catcher processor license. Three of these vessels also held a catcher vessel license with a trawl endorsement for at least one of those areas. Persons are allowed to stack multiple licenses on a vessel. This practice is done for a variety of reasons. The majority of the reasons are associated with adding specific endorsement to the vessel so that it may participate in more areas, use more gear types, or operate as a catcher processor.

Table 2 shows the number of catcher vessels and catcher processors that harvested groundfish from the Central and/or Western GOA using trawl gear, by length category. Data are reported for the years 2008 through 2012, to provide the reader a sense of the annual variation in numbers of vessels. In the catcher processor sector, the number of vessels ranged from a low of 14 in 2008 to a high of 18 in 2009. In each of the three most recent years, 17 vessels have been active. Assuming this trend continues into the future, business will need to complete the economic data report for about 17 vessels. All of the trawl catcher processors that operate in the GOA are greater than 60 feet (LOA).

**Table 2 Number of vessels using trawl gear that harvested groundfish from the GOA**

Sector	Vessel Length	Year				
		2008	2009	2010	2011	2012
CP	≥60	14	18	17	17	17
CV	<60	27	27	24	23	23
CV	≥60	46	44	43	45	47
CV Total		73	71	67	68	70
Total Vessels		87	89	84	85	87

Source: AKFIN summary of eLandings

From 67 to 73 catcher vessels used trawl gear to harvest GOA groundfish during the years 2008 through 2012. During 2012, about 33 percent of these vessels were less than 60 feet (LOA). That percentage has declined slightly from the earlier years considered when about 38 percent were less than 60 feet (LOA). Based on this information, it assumed that about 70 catcher vessels will be subject to the data collection program and about one-third of those vessels will be less than 60 feet (LOA).

### 3.7.1.2 Processors

Shorebased processors that are located in communities adjacent to the waters of the GOA and BSAI take deliveries of groundfish harvested in the Central and Western GOA trawl fisheries. These processors are located in Akutan, Dutch Harbor/Unalaska, King Cove, Kodiak, Sand Point, Seward, and Sitka. There were also two floating processor, operated by Icicle Seafoods and Trident, taking groundfish deliveries in recent years.

Table 3 shows that most of the shorebased processors were located on Kodiak Island. These are the primary shorebased processors of fish harvested from the Central GOA and West Yakutat District trawl fishery. Kodiak processors only reported taking deliveries of Western Gulf groundfish in 2010 (over the 2008 through 2011 time period) and that year the Western GOA deliveries accounted for less than 0.2 percent of their total wholesale value. Processors located in ports west of Kodiak tend to rely primarily on harvests from the Western GOA and the Bering Sea/Aleutian Islands areas.

**Table 3 Shorebased and floating processors taking deliveries of Central and Western GOA groundfish, 2008-2012.**

City	2008	2009	2010	2011	2012
Akutan	1	1	1	1	1
Dutch Harbor/Unalaska	1	1	1	2	1
King Cove	1	1	1	1	1
Kodiak*	10	10	10	10	8
Sand Point	1	1	1	1	1
Seward			1	2	2
Sitka					1
Floating	1	1	1	2	2
Total	15	15	16	19	17

Source: AKFIN summary of eLandings data

Note: Floating processor counts excludes deliveries to catcher processors.

Counts includes Kodiak Fish Meal.

Kodiak has one processor that produces fish meal using by-products from other processors. Because that is a processor of groundfish harvested from the GOA with trawl gear, it is proposed that Kodiak Fish Meal Company be considered a processor that is included under this program. Changes in landings, the timing of those landings, or the product utilization rates could affect that processor and its labor force.

Any deliveries to Amendment 80 catcher processors would be captured under the Amendment 80 EDR and the eLandings or seaLandings data. Therefore, those processors are excluded from the counts provided above. If they had been included in the above counts, it would have increased the number of floating processors by four in 2011 and 2012.

Based on the information presented in this section regarding recent processing activity, it appears that between 15 and 19 plants would be subject to the proposed processor annual reporting requirements.

### 3.8 Data Collection Program

This section of the document defines the scope and structure of the proposed data collection program. Each sector that is subject to the proposed data collection program will be discussed in terms of the data elements that will be collected and the specific requirements of the program.

#### 3.8.1 Data Lessons Learned

The Council has developed three economic data reporting programs as part of catch share programs in recent years. The Amendment 80 EDR program is discussed in this analysis and is proposed to be utilized to continue collecting economic data for that fleet. As a part of its Bering Sea and Aleutian Island crab rationalization (CR) program, the Council developed a comprehensive EDR program to provide information to analysts to assess the effects of the CR program and identify problems that may require future amendments to the EDR program. Finally as part of Amendment 91, the Council and NMFS developed surveys to for hired masters and fuel usage. The hired master survey was specific to measures to reduce Chinook salmon PSC.

The Amendment 80 EDR program has been in place since 2008. Each year except 2008, a person who held an Amendment 80 quota share permit during a calendar year must submit to NMFS an EDR for that calendar year. This EDR collects detailed economic information from all participants in the Amendment 80 sector. NMFS AFSC is planning to review that EDR to determine if modifications should be made to the data collection instrument to eliminate the collection of redundant data (if it is determined to be necessary), ensure that the data being collected is accurate, the data being collected are useful, and the cost to industry is reasonable. Since that review has yet to be completed, there is limited information available on how the program may change. However, information reported in Table 2.5 of the Amendment 80 EDR (days fishing and days processing, by A80/all other fisheries; days travelling or offloading and days inactive, annual) are duplicative of data reported in vessel

logbooks and could be dropped from the EDR without loss of information. All other data elements in the EDR are exclusive to the EDR.

The most recent review of an EDR program occurred for the crab EDR. Council review of that EDR program identified questions that were determined to be inaccurate. In addition, some data elements were redundant with other existing data collection requirements. A primary mechanism to determine which data meet the Council's objectives for the program was the development of the EDR metadata. The metadata file can be found on the NMFS AKR website<sup>7</sup>.

The EDR metadata provided a system to methodically define, rate, and interpret each data element in the survey. The program review identified a number of data quality issues that data users must recognize and address if using the affected data elements. It also caused the Council to question whether those data were worth the collection costs. The cost to industry, both directly through data submission, and indirectly through cost recovery funding of program administration, in some cases were determined by the Council to outweigh the benefits of the resultant data and were determined to have exceeded estimates provided in the initial analysis of the EDR program and in the accompanying regulatory analyses.

To address problems they identified, the Council amended the EDR process so that the data collected meets its defined objectives. That is, that the data are accurate, informative to the Council, not redundant with existing reporting requirements, and can be reported by industry and administered at a reasonable cost.

Based on these lessons, the Council has developed alternatives for this program that would collect limited baseline information that focuses on key issues to the Council. Those data are maintained by industry at the level that does not require them to disaggregate data using assumptions and methods that can vary by firm. Another key element of the proposed data collection program is the data are currently unavailable to the Council and analysts, primarily employment data in the harvesting and processing sectors. Finally, the data can be provided by industry at a cost that the Council considers reasonable.

The Council will have time to review the baseline information being collected as they develop the broader trawl bycatch management program. During that time, the Council may request that this data collection program is reviewed using an approach similar to the CR metadata review. Then when the Council considers modifying this data reporting program, to collect specific information associated with the trawl bycatch management program, data elements specific to that program could be added to the baseline data collection. If industry is asked to provide data that require assumptions for aggregation or disaggregation those rules should thoroughly be reviewed prior to implementing the program. Also, given the experience the agencies and the Council has gained with data collection programs, realistic agency cost estimates should be developed as part of the revised program. If the trawl bycatch management program is considered to be a LAPP the cost recover requirements will pass those costs to industry. Therefore, it is important that they understand how much the program will cost. Industry should also be kept informed regarding likely uses of the data by the Council and NMFS.

The Council may also consider providing direction on the types of questions that the data being collected are expected to answer. For example, it is expected that the data will indicate how the number of harvest crew in the GOA trawl fishery and their compensation changes over time. The data collected will also allow the Council to determine how shorebased processing employment changes. This information has been identified as important, especially in Kodiak where the workforce includes a greater percentage of local workers and fisheries late in the year are important to maintaining the local workforce. Fuel consumption may be an indicator of how far vessels need to travel and how long they must fish before and after a catch share program is implemented. Fuel usage could be collected using the Amendment 91 survey as a template. The Council could also consider the hired master survey as a template if the logbook checkbox system is unworkable. Utility usage in Kodiak may provide insights into how community utility providers react to demand for services before and after the trawl catch share program is implemented.

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<sup>7</sup> [http://alaskafisheries.noaa.gov/sustainablefisheries/crab/rat/edr/metadata\\_013009.xls](http://alaskafisheries.noaa.gov/sustainablefisheries/crab/rat/edr/metadata_013009.xls)

## **3.8.2 Data Elements**

This section of the analysis focuses on specific data elements that will be included in the GOA Trawl EDR. These elements differ for catcher vessels, catcher processors, and the shorebased and floating processors. Data elements are based on each sectors current data reporting requirements, activities within the fishery, and the data collection objectives identified by the Council. Its stated objectives were to establish a data collection program that can be implemented quickly and would provide the Council and baseline information that can be used to compare GOA trawl fisheries before and after a catch share program is implemented. The most detailed information will be collected on crew employment and compensation and processing worker hours and compensation in the GOA. The limited cost data will not allow net benefit calculations to be generated, but will provide information on specific costs change in the fishery. The structure of the data collection program follows the Council's direction that the information collected should be relevant, reliable, and for which existing data sources do not exist.

### **3.8.2.1 Catcher Processors**

The GOA trawl catcher processors are primarily entities that are currently required to submit the Amendment 80 EDR (Appendix A). Because of the Amendment 80 EDR provides the information necessary to meet the Council's objectives, it is proposed that the Amendment 80 EDR program continue in its current format. Only the days fishing and days processing data are stratified by Amendment 80 fisheries and all other fisheries in the Amendment 80 EDR. However, based on production reports and observer data it should be possible to separate that activity without revising the Amendment 80 EDR.

Additional work on the Amendment 80 EDR is currently scheduled by the Alaska Fisheries Science Center Staff. Their intention is to complete the metadata documentation and presenting finding for the first five years of the data collection. Results of these projects will be made available to the public. Science Center staff will also solicit input from the Amendment 80 participants regarding the metadata findings. A comprehensive review of the Amendment 80 data collection program, encompassing potential revisions to the EDR forms, would only be undertaken if the Council requests a review and provides guidance on changes in its original purpose and need

One trawl catcher processor is currently not required to submit the Amendment 80 EDR. The Council has the option under this amendment to extend the current Amendment 80 EDR to that vessel. The language for this amendment would need to specifically include that person and identify the Amendment 80 EDR as the appropriate data collection instrument. Specific questions in the Amendment 80 EDR that apply to Amendment 80 quota transfers and value would not apply to this vessel and could be answered as not applicable. The FFP holder for this vessel would also be required to complete the vessel identification section of the EDR (Table 1). Sections of Table 1 that refer to the Amendment 80 vessel would be more generic and would apply to the trawl catcher processor. The Council must also identify that for this vessel the FFP holder is the person that is required to submit the data by the time frame defined in the Amendment 80 EDR. Imposing that requirement on that vessel may result in the owners incurring additional costs to meet the requirements.

It is also important to note that under the current Amendment 80 EDR, failure to submit required data can result in a limitation on the issuance of Amendment 80 CQ (see §679.94). This would not be the case for the one catcher processor that is not part of the cooperatives and is not allocated quota. The mechanism to ensure compliance with the submission requirement for that vessels must be linked to a federal fishing permit or groundfish license.

### **3.8.2.2 Catcher Vessels**

Collection of catcher vessel data will require the development of a new reporting instrument. Elements of that data report will be loosely patterned after the revised crab catcher vessel EDR (Appendix 2). The catcher vessel data collection instrument will focus on vessel identifiers, employment data, variable cost data (associated with fuel usage, gear purchases, observer costs), and modifications to fishing behavior to avoid PSC.

*Certification Page:* A certification page that is similar to the Annual Catcher Vessel EDR for crab would be used to identify the business, vessel, and permits associated with the information reported. The FFP holder would be required to provide all the information requested. That information would include:

- Vessel Name
- ADF&G Vessel Registration Number
- GOA Groundfish License Limitation Permit Number(s)
- USCG Documentation Number
- Vessel Owner Information
  - Name of company, partnership, or sole proprietorship
  - Business Telephone Number
  - Business FAX Number
  - Business E-mail address, if available
- Vessel Leaseholder Information (if applicable)
  - Name of company, partnership, or sole proprietorship
  - Business Telephone Number
  - Business FAX Number
  - Business E-mail address, if available
- Person Completing this Report
  - Owner (If your name and address are the same name and address provided in the Owner Information block above, the information does not need to be repeated here)
  - Leaseholder (If your name and address are the same name and address provided in the Leaseholder Information block above, the information does not need to be repeated here)
  - Designated Representative (complete information below)
  - Name
  - Title
  - Business Number Telephone
  - Business FAX Number
  - Business E-mail address (if available)

*Labor Information:* Neither CFEC nor NMFS<sup>8</sup> collect data on where crew members fish. The only crew member data available, outside the crab EDR program, are counts of people who bought crew licenses, where they live and where they bought their licenses. It is not possible to determine which of these licensed crew members fished in the GOA groundfish fishery on trawl vessels. Collecting this information by vessel will allow crew information to be linked to harvest and delivery of fish.

Crew data collection would include payments to captains, payments to crew, and number of crew members that are engaged in commercial fishing. The crew identifiers could be linked to the commercial crew data base to get more detailed information on crew members.

In the Crab EDR program the Alaska Commercial Crew license number or a State of Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number for each individual who worked as a captain or harvest crewmember during the calendar year is required to be reported. For Commercial Crew Licenses, they must report the full 7-digit license number. For Gear Operator Permits, the fishery code and permit number (e.g. M71B25321N) should be reported. The form should also indicate if the number reported is an ADF&G Commercial Crew License number or a CFEC Gear Operator Permit Number, and only record one license or permit number per crewmember. Crewmembers should not be counted more than once. Burden on vessel operators would be minimized, as was done for the crab EDR program, by supplying access to a crew license/permit lookup file.

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<sup>8</sup> Other than the crab EDR data collection program.

The State of Alaska has determined that a person engaged in commercial fishing is considered a commercial fisherman and must hold a commercial fishing license. Persons who need to obtain a crew member license include persons handling fishing gear, the cook, the engineer and any crewmembers who assist at all in maintenance, navigation, docking and operation of the vessel (including taking aboard fish from tenders or catcher vessels). Other crewmembers on a processor or catcher processor do not need a crew license if they work only on the processing line.

Annual GOA groundfish harvesting labor and labor costs would be collected for crew who harvest GOA groundfish on trawl vessels. The number of paid harvest crew members (excluding the captain) would be recorded<sup>9</sup>, along with the total payment made to these crew members (exclude the captain) for their GOA groundfish harvesting labor. The amount listed should be actually paid to crew in their settlement, not their earnings before crew-related expenses (such as fuel, food, and provisions) were deducted. All post-season adjustments should also be included in the crew labor field.

Payments for the captain's services would be reported separately from crew payments. Labor payment for the captain(s) is the amount actually paid to the captain, not the earnings before shared expenses (such as fuel, food, and provisions) were deducted. All post-season adjustments should be included in the captain's payments. As with the crew, the Council may require that the captain's commercial fishing license number is reported. Additional information could be collected from Lay Share contracts to determine if the reported percentage or deductions changed over time. However, comparing total vessel revenue to crew payments should provide an estimate of crew shares relative to total vessel revenue from fish harvested.

If the goal of the Council is to estimate average compensation per day, collection of average number of days spent readying the vessels would be important. That information is currently not proposed to be collected, and it may not change as a result of implementing a catch share program.

*Fuel Usage and Cost:* Annual fuel use (both gallons and costs) would be collected from catcher vessels. These costs would not be apportioned among fisheries, because it would require too many assumptions by the person completing the survey. Imposing that level of detail where it cannot be easily provided would contradict the Council's goals and objectives for this action. However, the fuel usage should be maintained and readily available by vessel for all GOA trawl fisheries in aggregate. A survey similar to the BSAI Amendment 91 fuel use survey would be implemented.

*Gear Investments:* Trawl gear investment data will be collected. Reported costs will include aggregate trawl gear purchases and leases in a calendar year (e.g., nets, doors, rollers, cables). These costs should also include those incurred for PSC excluder devices that are obtained with the intent that they will be used with trawl gear in the GOA. If this information is included in the proposed data collection program it should distinguish between capitalized purchases and costs that are fully expensed during the year (consistent with the structure used in the A80 EDR).

*Observer Costs:* Observer costs can account for a substantial portion of variable cost for trawl vessels, and that information is relatively easy for vessel owners to provide. Observer costs, beginning in 2013, are either based on a percentage of ex-vessel value or the number of observer days used (pay-as-you-go). A vessel may be subject to either or both fee structures during a fishing year, depending on the fisheries they participate in that year. Information for each vessel's observer costs, based on the ex-vessel fee percentage, can be obtained from NMFS data. However, actual costs for pay-as-you-go observer coverage are not readily available. To get a complete estimate of observer costs, the pay-as-you-go component of observer costs should be collected. The survey instrument will indicate that these are the annual observer costs in addition to those paid under the ex-vessel fee percentage. Catcher vessels that are active in the Rockfish Program should indicate pay-as-you-go observer costs when fishing under the authority of a Rockfish CQ permit.

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<sup>9</sup> The individual crew license numbers would also be recorded, if the Council includes that option.

*Logbook Modifications:* The Council has indicated that they are considering modifying the Catcher Vessel Trawl Gear Daily Logbook (DFL). Figure 2 provides a sample page from the current DFL. The owner or operator of a catcher vessel 60 feet or greater length overall using trawl gear to harvest groundfish is responsible for compliance with the applicable recordkeeping and reporting requirements, including maintaining a trawl gear DFL. Currently catcher vessel logbooks are submitted using a paper logbook that is not digitized. Because the information is not available without going through each paper logbook, adding a check box may not provide useful information for analytical purposes. If the Council considers this information important, it may wish to consider moving the catch vessel logbooks from a paper format to an eLogbook format. Without that change the information collected will be of limited usefulness, because it would be difficult to access.

Because the DFL only applies to vessels that are 60 feet or greater (LOA), about one-third of the catcher vessel fleet would not be subject to these requirements<sup>10</sup>. Modifications would include adding three check boxes to collect behavioral information on actions taken by the vessel to reduce PSC in the GOA<sup>11</sup>. A checkbox if the vessel operator moved to avoid Chinook salmon is already included in the DFL. Those proposed checkboxes, including the moved to avoid Chinook salmon checkbox, would be:

1.  Check the box if you moved to avoid Chinook salmon
2.  Check the box if you moved to avoid halibut
3.  Check the box if you used a salmon excluder as part of your trawl gear
4.  Check the box if you used a halibut excluder as part of your trawl gear.

While these check boxes do not provide detailed information into the thought process used to determine whether to move fishing areas or how an excluder device was employed, it is intended to provide baseline information on actions taken to avoid PSC prior to implementing a trawl bycatch management program. This type of information is not currently being collected.

One problem with including a check box on a paper form that is never digitized is it unlikely to provide useful information for management. If the Council wishes to move forward with the checkbox concept, they may wish to consider requiring electronic logbooks (eLogbooks) for these vessels. The Council could include that action and a more complete discussion of that issue could be provided in this RIR before it is released to the public. Adding eLogbook to the requirement would likely increase the reporting burden for some vessels (and perhaps decrease it for others), but would make data currently being collected more accessible for fishery managers and policy makers.

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<sup>10</sup> Unless the Council took action to require that trawl vessels less than 60 feet (LOA) are required to submit logbooks.

<sup>11</sup> It is assumed that these general concepts would be implemented, but NMFS staff would be allowed to structure the logbook so that the specific questions and layout optimize the limited space available on paper and eLogbooks.



Revised: 04/03/2012 COPY DISTRIBUTION: WHITE Vessel Copy; Keep in Logbook • GOLDENROD Observer copy • BLUE Dileard copy - YELLOW NMFS Copy; Remit

OMB Control No. 0648-0213  
Expiration Date: 03/31/2015

<b>CATCHER VESSEL DFL GROUND FISH TRAWL GEAR</b>		VESSEL NAME				Date (M - D - Y)	PAGE
		OPERATOR NAME AND SIGNATURE				ADFG Vessel No.	
<b>IDENTIFICATION</b>	<b>MANAGEMENT PROGRAM</b> <small>(Check if applicable and enter number)</small>		INACTIVE	START	END	REASON	
	COG <input type="checkbox"/> Exempted <input type="checkbox"/> Research <input type="checkbox"/> AJP <input type="checkbox"/>		GEAR TYPE (circle one)	CREW SIZE	FEDERAL REPORTING AREA	TRAWL GEAR ONLY (Circle one)	
	Non-pelagic trawl      Pelagic trawl				COBLZ	RKCSA	
							<b>OBSERVER INFORMATION</b>
							OBSERVER NAME AND CRUISE #
							OBSERVER NAME AND CRUISE #

CHECK IF MOVED PRIMARILY TO AVOID ENCOUNTERING CHINOOK SALMON BYCATCH

(circle one)

CATCH BY HAUL	HAUL NO.	TIME OF GEAR DEPLOYMENT	BEGIN POSITION OF HAUL		AVE. SEA DEPTH (Circle M or FM)	AVE. GEAR DEPTH (Circle M or FM)	DATE AND TIME OF GEAR RETRIEVAL	END POSITION OF HAUL		TARGET SPECIES CODE	TOTAL HAUL WEIGHT (lbs. or mt.)
			LATITUDE	LONGITUDE				LATITUDE	LONGITUDE		

For groundfish and Pacific herring, circle lbs. or nearest 0.001 mt. For Pacific halibut, Pacific salmon, king crab, and Tanner crab, record in numbers.

DESCRIBE POSITION												
	DATE											
SPECIES CODE												
PRODUCT CODE												
BALANCE FORWARD												
DAILY TOTAL												
CUMULATIVE TOTAL SINCE LAST DELIVERY												

COMMENTS

INSTRUCTION FOR CHECK BOX: IF YOU HAVE MOVED THIS VESSEL PRIOR TO THIS HAUL, PRIMARILY TO AVOID ENCOUNTERING CHINOOK SALMON BYCATCH, PLACE A CHECK IN THIS BOX.

DELIVERY	DELIVERY DATE	ADFG FISH TICKET NO.	RECIPIENT'S NAME	ADFG PROCESSOR CODE

Figure 2 Catcher Vessel Trawl Gear Daily Fishing Logbook

### 3.8.2.3 Shorebased and Floating Processors

Data collection for the processing sector could also be patterned after the crab program. In that program, number of processing crew, man-hours, and payments to processing crews (excluding managers, foreman, and other non-processing employees) are collected by fishery. For the GOA trawl fisheries, it is proposed that data are collected on a monthly basis, by processing plant that takes deliveries of GOA groundfish harvested using trawl gear. Monthly data would be useful for examining the ability of plant operators to distribute processing throughout the year to improve stability of processing jobs. The Council could also collect information on foreman, managers, and other non-processing employees at the plant. That information would include the number of employees and payments to those employees. It is assumed that many of these would be salaried employees and collecting man hours, may not be feasible.

Detailed employment data on the number of employees, the hours worked, and their compensation is currently unavailable to Federal policy makers. The State of Alaska collects information on the number of persons employed (and their compensation) on the 12<sup>th</sup> of each month from all processors. Persons that were not employed on the 12<sup>th</sup> of the month are excluded from the counts. The number is also not a count of positions, but the number of people who worked during any part of the pay period that included the 12th of the month.

The Alaska Department of Labor and Workforce Development's Occupational Database (ODB) is the primary source of seafood processing employment data. The ODB contains quarterly information for all Alaska workers covered by unemployment insurance (UI). This information is considered confidential and cannot be accessed to be linked to Federal Fisheries data. Also, quarterly data do not provide sufficient detail to determine the impacts of a catch sharing plan on local and more transient work forces employed by processors at the end of the fishing year.

The Council is also considering collecting data on the usage of electricity and water by processing plants. The Council does not have the authority to require utility providers to supply the data under the MSA. However, these entities could supply an annual summary of usage by month to each processor. They could then pass those summaries to NMFS at minimal or no cost. This information could be collected from all processors or only those that utilize a community owned water and electric system. Applying the data requirement to community owned water and electric systems will focus the data collection on Kodiak. Given that it was the residents of Kodiak that highlighted this issue that may be appropriate.

The primary use of these data will be to consider impacts of the community. The Kodiak Finance and Public Utilities staff oversee the information on water usage and billing. Electric services are supplied by the Kodiak Electric Association. Staff of those agencies indicated that it is relatively easy matter to provide monthly summaries of utility usage by plant. That information could be made available for the plant operators to disseminate. Therefore the burden on both the utility provider and processing plants is anticipated to be small. The data will provide information on peak utility usage. If peak utility usage is reduced under PSC management plan, then costs to Kodiak associated with gearing up for peak demand may be reduced.

### **3.8.3 Data Submission Requirements**

#### **3.8.3.1 Data Submission and Deadlines**

Each year a person who held a Federal Fisheries Permit that is used to harvest GOA Groundfish with trawl gear during a calendar year must submit to NMFS timely and complete EDR. The EDR must contain the required data for that calendar year, for that vessel.

It is expected that most vessel owners/operators have crew identifier data given the need for payments to be made to the crew as part of their business operations. Because the collection requirement is based on the FFP holder, it should be noted that in some cases the FFP holder may need to coordinate with other FFP holders, LLP holders, or other corporations where there are integrated business operations. These relationships could be designed such that the crew information is collected, given that industry is given notice of the requirement before it is implemented. So while the collection of crew data may be more complex for some entities, the notice of its collection should provide sufficient time to collect the data before it must be submitted. Other data that is not readily available to the FFP holder could also be collected since they FFP holder is given notice prior to the program being implemented.

It is assumed that the deadline to for NMFS to receive a completed EDR will be similar to the Amendment 80 EDR program, so that data are collected about the same time. However, if these dates need to be modified, the agency could make adjustments. The Amendment 80 program specifies that data must be submitted by fax is no later than 1700 hours A.l.t. on June 1 of the year following the calendar year during which the landings were made. If the EDR is sent by U.S. mail, it must be postmarked by that date. An EDR must contain completed submissions for each required data field and the following information:

1. Calendar year of EDR. Calendar year for which the EDR is being submitted;
2. Name of company, partnership, other business entity, business telephone number, business fax number, and email address (if available).

#### **3.8.3.2 Who Must Submit the Data**

Persons that are required to annually submit an Amendment 80 EDR will continue to be required to fulfill that program's requirements. For all persons that are not required to submit the Amendment 80 EDR<sup>12</sup>, the GOA EDR must be submitted by a vessel owner that held a Federal Fisheries Permit (FFP) for a vessel that used a

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<sup>12</sup> It is assumed that all GOA trawl catcher processors subject to this action would submit the Amendment 80 EDR.

Groundfish LLP with a GOA trawl endorsement to harvest GOA groundfish with trawl gear during a calendar year. Federal Fisheries Permits are required for all vessels used to fish for groundfish in the Gulf of Alaska (GOA) or Bering Sea and Aleutian Islands Management Area (BSAI) or that retain any bycatch of groundfish while targeting non-groundfish in the 3-200 mile zone off Alaska (see §679.4). This includes catcher vessels fishing for groundfish, catcher/processors fishing for and processing groundfish, motherships processing groundfish, tender vessels (buying stations) tendering groundfish, and support vessels assisting other groundfish vessels (see §679.4). Therefore, all vessels that harvest groundfish with trawl gear in the EEZ would be required to obtain a valid FFP. An FFP is a non-transferable, one year permit that is valid March 1 through the last day of February, issued on request and without charge to vessel owners. Federal Fisheries Permits are authorized at 50 CFR 679.4(b).

The holder of Federal Processor Permit (FPP) is required to submit data required from the shorebased and stationary floating processors. An FPP is required for stationary floating processors (processing vessels that operate solely within Alaska State waters) and shoreside processors that receive and/or process groundfish harvested from Federal waters (or from any Federally-permitted vessels). FPPs are non-transferable, three year permits, issued to owners on request and without charge. These permits are authorized at 50 CFR 679.4(f).

### **3.8.3.3 To Whom Must the EDR be Submitted**

The entity to which the EDR must be submitted is dependent on the structure of the program and possibly the sector. Amendment 80 EDRs and the Crab EDRs must be mailed or faxed to the PSMFC. The Amendment 80 EDRs are submitted to PSMFC at the discretion of the agency. NMFS has contracted with PSMFC to perform administration and data management for the Amendment 80 EDR data collection. No limitations are imposed on NMFS access to unique identifiers in Amendment 80 EDR data. The Crab EDR amendment requires that the completed EDR forms be sent to PSMFC and they may only release the data when the personal identifiers are removed. Confidential data can then be shared with other individuals who are authorized to work with that data. This action was taken in part to prevent the release of data through a FOIA request. However, as discussed earlier, NMFS has determined that they have the authority to protect these types of data from being released through a FIOA request. Both agencies could be required to release confidential data under an order of a Federal Court. Therefore, the actual difference in data protection is minimal. However, the Council must decide whether the catcher vessel EDR and the shorebased/floating processor EDR should be treated like the Amendment 80 EDR or the Crab EDR.

Since the Amendment 80 EDR is applied to all (or all but one) catch processor in the GOA, and this program will not modify the EDR, the data submission requirements for that program will continue into the future. If the vessel that is currently exempt from the Amendment 80 EDR is added to the program, its FFP holder must also submit the EDR to NMFS using the above information.

### **3.8.3.4 EDR verification/audit procedures**

The Amendment 80 EDR has regulations authorize use of audits for the purpose of data verification and specify the requirements for when EDR submitters are required to respond to inquiries. Those procedures are defined in the audit reports linked to at the end of this section and summarized here:

1. NMFS will conduct verification of information with the Amendment 80 QS holder or designated representative, if applicable.
2. The Amendment 80 QS holder or designated representative, if applicable, must respond to inquiries by NMFS within 20 days of the date of issuance of the inquiry.
3. The Amendment 80 QS holder or designated representative, if applicable, must provide copies of additional data to facilitate verification by NMFS. The NMFS auditor may review and request copies of additional data provided by the Amendment 80 QS holder or designated representative, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted.

It is assumed that these auditing regulations will continue to apply the all EDRs submitted under Amendment 80 regulations.

The Crab EDR regulations define the verification procedures that must be followed. Those regulations indicate that:

1. The data collection agent (DCA) shall conduct verification of information with the owner or leaseholder.
2. The owner or leaseholder must respond to inquiries by the DCA within 20 days of the date of issuance of the inquiry.
3. The owner or leaseholder must provide copies of additional data to facilitate verification by the DCA. The DCA auditor may review and request copies of additional data provided by the owner or leaseholder, including but not limited to: previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data.

It is likely that NMFS will designate the PSMFC as the DCA under the new program, though no final decision has been made. If that model is followed, the data verification procedures outlined for the Crab EDR program will be applied to the GOA Trawl Catcher Vessel and Processor EDRs. Examples of the Amendment 80 audit procedures and findings for 2011 are available at:

[http://www.psmfc.org/am80edr/documents/2011\\_audits.pdf](http://www.psmfc.org/am80edr/documents/2011_audits.pdf).

Audit procedures and findings for the 2011 crab EDR are provided at:

[http://www.psmfc.org/alaska\\_crab/documents/2011\\_audit\\_results.pdf](http://www.psmfc.org/alaska_crab/documents/2011_audit_results.pdf).

### **3.8.3.5 Confidential Data and Access**

The Regional Director of each region has the responsibility to maintain the confidentiality of all data collected, maintained, and disclosed by the respective region. Regulations § 600 Subpart E defines the Confidentiality of Statistics for the Alaska Region. Regulations at § 600.405 defines the types of statistics covered. Based on those regulations, the confidentiality requirements apply to all data submitted to the Secretary with respect to any FMP. This action would meet those criteria, so all the data collected under this action would be considered confidential and provided the protections afforded data that are classified as confidential.

Regulations at § 600.415 define access to statistics. That section states that when determining whether to grant a request for access to confidential data. Statistics submitted as a requirement of an FMP and that reveal the identity of the submitter will only be accessible to the following Federal employees:

1. Personnel within NMFS responsible for the collection, processing, and storage of the statistics.
2. Federal employees who are responsible for FMP development, monitoring, and enforcement.
3. Personnel within NMFS performing research that requires confidential statistics.
4. Other NOAA personnel on a demonstrable need-to-know basis.
5. NOAA/NMFS contractors or grantees who require access to confidential statistics to perform functions authorized by a Federal contract or grant.
6. State employees demonstrate a need for confidential statistics for use in fishery conservation and management.
7. Upon written request by the Council Executive Director, access to confidential data will be granted to Council employees who are responsible for FMP development and monitoring. In addition the data can be provided for use by a Council for conservation and management purposes, with the approval of the Assistant Administrator. The Assistant Administrator will consider the possibility that Council members might gain personal or competitive advantage from access to the data. The possibility that the suppliers of the data would be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings.

8. A contractor of the Council for use in such analysis or studies necessary for conservation and management purposes, with approval of the Assistant Administrator and execution of an agreement with NMFS as described by NOAA Administrative Order (NAO) 216-100.

Persons having access to these data are prohibited from unauthorized use or disclosure and are subject to penalties if the control rules are not followed. Additional information on the issue of confidential data and who may access that data was presented in Section 3.6.

The Council's Advisory Panel recommended a requirement that data for each sector also be aggregated at the sector level "prior to release to NMFS and/or the NPFMC". Implementing a requirement that data are aggregated at the sector level before being made available to analysts would greatly reduce the usefulness of the information collected. It could also increase costs for additional analytical support on the part of PSMFC, potentially increasing the number of PSMFC staff that would be required to work directly with the EDR data.

An example of how the data would be less useful if aggregated, one of the data elements being considered for collection is crew compensation. If data were aggregated over all catcher vessels before being provided to the analysts they would be unable to provide any information beyond the annual amount of crew compensation or the average compensation per crew member in that sector. It may be of more interest to the stakeholders to understand what percentage of the fleet increased crew compensation, what percentage decreased crew compensation, and what percent held crew compensation at historic levels. This type of information would be unavailable if data were aggregated at the sector level prior to release to analysts of the data.

#### **3.8.3.6 Penalties for Not Submitting Data or Submitting Inaccurate Data**

Regulations at § 600.735 define the general penalties for any person committing, or fishing vessel used in the commission of a violation of the Magnuson-Stevens Act or any other statute administered by NOAA and/or any regulation issued under the Magnuson-Stevens Act. That person is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson-Stevens Act and to other applicable law (see Section 3.6).

While timely, correct, and verified information is always expected from those required to submit information, NMFS understands that whenever information is required, such submitted information may at times contain inadvertent errors. Prior to submission, there is no practical way for NMFS to anticipate every possible submission error, its significance and the proper corrective or deterrent response. However, NMFS Sustainable Fisheries, NMFS Alaska Fishery Science Center, NMFS OLE, and NOAA General Counsel have ample experience with data/information collection programs. That experience teaches that some errors will have little or no significance, some could have immediate and significant impact, some could be easily corrected, some will be made by submitters who have no history of such errors, and some will be made by submitters who have made many prior errors. These are some of the types of considerations looked to by NMFS in determining the appropriate level of response to an error in required information submissions. Not every error requires submission to NMFS OLE for investigation and disposition. However, if there is an error in the data submitted, and the case is referred to NMFS OLE for investigation, it is also important to note that there is a wide variety of dispositions available to NMFS OLE to respond to an infraction. These include a "fix-it" citation, verbal warning, written warning, summary settlement offer, referral to NOAA General Counsel for civil penalties, or Department of Justice for criminal penalties.

Should a submitter fail to submit the EDR to NMFS/PSMFC, depending on the structure of the program, for a prior year by the due date of June 1<sup>st</sup> (or date determined by NMFS and the Council), NMFS is authorized to withhold/revoke Federal Fishing Permits or Federal Processing Permits. Only if NMFS/PSMFC and the person submitting the data cannot reach a solution would NMFS OLE be contacted regarding noncompliance. Non-compliance has been very rare in the current EDR programs. A process similar to that structure is proposed for this action.

### **3.8.3.7 Appeals Process**

If an applicant is notified by an IAD that claims made by the applicant relative to their data submission have been denied, that applicant may appeal that IAD under the provisions described at § 679.43.

## **3.9 Program Costs**

The costs of implementing the proposed data collection program are discussed in terms of costs to the industry supplying the data and the agencies that collect, verify, and store those data. Costs to the industry sectors supplying the data will be discussed first. Those costs are typically described in terms of the amount of time required to submit the required data. Estimates will vary by sector, because the number of entities that must submit data and the types of data submitted differ.

### **3.9.1 Public Reporting Burden**

Public reporting burden costs to industry are based on the estimates used for the Amendment 80 EDR. New estimates were made for the catcher vessel sector and processing sector, that were loosely based on the Crab Catcher Vessel EDR and the Crab Shorebased Processor EDR.

The public reporting burden for the Amendment 80 EDR is estimated to average 20 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If the one vessel that is exempt from the current Amendment 80 EDR is required to submit an EDR, it would increase the overall reporting burden by about 20 hours. If that vessel is not required to submit the EDR there would be no change in the catcher processor reporting burden.

The Crab Catcher Vessel EDR states that the public reporting burden for the collection of information is estimated to average about 18 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Because the Crab Catcher Vessel EDR used for this estimate requires substantially more information on costs or production, quota values, quota transfers, and quota harvest, this estimate of time over estimates the amount required for the GOA Trawl EDR Program. The narrowly focused parameters of this program will likely result in a reporting burden that is less than fifteen hours per submission (NPFMC 2012). Applied to 70 vessels this equates to about 1050 hours per year. However, until the Council selects a preferred alternative only a general estimate can be provided.

The public reporting burden for Crab Shorebased Processor EDRs is estimated to average 10 hours to complete the form and eight hours to verify the data. This time per response includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The proposed EDR elements are limited to monthly employment information that should be readily available and utility usage that can be provided to the processor by the utility provider. Because this information is readily available the reporting burden should be about three hours per submission. For 17 processors this equates to about 51 additional reporting hours<sup>13</sup>.

Also if the less than 60 feet catcher vessels are required to submit logbooks, the costs to those vessels would be increased. The trawl catcher vessel logbook reporting burden is estimated to be 18 minutes per submission. The number of submissions will depend on the number of days a catcher vessel is active in the GOA trawl fishery. Assuming that the 23 trawl catch vessels, less than 60 feet LOA, that fished in the GOA in 2012 operated for about 50 days in the pollock fishery this would equate to about 15 hours of response time. This equates to 345

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<sup>13</sup> Processors continue to note that, while the marginal change of this reporting burden is small, their cumulative reporting burden continues to be a concern. The cumulative reporting burden is a larger issue that is beyond the scope of this analysis.

hours of reporting burden. If these vessels fished for more days or in other fisheries they would incur additional time burden to file the logbook reports.

Requiring that vessels use eLogbooks may increase the reporting burden from some vessels and decrease it for others. Over the entire fleet it is possible that the reporting burden would increase, but it is unknown how much change there would be from the status quo.

### **3.9.2 Agency Costs**

Costs to the agencies that oversee the GOA Trawl EDR program will vary by sector. These costs should be considered rough estimates, since the Council has not selected a preferred alternative.

Cost to implement the catcher processor EDR should be minimal, because the Alaska Fisheries Science Center, through the PSMFC, is already collecting these data. If one additional catcher processor is required to complete the EDR it will not affect the survey instrument development, staff needed to oversee the data collection, or hardware needed to store the data. Some additional time may be required to work with the vessel owner that is added to the program, if the Council takes that action, to help them comply with the survey requirements. Some additional costs will also be associated with entering and verifying the additional data. However, the marginal cost increase associated with adding that vessel should be small (estimated to be about \$1,000 per year), compared to the, approximately, \$70,000 that was spent to maintain the program in 2012.

The cost of implementing the catcher vessel EDR will depend on the Council's preferred alternative. Assuming that the data elements in this analysis are imposed on 70 catcher vessels it is assumed the cost would be about \$40,000 for the first year when the survey instrument is developed and the program is implemented and then about \$15,000 per year<sup>14</sup> to maintain the program. These costs would include developing the infrastructure to collect, verify, store, maintain, and analyze the data.

The cost of implementing the processor portion of the proposed EDR is projected to be about \$20,000 during the first year of the program and \$10,000 per year after the development costs are realized. These costs would cover the collection, verification, storage, and maintenance of the data from about 18 processors.

These increased costs are not part of a LAPP. Therefore, the additional agency costs would not be subject to cost recovery. However, if the Council includes data collection requirement in any quota share program it develops in the future, the data collection costs associated with the EDR would be included in that cost recovery program.

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<sup>14</sup> Assuming data are not audited. The cost for a CPA to audit the data is estimated to be about \$25,000 per sector per audit.

## 4 INITIAL REGULATORY FLEXIBILITY ANALYSIS

### 4.1 Introduction

The action under consideration imposes economic data collection requirements on the vessels that harvest groundfish from the Western and/or Central Gulf of Alaska (GOA) using trawl gear. This action would also impose economic data collection requirements on the first processor of those groundfish. This action is taken in accordance with the Fishery Management Plans (FMPs) for the GOA, recommended by the Council pursuant to the Magnuson-Stevens Act.

This Initial Regulatory Flexibility Analysis (IRFA) addresses the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 601-612).

### 4.2 The purpose of an IRFA

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

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

In determining the scope or "universe" of the entities to be considered in an IRFA, NMFS generally includes only those entities that can reasonably be expected to be directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (*e.g.*, user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. NMFS interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.

Data on cost structure, affiliation, and operational procedures and strategies in the fishing sectors subject to the proposed regulatory action are insufficient, at present, to permit preparation of a "factual basis" upon which to certify that the Preferred Alternative does not have the potential to result in "significant economic impacts on a substantial number of small entities" (as those terms are defined under RFA).

Because, based on all available information, it is not possible to "certify" this outcome, should the proposed action be adopted, a formal IRFA has been prepared and is included in this package for Secretarial review.

### 4.3 What is required in an IRFA?

Under 5 U.S.C., Section 603(b) of the RFA, each IRFA is required to contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed



- rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:
  1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
  2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
  3. The use of performance rather than design standards;
  4. An exemption from coverage of the rule, or any part thereof, for such small entities.

#### **4.4 What is a small entity?**

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

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

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$4.0 M for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4.0 M criterion for fish harvesting operations. Finally a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the

Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

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

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

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

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

## **4.5 Why the action is being considered?**

The Council is considering developing a management program that would alter the structure of the GOA trawl groundfish fisheries. Based on previous experience in developing similar programs, the Council has determined that it is prudent to collect baseline information on the economic structure of the fishery before modifications are implemented. If data are not collected prior to implementing changes to the fishery structure, it is not possible to quantitatively measure the impacts of specific changes brought about by the program. The Council is also aware that collecting very detailed economic data was a source of controversy in the Crab EDR program. That experience has lead the Council to consider a focused data collection program that will provide data that are currently unavailable, can be collected with minimal burden on industry, and will provide information that is of interest to a wide cross-section of stakeholders.

### *Objectives*

The objective of the proposed action is to collect specific economic information from catcher vessels, catcher processors, and shorebased/floating processors that are currently not being reported to NMFS or other government agencies in a way that allows Federal fisheries analyst and policy makers to access the data. These data will be used to compare the effects of a proposed GOA trawl catch share program. The impacts will primarily focus on of harvesting crew employment. However, data will also be collected for specific variable costs that are readily available and comprise a substantial amount of each catcher vessel operation’s variable costs. Changes in those costs can be compared before and after a catch share program is implemented as a proxy for quasi rents. Catcher vessel information will focus on identifying crew members, crew payments, gear purchases, fuel usage and cost, and observer program costs. Limited information is currently available for observer costs. However, collecting that information directly from the harvester will provide more accurate information, because actual observer costs can be collected for vessels that operate under the pay-as-you go structure, those vessels that pay a percentage of their ex-vessel revenue, and those that fall under both structures depending on the fishery. All of the other data elements are not currently being collected. The impacts on crew, especially if a catch share program is implemented, are typically controversial. Without collecting these data before the proposed program is implemented, identification of current crew members and their compensation

from the GOA trawl fisheries will be unavailable in the future<sup>15</sup>. Fuel costs are a substantial component of variable costs. The Pacific States Marine Fisheries Commission (PSMFC) collects data on fuel prices, but that information does not provide any information on the actual amount of fuel used by GOA trawl vessels. The variability of fuel prices by location, as shown in the PSMFC data also makes using the price data difficult without knowing where fuel is purchased. Therefore, collection of fuel data would provide an important element of a vessels variable cost structure. Trawl gear and excluder device purchases are also a major variable cost expense and will provide information that is currently unavailable.

Data from all but one trawl catcher processor operating in the GOA is currently being collected under the Amendment 80 Economic Data Report (EDR). This action would extend the Amendment 80 EDR to that vessel. In doing so, economic information would be available from all trawl catcher processors operating in the GOA. It is also proposed that all trawl catcher processors be required to

Monthly employment data would be collected from all processors of GOA groundfish harvested with trawl gear, as well as utility usage from the Kodiak processors. Employment data on the number of employees, the hours worked, and their compensation is currently unavailable to policy makers. The State of Alaska collects information on the number of persons employed on the 12<sup>th</sup> of each month from all processors. That information does not provide sufficient detail to determine the impacts of a catch sharing plan on local and more transient work forces employed by processors. Finally, information on community owned water and electric system usage is proposed to be collected. Those data will provide information on peak utility usage.

Finally, the Council is proposing that the Secretary consider adding four check boxes to the GOA Groundfish logbook to collect behavioral information on actions taken by the trawl fleet to reduce PSC in the GOA. Those proposed check boxes would be:

1.  Check the box if you moved to avoid salmon
2.  Check the box if you moved to avoid halibut
3.  Check the box if you used a salmon excluder as part of your trawl gear
4.  Check the box if you used a halibut excluder as part of your trawl gear.

While these check boxes do not provide detailed information regarding the thought process used to determine whether to move fishing areas or how an excluder device was employed, it is intended to provide baseline information on actions taken to avoid PSC prior to implementing a trawl bycatch management program. For these data to be useful, they could be reported on eLogbooks that are available electronically. This type of information is not currently being collected.

#### *Legal basis*

Under the authority of the Magnuson-Stevens Act, the Secretary of Commerce (NMFS Alaska Regional Office) and the North Pacific Fishery Management Council have the responsibility to prepare fishery management plans and associated regulations for the marine resources found to require conservation and management. NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine fish, including the publication of Federal regulations. The Alaska Regional Office of NMFS, and Alaska Fisheries Science Center, research, draft, and support the management actions recommended by the Council. The GOA groundfish fisheries are managed under the GOA Groundfish Fishery Management Plan (GOA FMP). The proposed action represents amendments to the GOA groundfish FMP, as well as amendments to associated Federal regulations.

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<sup>15</sup> Information on crew members employment after they leave the GOA fishery will only be tracked to the extent they participate in other fisheries that track crew (eg., BSAI crab fisheries). Collecting information on crew employment outside of Federal fisheries is beyond the authority of the Council.

## 4.6 Number and description of small entities directly regulated by the proposed action

The entities directly regulated by this action are those that fish groundfish in the Federal waters and parallel fisheries of the GOA with trawl gear. These directly regulated entities include the groundfish catcher vessels that use trawl gear in the GOA, groundfish catcher processor vessels that use trawl gear in the GOA, and shorebased/floating processors that taken deliveries from vessels using trawl gear in the GOA.

Business firms, non-profit entities, and governments are the appropriate entities for consideration in a regulatory flexibility analysis. Following the practice in other analyses in the Alaska Region, fishing vessels have been used as a proxy for business firms when considering catcher vessels. This is a practical response to the relative lack of information currently available on the ownership of multiple vessels by individual firms. This approach leads to overestimates of the numbers of firms, since several vessels may be owned by a single firm, and to an overestimate of the relative proportion of small firms, since more of the smaller vessels might have been treated as large if multiple ownership was addressed, while no large entities would be moved to the small category. The estimates of the number, and gross revenues of, small and large vessels are based on this approach. It is possible, however, to take account of AFA inshore cooperative and GOA rockfish cooperative affiliations among catcher vessels, and this is done below.

Information about firm-level affiliations is more readily available for the smaller number of catcher/processors. For these vessels, information on firm ownership, and cooperative affiliations, has been used when this information is readily available in the public domain, for example, on corporate and cooperative web sites, or on RAM licensing reports posted to the web. However, NMFS has not conducted an audit of the information. Therefore, these are estimates of the numbers of small entities, not the results of a detailed evaluation of all possible records, or a survey of firms. The current approach was chosen as a cost effective; one that would be minimally intrusive to regulated entities. Aside from firm affiliations, generally obtained from firm or association web sites listing vessel ownership, the key affiliations considered are among vessels in a fishery cooperative. Cooperatives formed pursuant to Secretarial regulation, such as the AFA and Amendment 80 trawl cooperatives are considered.

The entities directly regulated by this action are those entities that participate in harvesting and processing of groundfish from the Federal or parallel groundfish fisheries of the GOA. It does not include entities that only harvest groundfish from state waters GHL fisheries. The table below shows the estimated number of small entities and total entities that meet this definition. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities combined, are less than \$4.0 M. The tables in this section provide estimates of the number of harvesting vessels that are considered small entities. These estimates may overstate the number of small entities (and conversely, understate the number of large entities) if not all affiliations between entities are accounted for in the data. There is not a strict one-to-one correlation between vessels and entities; many persons and firms are known to have ownership interests in more than one vessel, and many of these vessels with different ownership, are otherwise affiliated with each other. For example, vessels in the AFA catcher vessel sectors are categorized as “large entities” for the purpose of the RFA under the principles of affiliation, resulting from being part of the AFA pollock cooperatives. However, vessels that have other types of affiliation, (i.e., ownership of multiple vessel or affiliation with processors), not tracked in available data, may be misclassified as a small entity.

Table 4 shows the number of harvesting vessels and processors that participated in the GOA groundfish fisheries harvested with trawl gear in 2012, to provide information on the total number of directly regulated entities. A total of 70 catcher vessels would be directly regulated by this action. Catcher vessels in AFA and Rockfish cooperatives are considered not considered small business entities because of their affiliation through the cooperatives. Removing those vessels from the total leaves 18 catcher vessels that would be considered small entities under the SBA definition.

**Table 4 Number of entities directly regulated by this action, and the number classified as small entities.**

Entity Classification	Catcher Vessel	Catcher Processor	Shorebased/Floating Processor	Total
Small Business	18	1	2	21

Large Business	52	16	15	83
Total	70	17	17	104

Source: AKFIN summaries of 2012 eLandings and NMFS permit data

A total of 17 catcher processors harvested GOA groundfish using trawl gear in 2012. Only one of these vessels would be considered a small entity, because they are not a member of an Amendment 80 cooperative.

The shorebased/floating processor class had 17 entities. Two entities were classified as small using SBA guidelines. The 15 remaining processors did not meet the small entity criterion because of the number of employees or their cooperative affiliation.

#### 4.7 Recordkeeping and reporting requirements

The IRFA should include “a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record...” This action would impose additional reporting requirements on the small entities described in Section 4.6. Section 3.9.1 of the RIR describes the reporting burden on these small. All of the information being requested was selected in part to meet the Council’s objective to minimize the reporting burden on all entities, while collecting sufficient baseline information to understand the impacts of the trawl bycatch management program.

The greatest burden would fall upon the one small entity in the catcher processor sector that is currently excluded from the Amendment 80 EDR. That vessel would be required to submit the more complex Amendment 80 EDR. Submission of those data will require, organizing the annual costs incurred to operate the vessel and submit the information to NMFS. Because that vessel does not participate in a BSAI cooperative or hold cooperative quota, their reporting requirements will be less complex than vessels that are members of Amendment 80 cooperatives.

#### 4.8 Federal rules that may duplicate, overlap, or conflict with proposed action

An IRFA should include “an identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule...” This analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

#### 4.9 Significant alternatives

An IRFA should include “A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant (implicitly adverse) economic impact of the proposed rule on small entities.” The alternatives selected by the Council were developed with the goal of minimize economic impacts of a data collection program. That goal has resulted in a limited and focused data collection program, that focus on areas that are of greatest interest as the Council considers further development of a trawl catch share program in the GOA.

Prior to the implementation of the west coast trawl rationalization program, the Northwest Fisheries Science Center implemented a voluntary social survey to assess a baseline level of activity in the fishery across many different fishery types of participants (including suppliers, accountants, fishermen’s wives, in addition to harvesters and processors and crew and plant workers). If that type of information is desired by the Council they could encourage the Alaska Fisheries Science Center to work to implement similar, but likely less complicated surveys. A description of the survey is available<sup>16</sup>. The survey instrument can be found at: [http://www.nwfsc.noaa.gov/research/divisions/cbd/documents/nmfs\\_groundfish\\_survey.pdf](http://www.nwfsc.noaa.gov/research/divisions/cbd/documents/nmfs_groundfish_survey.pdf). This survey is a voluntary program and does not require Council action to implement, and the Council does not have the authority to require community representatives to submit the survey. If the Council feels this information is important to

<sup>16</sup> <http://www.nwfsc.noaa.gov/research/divisions/cbd/groundfish-study.cfm>

understand community impacts of its program, it could request that staff at the Alaska Fisheries Science Center consider developing a voluntary survey. Conversely, the Alaska Fisheries Science Center could develop the survey without Council direction, if it felt it was important.

No other significant alternatives to the proposed rule have been identified that meet the Council's goals and objectives.

## 5 Consistency with Applicable Law and Policy

This section examines the consistency of the proposed action to restructure the groundfish observer program for various sectors, including the commercial halibut sector, with the National Standards and Fishery Impact Statement requirements in the Magnuson-Stevens Act and E.O. 12866.

### 5.1 National Standards

Below are the ten National Standards as contained in the Magnuson-Stevens Act, and a brief discussion of the consistency of the proposed alternatives with those National Standards, where applicable.

**National Standard 1** — Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery

The Pacific halibut stock, the Chinook salmon stock, and the GOA groundfish stocks are currently not overfished and overfishing is not occurring. Implementing an economic data collection program on participants in the GOA trawl fishery will not impact the removals of any of those stocks or have a negative impact on achieving OY from each fishery.

**National Standard 2** — Conservation and management measures shall be based upon the best scientific information available.

This action is proposed to improve the scientific information that is available to make conservation and management decisions. These data will allow interested stakeholders to better understand the impacts of the proposed trawl bycatch management program and other programs on participants in the fishery, especially harvesting crew members and processing workers.

**National Standard 3** — To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The IPHC sets annual catch limits for halibut based on annual surveys and stock assessments (<http://www.iphc.int/library/raras/149-rara-2010.html>). The annual TACs are set for GOA groundfish stocks according to the annual harvest specification process that is outlined in the GOA Groundfish FMP. NMFS conducts the stock assessments for these species based on the most recent catch and survey information. The assessment author(s), along with the GOA Groundfish Plan Team and the Science and Statistical Committee recommends overfishing levels and allowable biological catches. The Council sets annual harvest specifications for these stocks based on those recommendations (<http://www.afsc.noaa.gov/refm/stocks/assessments.htm>). The State of Alaska manages the Chinook salmon stock, with the NMFS being responsible for Chinook PSC in the groundfish fishery.

**National Standard 4** — Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Nothing in the alternatives considers residency as a criterion for the Council's decision. Residents of various states, including Alaska and states of the Pacific Northwest, participate in the major sectors affected by the proposed action. No discriminations are made among fishermen based on residency or any other criteria. All participants in the GOA trawl fisheries and the processors that take deliveries of the raw fish are all subject to the same data collection program imposed on their sector.

**National Standard 5** — Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

Efficiency in the context of this amendment refers to economic efficiency. The analysis proposes collecting economic data with the least economic burden on participants while collecting the data the Council has determined to be necessary to provide baseline data in the fishery.

**National Standard 6** — Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The proposed alternatives appear to be consistent with this standard.

**National Standard 7** — Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

The proposed alternatives are consistent with this standard. The data collection program was limited to avoid collecting data that would be available from other sources. This was purposely included in the goals and objectives to avoid unnecessary duplication of effort by the fishing industry and the management agencies.

**National Standard 8** — Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

Many of the coastal communities in the Central and Western GOA, as well as coastal communities elsewhere in Alaska and the Pacific Northwest, participate in the GOA groundfish fisheries using trawl gear in one way or another, such as homeport to participating vessels, the location of processing activities, the location of support businesses, the home of employees in the various sectors, or as the base of ownership or operations of various participating entities.

The Council is considering collecting data on utility usage to better understand the stresses that can be put on public utilities to meet peak demand during times where large volumes of fish are processed. Smoothing out the amount of processing activity overtime may reduce the burden on a community. Without collecting baseline information on the variation of utility usage by month and processor, those changes in demand for utilities as a result of processing activity will not be known.

**National Standard 9** — Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

The proposed action does not directly minimize bycatch or the mortality of bycatch. Future actions associated with the overall trawl bycatch management program will specifically intended to control removals of Pacific halibut and Chinook salmon in the GOA groundfish fisheries.

**National Standard 10** — Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The proposed alternatives would change safety requirements for fishing vessels and would not impact safety of human life at sea.

## **5.2 Section 303(a)(9) Fisheries Impact Statement**

Section 303(a)(9) of the Magnuson-Stevens Act requires that a fishery impact statement be prepared for each FMP amendment. A fishery impact statement is required to assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation



and management measures on, and possible mitigation measures for (1) participants in the fisheries and fishing communities affected by the plan amendment; (2) participants in the fisheries conducted in adjacent areas under the authority of another Council; and (3) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery.

This RIR/IRFA prepared for this plan amendment constitutes the fishery impact statement. The likely effects of the proposed action are analyzed and described throughout the RIR/IRFA. The effects on participants in the fisheries are analyzed in Section 3. This action will not have effect safety of human life at sea.

The proposed action affects the GOA groundfish fisheries in the EEZ off Alaska, which are under the jurisdiction of the North Pacific Fishery Management Council. Impacts on participants in fisheries conducted in adjacent areas under the jurisdiction of other Councils are not anticipated as a result of this action.

### **5.2.1 Fishery Participants**

The proposed actions directly impact participants in the GOA groundfish trawl fisheries. The total number of harvesting vessels in the GOA trawl fisheries was approximately 88 in 2012. About 17 processors took delivery and processed the fish harvested by those vessels.

### **5.2.2 Fishing Communities**

Fishing communities are not expected to be directly impacted by the proposed action. The purpose of this action is to collect data that will allow interested stake holders to better understand future actions the Council may wish to take to improve PSC management.

### **5.2.3 Participants in Fisheries in Adjacent Areas**

The proposed alternatives would not significantly affect participants in the fisheries conducted in adjacent areas under the authority of another Council.

## **6 NEPA Summary**

This action was taken under a categorical exclusion to an environmental assessment.

## 7 Preparers and contributors

North Pacific Fishery Management Council: Darrell Brannan, contractor

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### **Persons consulted**

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Ron Felthoven: AFSC

Mark Fina: US Seafoods

Aimée Kniaziowski: Kodiak City Manager

Darren Scott: CEO KEA

## 8 References

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- NPFMC. 2012a. Supporting Statement Alaska Crab Economic Data Reports OMB Control No 0648-0518. Crab Economic Data Reporting Forms (Agenda Item C-6(f)). October 2012. Anchorage.
- NPFMC. 2012b. Regulatory Impact Review and Initial Regulatory Flexibility Analysis Modification of Economic Data Reports For a proposed Amendment to the Fishery Management Plan for the Bering Sea and Aleutian Islands King and Tanner Crab Fisheries. February 2012. Anchorage.

## **9 Appendices**

Appendix 1 Amendment 80 EDR

Appendix 2 Crab Catcher Vessel EDR

Appendix 3 Chinook Salmon EDRs

**Appendix 1 Amendment 80 EDR**  
**AMENDMENT 80 NON-AFA TRAWL GEAR**  
**CATCHER/PROCESSOR**

ECONOMIC DATA REPORT (EDR)  
CALENDAR YEAR 2012

This form can be downloaded from  
<http://www.fakr.noaa.gov>



**PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 20 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

**ADDITIONAL INFORMATION**

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts for groundfish under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) as amended by the Magnuson-Stevens Fishery Management and Conservation Reauthorization Act of 2006; 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

**ANNUAL CATCHER/PROCESSOR EDR**

Introduction

You have received this form because our records show that you are the owner of a catcher/processor that participated in the Amendment 80 fishery in the past.

This report collects economic data on the Bering Sea and Aleutian Islands Management Area (BSAI) Non-American Fisheries Act (non-AFA) Trawl Catcher/Processor Sector, including Western Alaska Community Development Quota Program (CDQ) non-Pollock groundfish fisheries. The fisheries are referred to as Amendment 80 fisheries. Pursuant to the legislation, the data and identifiers will also be used for program enforcement and determination of qualification for cooperative membership.

Consequently, identifiers and data will be disclosed to NOAA Enforcement, NOAA General Counsel, the Antitrust Division of the Department of Justice, the Federal Trade Commission, and NOAA Restricted Access Management Program.

Each year, on or before 1700 hours A.l.t. on **June 1**, each person who held an Amendment 80 Quota Share (QS) permit during a calendar year must submit to the NMFS Data Collection Agent, Pacific States Marine Fisheries Commission, at the address provided on the form, an EDR for each Amendment 80 QS permit held by that person for annual data **for the previous calendar year**, or if sent by U.S. mail, postmarked by that time.

If YOUR label address is incorrect or missing, please correct the error on the label or print your permanent name and address here.

Catcher/processor Name
Company Name
Street address or P.O. Box Number
City, State, and Zip Code

**Mail or FAX EDR by June 1, 2013 to:**

Pacific States Marine Fisheries Commission  
NMFS Economic Data Reports  
205 SE Spokane, Suite 100  
Portland, OR 97202  
FAX No. 503-595-3450

For more information, or if you have questions,  
please call toll free 1-877-741-8913

## CERTIFICATION PAGE – 1 of 2

This is a **required form**. Provide all information requested below.

<b>Amendment 80 QS Holder Information</b>	
Name of company, partnership, or other business entity	
Amendment 80 QS permits held	Name of Amendment 80 vessels owned (if none, enter N.A)
Business telephone number (999-999-9999)	Business FAX number (999-999-9999)
Business E-mail address, if available (email@domain.com)	

<b>Amendment 80 Vessel Operator Information</b>	
If a person, other than the Amendment 80 QS holder, operated an Amendment 80 vessel owned by that Amendment 80 QS holder during a calendar year provide the following information.	
Name of company, partnership, or other business entity	
Business telephone number (999-999-9999)	Business FAX number (999-999-9999)
Business E-mail address, if available (email@domain.com)	

<b>Person Completing this EDR (check one)</b>	
<input type="checkbox"/> Amendment 80 QS holder (If your name and address are the same name and address provided in the QS Holder Information block above, the information does not need to be repeated here)	
<input type="checkbox"/> Designated Representative for the Amendment 80 QS holder (complete information below)	
Name	Title
Business telephone number (999-999-9999)	Business FAX number (999-999-9999)
Business E-mail address, if available (email@domain.com)	



## CERTIFICATION PAGE – 2 of 2

### AMENDMENT 80 QS HOLDER CERTIFICATION

The Amendment 80 QS holder must complete this certification block to certify that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by a designated representative, attach authorization.

<b>Read the following statement, and sign and date the box below:</b>	
<i>Under penalties of perjury, I declare that I have examined this EDR, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.</i>	
Signature of Amendment 80 QS Holder (or Designated Representative)	Date signed
Printed Name of Amendment 80 QS Holder (or Designated Representative)	

If you owned any part of an Amendment 80 vessel during a calendar year, provide the following information for each Amendment 80 vessel you owned. This questionnaire is designed to collect information on individual vessels even if the vessel is part of a larger company. The intent is to evaluate each vessel as a stand-alone entity. All of the following questions pertain to calendar year 2012.

**Table 1 - Vessel Identification**

Amendment 80 QS Permit No.	
Amendment 80 Vessel Name	
1. USCG Documentation No.	
2. ADF&G Vessel No. (K12345 or 12345)	
3. ADF&G processor code	
4. Amendment 80 LLP No(s).	
5. Amendment 80 limited access fishery permit No.	
6. Name of Amendment 80 cooperative (if applicable)	
7. Home port	
8. U.S. gross registered tonnage	
9. Net tonnage	
10. Length overall	
11. Beam	
12. Shaft horsepower	
13. Fuel capacity (U.S. gal.)	
14. Year Built	

**Table 2.1 - Vessel Characteristics: Survey Value**

1. What was the most recent survey value, rounded to the nearest 100 dollars, of the vessel and equipment? Indicate if this is approximate replacement value.	\$US Replacement value? <input type="checkbox"/> Yes <input type="checkbox"/> No
2. What was the date of this vessel's last value survey?	____ / ____ / ____ mm    dd    yyyy
3. Did the survey value given above include the value of permits associated with the vessel at the time of the value survey?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Did the survey value given above include the value of processing equipment on the vessel at the time of the value survey?	<input type="checkbox"/> Yes <input type="checkbox"/> No

**Table 2.2 - Vessel Characteristics: Fuel Consumption**

For each of the following activities please give the vessel's annual and average fuel consumption per hour during calendar year 2012. If not applicable please write "NA".

Activity	Average Gallons of Fuel per Hour	Annual Fuel Consumption
Fishing and/or processing	gal/hr	gal
Steaming (not fishing or processing) – fully loaded with product	gal/hr	gal
Steaming (not fishing or processing) – empty (transiting)	gal/hr	gal

**Table 2.3 - Vessel Characteristics: Freezer Space**

1. How much freezer space (measured in pounds of product) did the vessel have at the beginning of calendar year 2012 (round to the nearest 100 pounds)? Include only product storage capacity. Do not include plate freezer, galley freezer, or other non-product storage capacity.	lbs.
2. What is the maximum freezing capacity of this vessel in pounds per hour? Report the maximum capacity of all plate freezers in pounds, divided by the average number of hours required to freeze product (note: this is not throughput under realistic operating conditions).	lbs/hr

**Table 2.4 - Vessel Characteristics: Processing Capacity**

Report the total number of processing lines on the vessel in the first line. For each type of product processed on the line in the BSAI Amendment 80 fisheries, record the number of processing lines of similar type (equipment and/or product mix), and the vessel's maximum average throughput in pounds (round weight) per hour, totaled over all processing lines for this product type. Assume optimal operating conditions and that quantity of raw fish and other inputs are not limiting. Use species and product codes to describe product types produced. Record all species processed in the BSAI, including non-Amendment 80 species harvested with Amendment 80 PSC allocations. Amendment 80 species are starred (\*) in the table.

Table A: Species and Product Codes  
(See also 50 CFR part 679 Table 1a—Delivery Conditions and Product Codes and Table 2a—Species Codes FMP Groundfish)

Species Codes	
Cod e	Species, Common Name
110	(*) cod, Pacific (gray)
121	flounder, arrowtooth
122	(*) sole, flathead
123	(*) sole, rock
124	sole, dover
125	sole, rex
126	sole, butter
127	(*) sole, yellowfin
128	sole, English
129	flounder, starry
131	sole, petrale
132	sole, sand
133	flounder, Alaska plaice
134	turbot, Greenland
135	rockfish, greenstripe
136	rockfish, northern
137	rockfish, Bocaccio
138	rockfish, copper
141	(*) perch, Pacific ocean
142	rockfish, black (BSAI)
143	rockfish, thornyhead
145	rockfish, yelloweye
146	rockfish, canary
147	rockfish, quillback
148	rockfish, tiger
149	rockfish, china
150	rockfish, rosethorn
151	rockfish, rougheye
152	rockfish, shortraker
153	rockfish, redbanded
155	rockfish, yellowtail
156	rockfish, widow
157	rockfish, silvergray
158	rockfish, redstripe
159	rockfish, darkblotched
160	sculpin, general
172	rockfish, dusky
175	rockfish, yellowmouth
176	rockfish, harlequin
177	rockfish, blackgill
178	rockfish, chilipepper
179	rockfish, pygmy
181	rockfish, shortbelly
182	rockfish, splitnose
183	rockfish, stripetail
184	rockfish, vermilion
185	rockfish, aurora
193	(*) Atka mackerel (greenling)
270	pollock, walleye
689	shark, other
690	shark, salmon
691	shark, spiny dogfish
692	Pacific sleeper shark
700	skate, other
701	skate, longnose
702	skate, big
710	sablefish (blackcod)
870	octopus, North Pacific
875	squid, majestic

Product Codes	
Code	Delivery Condition Description
1	Whole fish or shellfish
3	Bled fish
4	Gutted, head on (gutted only)
5	Gutted, head off (headed/gutted)
6	Headed and gutted with roe
7	Headed and gutted, western cut
8	Headed and gutted, eastern cut
10	Headed and gutted, tail removed

Total number of processing lines on vessel:			
Product processed		Number of processing lines	Maximum throughput per hour
Species Code	Product code		
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr

**Table 2.4: Vessel Characteristics: Processing Capacity (continued)**

Product processed		Number of processing lines	Maximum throughput per hour
Species Code	Product code		
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr
			lbs/hr

**Table 2.5 – Vessel Activity**

Record the total number of days the vessel was engaged in each of the following activities. Count any part of a calendar day that the vessel was engaged in the activity as one day. If the vessel was engaged in more than one activity in a calendar day (e.g. traveling to fishing grounds and fishing), count a day for each activity (note: the total over all activities may exceed 365).

Days Fishing: Report the total number of days fishing in the BSAI Amendment 80 fishery and in all other fisheries.

- Amendment 80 Fishery: Count any day that the vessel reported gear deployment or a completed haul in the BSAI under Management Program Code A80 in the Daily Cumulative Production Logbook (DCPL).
- All other Fisheries: Count any day that the vessel set gear or completed a haul outside of the BSAI (e.g., GOA, or outside of the Alaskan EEZ) or under any management program *other than* Amendment 80 (e.g. CDQ, AFA, or Open Access). This includes fishing Amendment 80 sideboard allowance in the GOA.

Days Processing: Report the total number of days processing in the Amendment 80 fishery and in all other fisheries.

- Amendment 80 Fishery: Count any day that the vessel reported production under Management Program Code A80 in a Daily Production Report (DPR).
- All other Fisheries: Count any day that the vessel reported production in any management program *other than* Amendment 80 (e.g. CDQ, AFA, or Open Access).

Days Traveling or Offloading: Report the total number of days traveling or offloading. Count any day that the vessel spent a part of the day traveling to/from fishing grounds, transiting to/from remote ports, tendering, operating at sea under charter, transporting cargo, or other non-fishery activity. Offloading does not include unloading equipment or materials other than fish or processed fish product.

Days Inactive: Report the total number of days the vessel was inactive. Count any days the vessel was in port, in shipyard, or anchored at sea due to bad weather or equipment failure. Do not include routine periods of inactivity while fishing, processing, traveling, or offloading.

Activity	AM80 Fishery	All other fisheries
Days fishing	days	days
Days processing	days	days
	All vessel activity	
Days traveling or offloading		days
Days inactive		days

**Table 3 - 2012 Revenues**

Please give the total amount of revenue received from all sources for each of the following categories during calendar year **2012** (rounded to the nearest 100 dollars).

Revenue Category	Metric Tons	Revenue
1. Total fishery product sales volume (in metric tons) and FOB Alaska revenue (including custom processing and sales of inventory produced prior to this year)		\$US
2. All other income derived from vessel operations (e.g., tendering, charters, cargo transport, etc.)		\$US
3. Income from sale of LLP licenses associated with this vessel during the calendar year.	LLP No.	Revenue
		\$US
		\$US
		\$US
		\$US
		\$US
4. Quantity and royalty revenue from QS shares leased by other vessels. Only report quantity and revenue for formal leases. Do not include quantity or value of in-kind or other informal quota transfers.	Quantity of QS (in metric tons)	Revenue
	yellowfin sole	\$US
	rock sole	\$US
	flathead sole	\$US
	Atka mackerel	\$US
	Pacific ocean perch	\$US
	Pacific cod	\$US
	Amendment 80 leased halibut PSC	\$US
	Amendment 80 leased crab PSC	\$US
	other species leased	\$US



**Table 4 - Capital Expenditures and Materials Usage**

Please give the calendar year 2012 capital expenditures associated with each of the following categories for this vessel. Only report costs for purchases of fully capitalized investments. Report costs fully expensed during the year in Table 5. Do not report cost for purchases of onshore equipment or facilities. Round all answers to the nearest 100 dollars.

Capital Expenditure Category	Total Capitalized Expenditure	
a. Fishing gear (e.g., net electronics)	\$US	
b. Expenditures on processing equipment, including freezing and cold storage	\$US	
c. Expenditures on vessel and onboard equipment (other than fishing, processing, or storage equipment)	\$US	
d. Other capital expenditures related to vessel operations	\$US	
e. Purchase of LLP license(s) for use on the vessel	LLP No.	Cost
		\$US
		\$US

**Table 5 – Expenses**

In the table below, please provide the total calendar year 2012 expenses (before income tax) associated with the following categories. Do not include expenditures that were capitalized and reported in Table 4. Round all answers to the nearest 100 dollars.

Expense Category	Total Cost
1. Fishing (deck crew) labor expenses (including bonuses and payroll taxes, but excluding benefits and insurance)	\$US
2. Processing labor expenses (including bonuses and payroll taxes but excluding benefits and insurance)	\$US
3. Labor expenses for all other employees (officers, engineers, cooks, etc) aboard the vessel (including bonuses and payroll taxes but excluding benefits and insurance)	\$US
4. Food and provisions (not paid by crew)	\$US
5. Recruitment, travel, benefits and other employee related costs (excluding food and provisions and other employee costs already provided in items 1, 2, and 3)	\$US
6. Lease expenses for this vessel and all onboard equipment	\$US
7. Fishing gear leases, repairs, and purchases fully expensed in calendar year 2012 (e.g., nets, doors, cables)	\$US
8. Repair and maintenance expenses for vessel and processing equipment (including shipyard accrual and all purchases of parts and equipment that were expensed in calendar year 2012)	\$US
9. Freight, storage, and other sales costs for non-FOB sales	\$US
10. Freight and storage costs other than for products (e.g., gear, supplies, wharfage and offload costs)	\$US
11. Product and packaging materials	\$US
12. Fuel and lubrication	Fuel   \$US
13. Observer fees and other fishery monitoring and reporting costs	\$US
14. Cooperative costs including lawyer and accountant costs, association fees, and other fees charged to you by the harvest cooperative	\$US

**Table 5 – Expenses (continued)**

Expense Category		Total Cost
15. General Administrative Cost, including professional services and management fees (do not include costs reported in items 13 or 14) associated with vessel operation		\$US
16. Insurance (vessel insurance, P&I, and other insurance associated with the operation of this vessel; do not include employee health insurance reported in line 5)		\$US
17. Fisheries landings taxes, including Shared Fisheries Business Tax and Fishery Resource Landing Tax		\$US
18. Total raw fish purchases from other vessels (all fisheries and species)	lbs	\$US
19. Quantity and royalty costs paid for QS shares leased from other vessels. Only report quantity and cost for formal leases. Do not include quantity or value of in-kind or other informal quota transfers.	Quantity of QS (in metric tons)	Total Cost
yellowfin sole		\$US
rock sole		\$US
flathead sole		\$US
Atka mackerel		\$US
Pacific ocean perch		\$US
Pacific cod		\$US
Amendment 80 leased halibut PSC		\$US
Amendment 80 leased crab PSC		\$US
other species leased		\$US

**Table 6 – Calendar Year 2012 Labor**

1. Please provide the average number and the total number of employees for fishing, processing, and other activities on this vessel during the 2012 calendar year. The sum of the number of positions should equal the total number of employees aboard the vessel (on average).		
Labor category	Average number of positions aboard	Number of employees in 2012
a. Fishing (deck crew)		
b. Processing		
c. All other employees onboard the vessel (including officers, engineers, cooks, etc)		
2. On average, how many hours per day did a typical processing line employee work during calendar year 2012?		hours
3. Did the vessel use a crew or revenue share system to pay processing or non-processing crew in calendar year 2012? (Circle one number for each)		YES
		NO
a. To pay some processing crew	1	2
b. To pay all processing crew	1	2
c. To pay some non-processing crew	1	2
d. To pay all non-processing crew	1	2

## **Appendix 2 Revised Catcher Vessel Crab EDR Questions**

Lists the data elements that will be collected in the proposed catcher vessel EDR.

### **Deliveries and revenues**

Landings by share type (pounds) by crab fishery

Landings by share type (revenue) by crab fishery

Leased quota by share type (pounds) by crab fishery – arm's length monetary payments only

Leased quota by share type (cost) by crab fishery – arm's length monetary payments only

### **Crew**

Payments to crew by crab fishery

Payments to captain by crab fishery

Crew license number/CFEC permit number aggregated across all crab fisheries

### **Crab Costs**

Bait used - species/pounds by fishery, purchases by crab fishery

Bait used – species/cost by fishery, purchases by crab fishery

Fuel used – gallons by crab fishery (gallons only)

Food and provisions by crab fishery

### **Vessel Costs**

Fuel – gallons and cost aggregated for all fisheries

### **All Activities**

Tendering

Labor cost – all activities aggregated across all activities

## Appendix 3 Amendment 91 EDRs

ANNUAL

# AMENDMENT 91/CHINOOK EDR AFA POLLOCK FISHERY

# VESSEL FUEL SURVEY CALENDAR YEAR 20XX

**THIS FORM MUST BE SUBMITTED ONLINE AT**  
<http://www.alaskafisheries.noaa.gov>



### **PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 8 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

### **ADDITIONAL INFORMATION**

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts for groundfish under section 402(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) (Magnuson-Stevens Act) as amended in 2006; 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

## ANNUAL CHINOOK EDR AFA POLLOCK VESSEL FUEL SURVEY

The Chinook Salmon Economic Data Report (EDR) Program provides additional data to assess the effectiveness of the Chinook salmon bycatch management measures implemented under Amendment 91 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. The information collected is a combination of quantitative and qualitative data to conduct descriptive and quantitative analysis and comparisons of the annual and seasonal changes in the pollock fleet under Amendment 91.

An owner or leaseholder of an American Fisheries Act (AFA) permitted vessel used to harvest or process pollock in the Bering Sea must submit the Vessel Fuel Survey each year, for the previous calendar year.

This Fuel Survey is intended to provide information to fishery managers to evaluate the effectiveness of Chinook salmon bycatch management measures. The Fuel Survey collects information on the quantity and cost of all fuel consumed by each AFA vessel harvesting or processing pollock during the calendar year.

**If you have questions regarding this survey or need additional information, contact:**

**Pacific States Marine Fisheries Commission**

NMFS Economic Data Reports  
205 SE Spokane, Suite 100  
Portland, OR 97202

FAX: 503-595-3450

EMAIL: [CTR@psmfc.org](mailto:CTR@psmfc.org)

TELEPHONE toll free 1-877-741-8913

OR

Brian Garber-Yonts  
**NMFS Alaska Fisheries Science Center**

TELEPHONE: 206-526-6301

EMAIL: [brian.garber-yonts@noaa.gov](mailto:brian.garber-yonts@noaa.gov)

**SUBMIT VESSEL FUEL SURVEY CERTIFICATION PAGE OR  
ENTIRE VESSEL FUEL SURVEY ELECTRONICALLY  
ON OR BEFORE 1700 HOURS A.L.T. ON JUNE 1 TO:**

<http://www.alaskafisheries.noaa.gov>

**ANNUAL CHINOOK EDR AFA POLLOCK VESSEL FUEL SURVEY  
PART 1: Certification Page**

**AFA-permitted vessel and owner identification**

Vessel Owner /Leaseholder Name	NMFS ID
Vessel Name	AFA Permit Number

**Submission of Vessel Fuel Survey: Select one of the following statements (check one box below).**

<input type="checkbox"/> You were the AFA owner or leaseholder for an AFA permitted vessel that harvested or processed pollock during the calendar year 20XX.  Complete and submit <b>ENTIRE VESSEL FUEL SURVEY FORM</b> <b>In addition, submit all the Vessel Fuel Surveys</b> received from and completed by Hired Masters on that same vessel.
<input type="checkbox"/> You were the AFA owner or leaseholder for an AFA permitted vessel that <b>DID NOT HARVEST OR PROCESS</b> AFA pollock during the calendar year 20XX.  Complete and submit the <b>Certification Page ONLY</b>

**Person Submitting this Report**

<b>Provide the name, title or NMFS ID, and contact information for the individual submitting the form.</b>	
Name	Title or NMFS ID
Business Number Telephone	Business FAX Number
Business E-mail address (if available)	

**Certification: Read the following statement, and sign and date the box below:**

<b><i>I certify under penalty of perjury that I have reviewed all the information in this report and that it is true and complete to the best of my knowledge.</i></b>	
Signature	Date signed

**ANNUAL CHINOOK EDR AFA POLLOCK VESSEL FUEL SURVEY  
PART 2: Vessel Fuel Consumption and Cost**

Instructions

For each vessel operated by you in the AFA pollock fishery during calendar year 20XX, report the following information:

1. AFA Vessel Permit Number
2. Average rate of fuel consumption.

***Report fuel consumption rates for the pollock fishery only.***

For each vessel, report the average rate of fuel consumption under average operating conditions during the calendar year. Report the fuel consumption rate separately for operating while towing and operating while transiting (traveling between points on fishing grounds, but not towing).

For motherships, report the rate of fuel consumption for transiting only. If you do not have equipment on the vessel for actively monitoring the rate of fuel usage, provide the most accurate estimate you can based on the best information you have available.

3. Annual Fuel Loaded and Total Cost.

For each vessel, report the total amount of fuel loaded to the vessel, in gallons, during the calendar year and total cost of fuel for this vessel during the calendar year. Include all fuel that was loaded and invoiced, even if not completely used or paid for during the calendar year.

***Do not include lubrication and fluids costs other than fuel.***



**ANNUAL CHINOOK EDR AFA POLLOCK VESSEL FUEL SURVEY  
PART 2: VESSEL FUEL CONSUMPTION AND COST**

AFA Vessel Permit Number	Average Rate of Fuel Consumption (gallons per hour)		Annual Fuel Loaded (gallons)	Annual Fuel Cost (\$ US)
	Fishing	Transiting (not fishing)		

ANNUAL  
**AMENDMENT 91/CHINOOK  
EDR  
AFA POLLOCK FISHERY  
VESSEL MASTER SURVEY  
CALENDAR YEAR 20XX**

**THIS FORM MUST BE SUBMITTED ONLINE AT**  
<http://www.alaskafisheries.noaa.gov/>



**PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 3 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

**ADDITIONAL INFORMATION**

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts for groundfish under section 402(a) of the Magnuson-Stevens Fishery Management and Conservation Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq.*) as amended in 2006; 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.



## **ANNUAL CHINOOK EDR: VESSEL MASTER SURVEY**

The Chinook Salmon Economic Data Report (EDR) Program provides additional data to assess the effectiveness of the Chinook salmon bycatch management measures implemented under Amendment 91 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. The information collected is a combination of quantitative and qualitative data to conduct descriptive and quantitative analysis and comparisons of the annual and seasonal changes in the pollock fleet under Amendment 91.

An owner or leaseholder of an American Fisheries Act (AFA) permitted vessel must submit a Vessel Master Survey completed by each master of each vessel used to harvest pollock in the Bering Sea in the previous year. It is the responsibility of the vessel owner/leaseholder to obtain a completed Vessel Master Surveys and submit all completed surveys to NMFS.

The Vessel Master Survey has two parts. Part 1 is the Vessel Owner Certification Page. Part 2: Pollock Fishing and Salmon Bycatch Avoidance, is to be completed by the vessel master and asks about different aspects of decision-making during the pollock season, including incentives, fishing location choices, and salmon bycatch reduction measures.

**If you have questions regarding this survey or need additional information, contact:**

**Pacific States Marine Fisheries Commission**  
NMFS Economic Data Reports  
205 SE Spokane, Suite 100  
Portland, OR 97202

FAX: 503-595-3450

EMAIL: [CTR@psmfc.org](mailto:CTR@psmfc.org)

TELEPHONE toll free 1-877-741-8913

OR

Brian Garber-Yonts  
**NMFS Alaska Fisheries Science Center**

TELEPHONE: 206-526-6301

EMAIL: [brian.garber-yonts@noaa.gov](mailto:brian.garber-yonts@noaa.gov)

**SUBMIT CERTIFICATION PAGE OR ENTIRE VESSEL MASTER SURVEY**  
**ELECTRONICALLY**  
**ON OR BEFORE 1700 HOURS A.L.T. ON JUNE 1 TO:**

<http://www.alaskafisheries.noaa.gov>

**ANNUAL CHINOOK EDR: VESSEL MASTER SURVEY  
PART 1: Vessel Owner Certification Page**

**AFA-permitted vessel and owner identification and name and CFEC gear operator permit number for all vessel masters operating the vessel in the AFA pollock fishery during calendar year 20xx**

Vessel Owner /Leaseholder Name	NMFS_ID
Vessel Name	AFA Permit Number
Vessel Master Name	CFEC <sup>1</sup> Gear Operator Permit Number
Vessel Master Name	CFEC Gear Operator Permit Number
Vessel Master Name	CFEC Gear Operator Permit Number
Vessel Master Name	CFEC Gear Operator Permit Number

<sup>1</sup>CFEC = State of Alaska Commercial Fisheries Entry Commission

**Submittal of Vessel Master Survey**

**Select one of the following statements (check one box below)**

<input type="checkbox"/>	You were the AFA owner or leaseholder for an AFA permitted vessel that harvested or processed pollock during the calendar year 20XX. Complete and submit <b>ENTIRE VESSEL MASTER SURVEY FORM</b> (both Part 1 and Part 2)
<input type="checkbox"/>	You were the AFA owner or leaseholder for an AFA permitted vessel that <b>DID NOT HARVEST OR PROCESS</b> AFA pollock during the calendar year 20XX. Complete and submit the <b>VESSEL OWNER CERTIFICATION PAGE (Part 1) ONLY</b>

**Person Submitting this Report**

<b>Provide the name, title or NMFS ID, and contact information for the individual submitting the form.</b>	
Name	Title or NMFS ID
Business Number Telephone	Business FAX Number
Business E-mail address (if available)	

**Certification: Read the following statement, and sign and date the box below:**

<b><i>I certify under penalty of perjury that I have reviewed all the information in this report and that it is true and complete to the best of my knowledge.</i></b>	
Signature	Date signed

**ANNUAL CHINOOK EDR: VESSEL MASTER SURVEY  
PART 2: Pollock Fishing and Salmon Bycatch Avoidance**

Each Vessel Master on the AFA-permitted vessel must complete the Hired Master information and sign and date the certification. *Duplicate Part 2 if additional entries are needed.*

**Hired Master Certification**

Vessel Master Name	CFEC Gear Operator Permit Number
<b>I certify under penalty of perjury that I have reviewed all the information in this report and that it is true and complete to the best of my knowledge.</b>	
Signature (Vessel Master)	Date signed

Please consider the following questions carefully and provide the most complete answers you can. Where applicable, please note any differences between the A and B pollock seasons. Please attach extra sheets if more space is needed to complete your answers.

1. If the vessel participated in an Incentive Plan Agreement (IPA), did the IPA affect your fishing strategy?  
 YES                       NO

**If YES**, please describe and discuss what incentives had the largest impact on your strategy.

2. Did the amount and/or cost of Chinook PSC allocation available to the vessel lead you to make changes in pollock fishing operations?  
 YES                       NO

**If YES**, please describe.

3. How would you compare the Chinook salmon bycatch and pollock conditions during the A and B seasons this year relative to the last two years? Please describe any unique aspects of the season.

4. Did Chinook salmon bycatch conditions cause you to delay the start of your pollock fishing or otherwise alter the timing of your pollock fishing for some period during the past A and/or B season?  
 YES                       NO

**If YES**, please describe the Chinook salmon bycatch condition, when it occurred, and any change in your pollock fishing as a result.

5. In the past year, did you end a trip and return to port early because of Chinook salmon bycatch conditions?

YES

NO

If **YES**, please indicate the number of trips that this occurred in each season (use a checkmark ✓ to indicate appropriate answer for each season).

Number of trips suspended due to bycatch	Season	
	A	B
0		
1-3		
4-10		
More than 10		

6. Please describe how any area closures or restrictions for the purpose of reducing Chinook salmon bycatch affected where and how you fished.

7. Please describe how any regulatory or other area closures or restrictions for a purpose other than reducing Chinook salmon bycatch affected where and how you fished.

8. Compared to a typical year, did weather or sea ice conditions have more, less, or about the same impact on fishing as in a typical year? Please describe especially if there were particularly uncommon conditions at any point this year. If these conditions had an impact on your ability to avoid Chinook salmon bycatch, please describe.

9. Were there exceptional factors that affected your pollock fishing this year? For example, were there unusual market or stock conditions, unusual pollock fishing conditions, or maintenance problems? Please describe.

10. Separate from an Incentive Plan Agreement, were there other incentives for you to reduce Chinook salmon bycatch?

YES

NO

If **YES**, please describe.

11. Did actual or potential bycatch of species other than Chinook salmon cause you to change your harvesting decisions during the pollock season?

YES

NO

If **YES**, please describe.