

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 01/10/2011

Department of Commerce  
National Oceanic and Atmospheric Administration  
FOR CERTIFYING OFFICIAL: Simon Szykman  
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 08/27/2010

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 201008-0648-007  
AGENCY ICR TRACKING NUMBER:  
TITLE: NMFS Alaska Region Scale and Catch Weighing Requirements  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0330  
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 01/31/2014 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	9,305	5,209	628,504
New	23,650	6,548	116,164
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	14,345	1,339	-512,340
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland  
Deputy Administrator,  
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Scale type evaluation	NA, NA, NA	Scale type evaluation - belt scale form, Scale type evaluation - automatic hopper scales, Scale type evaluation - platform hanging scales	
Catch monitor and control plan addendum			50 CFR 679.84
Inspection request, at-sea scales	NA	Inspection request - at-sea scales	
Catcher/processor observer sampling station annual inspection request form	NA	Inspection request for observer sampling station	
CMCP inspection request			50 CFR 679.84
Catcher/processor bin monitoring inspection request form	NA	Inspection request for electronic bin monitoring system	
Catcher/processor observer notification of scale tests			50 CFR 679.28
Catcher/processor records of daily scale tests			50 CFR 679.28
Catcher/processor printed output of at-sea scales			50 CFR 679.28
Crab catch monitoring plan			50 CFR 680.23
Catch monitoring plan addendum			50 CFR 680.23
CMP inspection request			50 CFR 680.23
Catch monitoring and control plan for shoreside processors and stationary floating processors			50 CFR 679.84
Shoreside or SFP inseason scale tests, printed records from State of Alaska scale			50 CFR 679.84
Electronic bin monitoring system			50 CFR 679.84
Observer notification of CDQ, pollock and rockfish delivery			50 CFR 679.84

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

<p>1. Agency/Subagency originating request</p>	<p>2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span>                  a. _____ - _____</p>
<p>3. Type of information collection (<i>check one</i>)</p> <p>a. <input type="checkbox"/> New Collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note Item A2 of Supporting Statement instructions</p>	<p>4. Type of review requested (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Regular submission</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p>
	<p>5. Small entities                  Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____</p>
<p>7. Title</p>	
<p>8. Agency form number(s) (<i>if applicable</i>)</p>	
<p>9. Keywords</p>	
<p>10. Abstract</p>	
<p>11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>)</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p>	<p>12. Obligation to respond (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p>
<p>13. Annual recordkeeping and reporting burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p>    1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>	<p>14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&amp;M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>
<p>15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>)</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (<i>check all that apply</i>)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting</p> <p>    1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p>    4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p>    7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods</p> <p>Does this information collection employ statistical methods</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p>

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
NMFS ALASKA REGION  
SCALE & CATCH WEIGHING REQUIREMENTS  
OMB CONTROL NO. 0648-0330**

**INTRODUCTION**

National Marine Fisheries Service (NMFS) manages the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska. The North Pacific Fishery Management Council (Council) prepared the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI). NMFS manages the crab fisheries in the waters off the coast of Alaska under the Fishery Management Plan for Bering Sea and Aleutian Islands Crab. The Fishery Management Plans (FMPs) were prepared under the authority of the Magnuson-Stevens Fishery Conservation & Management Act (16 U.S.C. 1801 *et seq.*). On October 21, 1998, the President signed the The American Fisheries Act (AFA), 16 U.S.C. 1851 that imposed major structural changes on the BSAI pollock fishery. Regulations implementing the FMPs appear at 50 CFR part 679 and part 680.

This action is a renewal request for an existing collection.

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

NMFS manages the commercial groundfish harvest off Alaska using an annual total allowable catch for each species based on “round” weight, or the weight of the fish prior to processing. However, much of the fish harvested off Alaska is harvested by catcher/processors that process the catch at-sea. NMFS estimates the total weight of fish harvested by those trawl gear catcher/processors by requiring the vessel to weigh all or part of their catch on a motion-compensated scale. Trawl gear catcher/processors and motherships under the American Fisheries Act (AFA) and motherships under the Western Alaska Community Development Quota (CDQ) Program are required to weigh all catch at-sea. The participants in the Crab Rationalization (CR) crab fisheries must weigh all crab prior to processing.

Non-trawl catcher/processors that harvest CDQ are not required to weigh all catch, but are required to weigh samples of catch. The non-AFA, trawl catcher/processors regulated under the annual Groundfish Retention Standard (GRS) are required to use NMFS-approved scales to determine the weight of total catch; then, calculate the percent of groundfish retained as a specified ratio of the round weight equivalent of total retained groundfish to total groundfish.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

NMFS developed the catch weighing and monitoring system for catcher/processors and motherships based on the vessel meeting a series of design criteria. Because of the wide variations in factory layout for inshore processors, NMFS requires a performance-based catch monitoring system for inshore processors.

NMFS has identified the primary objectives for monitoring catch.

- ◆ Monitoring must ensure independent verification of catch weight, species composition, and location data for every delivery by a catcher vessel or every pot by a catcher/processor.
- ◆ All catch must be weighed accurately using NMFS-approved scales to determine the weight of total catch.
- ◆ The system must provide a verifiable record of the weight of each delivery.
- ◆ The system must provide data that will provide reliable independent estimates of the total catch. Vessel operators must ensure that each haul is observed by a NMFS-approved observer for verification that all fish are weighed.

The contents of this section are outlined below:

- I. Offshore Processors Catch-Weighing & Monitoring System
  - a. Scale type evaluation
    1. Platform and hanging scales evaluation
    2. Belt-conveyor (flow) scale evaluation
    3. Automatic hopper scales evaluation
    4. New, undefined scale evaluation
  - b. Inspection request, at-sea scales
  - c. Notification to observer of scale tests
  - d. Records of at-sea scale tests
    1. Daily flow scale test records
    2. Daily automatic hopper scale test records
  - e. Printed output of at-sea scales used to weigh catch at sea
  - f. Inspection request, observer sampling station
- II. Crab Catch Monitoring Plan (CMP)
  - a. Proposed CMP
  - b. CMP addendum
  - c. Inspection request, CMP

### III. Catch Monitoring and Control Plan (CMCP) for Shoreside Processors and Stationary Floating Processors (SFPs)

- a. Proposed CMCP
- b. CMCP Addendum
- c. Inspection request, CMCP
- d. Shoreside processor or SFP inseason scale tests
- e. Printed record from the State scale
- f. Notification to observer of BSAI pollock delivery
- g. Notification to observer of CDQ delivery
- h. Notification to observer of Rockfish Program delivery

### IV. Bin Monitoring

- a. Electronic Bin Monitoring System
- b. Inspection Request, Bin Monitoring

## I. OFFSHORE PROCESSORS CATCH-WEIGHING & MONITORING SYSTEM

NMFS has implemented a three-part process for evaluating whether at-sea scales are meeting NMFS' performance and technical requirements. This process consists of:

- ◆ Type evaluation of each model of scale
- ◆ Dockside inspection of each scale once installed on a vessel and once a year thereafter
- ◆ At-sea testing of each scale.

No single element of the process alone is sufficient to determine whether a scale is meeting performance and technical requirements.

The scale type evaluation or laboratory tests are designed to determine whether the model of scale meets technical and performance standards under a range of environmental and operating conditions on the vessel, including temperature, humidity, power fluctuations, short-time power reduction, power bursts, electrostatic discharge, and electromagnetic susceptibility. However, the laboratory tests are not designed to test the scale's performance in motion.

The dockside inspection of each scale will determine, among other things, whether the scale weighs accurately while in a nearly stationary position. This evaluation is necessary to identify scales that are not installed properly or do not meet other technical or performance requirements before the vessel starts fishing.

The at-sea scale tests are conducted daily to verify that the scale is weighing accurately at sea. This is the only test that will be performed while the scale is in motion. The maximum permissible errors (MPEs) are higher in the at-sea scale tests than in the dockside tests to allow a greater tolerance for scales tested in motion.

The scale is required to be tested once a day by the vessel crew at a time determined by the crew. NMFS acknowledges that these daily scale tests cannot identify all weighing problems that will occur between tests on successive days. However, other features of the scale program should minimize this risk. These other features include the type evaluation, and dockside tests, and the audit trail that electronically records and stores records of scale calibrations, adjustments, and observer monitoring.

NMFS requires that the owner of an offshore processor install a motion-compensated flow scale and to weigh each haul individually on that scale. Flow scales are intended to provide accurate records of total catch. In order to be approved by NMFS, a scale used to weigh catch at sea must meet the type evaluation requirements set forth at § 679.28(b)(1) and the initial inspection and annual reinspection requirements set forth in § 679.28(b)(2).

*The forms for the NMFS-approved scales are attached to this summary. However, the cost and time burden estimates for each scale evaluation by type are not included because these forms for evaluation are inactive.*

#### **a. Scale type evaluation**

The owner of an offshore processor must select an at-sea scale from the list of scales approved by NMFS for weighing catch at-sea. This list is displayed on the NMFS Alaska Region website at <http://www.fakr.noaa.gov/scales/default.htm#approved>

Type evaluation and testing must be conducted by a laboratory accredited by the government of the country in which the tests are conducted. Before NMFS can approve a model of scale for use, the manufacturer must submit the scale to a certified laboratory for evaluation and testing to insure that the scale meets international scale standards. Scales must meet the performance and technical requirements specified in appendix A to 50 CFR part 679. The number of hours required to document a scale's characteristics varies, depending on the type of scale and the similarity to models that have already been approved.

Evaluation information identifies and describes the scale, sets forth contact information regarding the manufacturer, and sets forth the results of required type evaluations and testing. This information is collected once for each scale type or model. It is used by NMFS scale-evaluation staff to determine if a model of scale meets the requirements for type approval.

#### **1. Platform and hanging scales evaluation**

A platform scale by the nature of its physical size, arrangement of parts, and relatively small capacity (generally 220 kg or less) is adapted for use on a bench or counter or on the floor. A platform scale can be self contained. That is, the indicator and load receiver and weighing elements are all comprised of a single unit, or the indicator can be connected by cable to a separate load receiver and weighing element. The technology used may be mechanical, electro-mechanical, or electronic. Loads are applied manually.

A platform scale could be used as an observer sampling scale and to verify the weight of fish used to test the belt or automatic hopper scales on trawl catcher/processors and motherships. Or, a platform scale could be used to weigh total catch. A platform scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs.

A platform scale must be rigidly installed in a level condition. When in use, a hanging scale must be freely suspended from a fixed support or a crane.

### **Platform and hanging scales evaluation**

#### **Block I. Information about the scale tested.**

This block supplies basic background and contact information so that NMFS can maintain accurate contact records.

Name, mailing address, telephone number, and fax number of scale manufacturer

Name, mailing address (if different from manufacturer), telephone and fax numbers of representative

Model and serial number of scale submitted for evaluation.

#### **Block II. Information about all scales.**

Frequently scale manufacturers produce the same basic scale with different sizes, capacities or model numbers. This block allows the manufacturer to describe a “family” of similar scales so that all can be approved at one time. It also sets out the basic meteorological characteristics of the scales.

Provide information about the scale submitted for evaluation at #1.

Identify all other models of scales of the same type of scale that will be covered by laboratory evaluation.

Model designation

Maximum capacity

Value and number of scale divisions

Minimum load

Accuracy class

#### **Block III. Information about the certifying laboratory.**

This block gives NMFS information on the independent laboratory that evaluated the scale for future reference

Name of laboratory

Mailing address, telephone and fax numbers of laboratory

Name and Address of Government Agency accrediting laboratory

#### **Block IV. Certification of compliance with NMFS at-sea scale requirements.**

This block is to certify that the manufacturer’s representative believes the scale or scale component is in compliance with regulations at 50 CFR 679 as indicated in the checklist and test report forms.

Printed name and signature of representative

Date

#### **Block V. List of Attachments.**

This block is a checklist of attachments intended to help the manufacturer’s representative include the correct documentation needed for scale approval.

#### **Block VI. General Requirements Checklist**

This checklist helps the manufacturer’s representative to review the requirements for approval and to note any possible problems.

## **2. Belt-conveyor (flow) scale evaluation**

Flow scales are used to weigh catch at sea. This scale or scale system employs a conveyor belt in contact with a weighing element to determine the weight of a bulk commodity being conveyed across the scale. A belt scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs. An operator generally directs the flow of product onto the input conveyor.

### **Belt-conveyor (flow) scale evaluation**

#### **Block I. Information about the scale tested.**

This block supplies basic background and contact information so that NMFS can maintain accurate contact records.  
Name, mailing address, telephone number, and fax number of scale manufacturer  
Name, mailing address (if different from manufacturer), telephone and fax numbers of representative  
Model and serial number of scale submitted for evaluation.

Block II. Information about all scales.

Frequently scale manufacturers produce the same basic scale with different sizes, capacities or model numbers. This block allows the manufacturer to describe a “family” of similar scales so that all can be approved at one time. It also sets out the basic meterological characteristics of the scales.

Provide information about the scale submitted for evaluation.

Identify all other models of scales of the same type of scale that will be covered by laboratory evaluation.

Model designation  
Maximum capacity  
Value of scale divisions  
Maximum flow rate, minimum flow rate, minimum totalized load  
Belt speed  
Weigh length  
Maximum capacity

Block III. Information about the certifying laboratory.

This block gives NMFS information on the independent laboratory that evaluated the scale for future reference.

Name of laboratory  
Mailing address, telephone and fax numbers of laboratory  
Name and Address of Government Agency accrediting laboratory

Block IV. Certification of compliance with NMFS at-sea scale requirements.

This block is to certify that the manufacturer’s representative believes the scale or scale component is in compliance with regulations at 50 CFR 679 as indicated in the checklist and test report forms.

Printed name and signature of manufacturer’s representative  
Date

Block V. List of Attachments.

This block is a checklist of attachments intended to help the manufacturer’s representative include the correct documentation needed for scale approval.

Block VI. General Requirements Checklist – Belt scale.

This checklist helps the manufacturer’s representative to review the requirements for approval and to note any possible problems.

### **3. Automatic hopper scales evaluation**

Automatic hopper scales are used to weigh catch at sea. An automatic hopper scale is adapted to the automatic weighing of a bulk commodity (fish) in predetermined amounts. Capacities vary from 20 kg to 50 mt. It is generally equipped with a control panel, with functions to be set by an operator, including the start of an automatic operation.

A scale manufacturer or their representative may request that NMFS approve a custom-built automatic hopper scale under the following conditions:

- ◆ The scale electronics are the same as those used in other scales on the Regional Administrator's list of scales eligible for approval;
- ◆ Load cells have received Certificates of Conformance from National Type Evaluation Program or International Organization of Legal Metrology;

- ◆ The scale compensates for motion in the same manner as other scales made by that manufacturer which have been listed on the Regional Administrator's list of scales eligible for approval;
- ◆ The scale, when installed, meets all of the requirements set forth in paragraph 3 of Appendix A to § 679.28, except those requirements set forth in paragraph 3.2.1.1.

### **Automatic hopper scales evaluation**

#### Block I. Information about the scale tested.

This block supplies basic background and contact information so that NMFS can maintain accurate contact records.

Name, mailing address, telephone number, and fax number of scale manufacturer

Name, mailing address (if different from manufacturer), telephone and fax numbers of representative

Model and serial number of scale submitted for evaluation.

#### Block II. Information about all scales.

Frequently scale manufacturers produce the same basic scale with different sizes, capacities, or model numbers.

This block allows the manufacturer to describe a “family” of similar scales so that all can be approved at one time. It also sets out the basic meteorological characteristics of the scales.

Provide information about the scale submitted for evaluation at #1.

Identify all other models of scales of the same type of scale that will be covered by laboratory evaluation.

Model designation

Maximum capacity

Value and number of scale divisions

Minimum weightment

Minimum totalized load

#### Block III. Information about the certifying laboratory.

This block gives NMFS information on the independent laboratory that evaluated the scale for future reference.

Name of laboratory

Mailing address, telephone and fax numbers of laboratory

Name and Address of Government Agency accrediting laboratory

#### Block IV. Certification of compliance with NMFS at-sea scale requirements.

This block is to certify that the manufacturer’s representative believes the scale or scale component is in compliance with regulations at 50 CFR 679 as indicated in the checklist and test report forms.

Printed name and signature of manufacturer’s representative

Date

#### Block V. List of Attachments.

This block is a checklist of attachments intended to help the manufacturer’s representative include the correct documentation that NMFS needs to approve the scale.

#### Block VI. General Requirements Checklist – Automatic hopper scale.

This checklist helps the manufacturer’s representative to review the requirements for approval and to note any possible problems.

NMFS received no requests for scale evaluation in the past three years. A scale type evaluation is only triggered if someone wants a new type of scale approved for use at sea. Currently there is one manufacturer with approved scales (they bought the other two companies formerly reported) and one manufacturer that has discussed getting an undefined scale approved.

## **4. New, undefined scale type evaluation**

Representatives from two scale manufacturers have expressed interest in having a new scale evaluated for use to weigh catch at sea. Because details are not available on this scale, an estimate of costs is given below.

<b>Scale Type Evaluation, Respondent</b>	
<b>Number of respondents</b>	<b>2</b>
<b>Total annual responses</b>	<b>2</b>
Frequency of response = 1	
<b>Total burden hours</b>	<b>100 hr</b>
Time per response = 50 hr	
<b>Total personnel cost</b>	<b>\$2500</b>
Personnel cost = \$25/hr	
<b>Total capital and startup cost</b>	<b>\$2,500</b>
<b>Total miscellaneous costs</b>	<b>\$24,050</b>
Scale evaluation costs by an independent laboratory = 10,000 x 2 = 20,000	
Miscellaneous supplies (binders, printer paper) = 15 x 2 = 30	
Photocopying and fax = 10 x 2 = 20	
Laboratory Testing costs of scale model with market life of 5 yr = \$10,000 or annual cost of \$2,000/yr x 2 = \$4,000	

<b>Scale Type Evaluation, Federal Government</b>	
<b>Total annual responses</b>	<b>2</b>
<b>Total burden hours</b>	<b>81 hr</b>
review submissions (80 hr)	
maintain list of approved scales (1 hr)	
<b>Total Personnel cost</b>	<b>\$2,025</b>
Personnel cost = \$25	
<b>Total miscellaneous cost</b>	<b>0</b>

## **b. Inspection Request, At-sea Scales**

Once a scale is installed on a vessel and approved by NMFS for use to weigh catch at sea, the scale must be inspected and approved annually by a NMFS-approved scale inspector to determine if the scale meets all of the applicable performance and technical requirements. An inspection is a visual assessment and test of a scale after it is installed on the vessel and while the vessel is tied up at a dock and not under power at sea. Each scale must be inspected and approved before the vessel may participate in any fishery requiring the weighing of catch at sea with an approved scale.

The owner or operator must submit an inspection request annually to NMFS for each vessel that is required to have approved scales. The request is used by NMFS-authorized scale inspectors to schedule and conduct a scale inspection on belt scales, automatic hopper scales, and platform scales. A request for a scale inspection must be submitted at least 10 working days in advance of the requested inspection. Scale inspections will be conducted in Dutch Harbor, Alaska, or the Puget Sound area of Washington State.

At the time of scale inspection,

- ◆ The scale must be installed in a rigid and level manner;
- ◆ The display and printer must be connected and operational;
- ◆ The belts leading to the scale must be connected and operational (not applicable to platform and hanging scales);
- ◆ Test weights and test weight certification documents must be available for inspection (platform scales only); and
- ◆ A crew member must be available to help the inspector transport test materials and conduct the testing

After installing a NMFS-approved scale and requesting a scale inspection, the vessel owner must make the vessel and scale available for inspection by the NMFS-authorized scale inspector. The owner must also:

- ◆ Provide a copy of the scale manual supplied by the scale manufacturer to the inspector at the beginning of the inspection.
- ◆ Transport test weights, test material, and equipment required to perform the test to and from the inspector's vehicle and the scale location on the vessel.
- ◆ Apply test weights to the scale or convey test materials across the scale, if requested by the scale inspector.
- ◆ Assist the scale inspector in performing the scale inspection and testing.

The inspector will check whether the scale is properly installed and that all components of the scale are functioning (printer, display, software). The performance test consists of weighing a known quantity of test material (sand in bags) to ensure that the scale being tested weighs the material accurately. In order to perform this test on a flow scale, NMFS passes the test material across the scale in the same manner that fish would pass across the scale, so in-feed belts must be operational before the test can be done.

#### Scale Inspection Report.

The inspector will approve a scale if it meets all of the applicable performance and technical requirements. Upon scale approval, the scale inspector will complete and sign a Scale Inspection Report verifying that the scale meets all of the requirements specified in § 679.28(b)(2) and Appendix A. The vessel owner or operator must ensure that the Scale Inspection Report is available for authorized personnel (NMFS staff or observers, United States Coast Guard personnel).

At-Sea Scale Approval Sticker.

The scale inspector will complete a sticker for each approved scale. The owner or operator must ensure that a “NMFS approved scale” sticker is on each approved scale and that the scale sticker remains legible. The sticker lists the month and year of the scale approval.

**Inspection Request, At-sea Scales**

General

- Company name and vessel name
- Mailing address
- Vessel location
- Contact person on board
- Telephone and fax numbers for contact person
- Requested inspection date
- Today’s date
- Telephone number on vessel where inspector may be contacted during inspection

Scales To Be Inspected

- Manufacturer name and model
- Indicate whether repair company will be onsite at time of inspection
- Repair company name
- Contact person name and telephone number

<b>Inspection Request, At-sea Scales, Respondent</b>	
<b>Number of respondents</b>	<b>46</b>
21 Amendment 80, rockfish, and GRS	
22 AFA	
3 crab	
<b>Total annual responses</b>	<b>46</b>
Responses per respondent = 1	
<b>Total burden hours (4.6)</b>	<b>5 hr</b>
Time per response = 6 minutes (0.1 hr)	
<b>Total personnel cost (5 x \$25)</b>	<b>\$125</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost (9.55)</b>	<b>\$10</b>
Cost of photocopy (0.05 x 46 = 2.30)	
Cost of fax (\$5 x 1 = 5)	
Cost of email (0.05 x 45 = 2.25)	

<b>Inspection Request, At-sea Scales, Federal Government</b>	
<b>Total annual responses</b>	<b>46</b>
<b>Total burden hours (11.50)</b>	<b>12 hr</b>
Time per response = 15 minutes = 0.25)	
<b>Total personnel cost</b>	<b>\$300</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

**c. Notification to Observers of at-sea scale tests**

Each vessel operator must notify the observer at least 15 minutes before the time that a scale test will be conducted and must conduct the test while the observer is present. No form exists for this notice. This notice consists of vessel personnel verbally informing the observer that a scale test is scheduled.

<b>Notification to Observers of scale tests, Respondent</b>	
<b>Number of respondents</b>	<b>46</b>
<b>Total annual responses</b>	<b>6,210</b>
Frequency of response = 135	
<b>Total burden hours (186.30)</b>	<b>186 hr</b>
Hours per response (2 min /60 min= 0.03)	
<b>Total personnel cost</b>	<b>\$4,650</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

<b>Notification to Observer of scale tests, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

#### **d. Records of at-sea scale tests**

Some motion-compensated flow scales are specifically designed to be recalibrated regularly in order to weigh accurately. Because the operator must adjust the scale several times a day, NMFS believes that a daily test of the scale is necessary to monitor the performance of the scale.

NMFS may re-evaluate the need for daily tests for at-sea scales in the future if scales with sealed calibration mechanisms become available or if daily scale test results indicate that fewer tests would provide sufficient information about the scale's performance.

Upon NMFS approval of a scale used to weigh catch at sea, the vessel operator must test each scale or scale system that is used to weigh total catch. The test must occur one time during each 24-hour period; the test must be recorded on a test report form. The scale must meet the maximum permissible error requirements described in § 679.28(b)(3) to ensure that it is accurate within an approved range.

Information from the scale test form is used by NMFS observers, enforcement staff, and scale program staff to ensure regulatory compliance and to monitor the accuracy of the scales.

The flow scale daily test information may be recorded as a .pdf file at [http://www.fakr.noaa.gov/scales/dailytest\\_fillable.pdf](http://www.fakr.noaa.gov/scales/dailytest_fillable.pdf) or and as an excel file at <http://www.fakr.noaa.gov/scales/default.htm#inspections>. Although not submitted to NMFS, the daily test forms must be available for inspection on board or onsite until the end of the fishing year during which the tests were conducted. The owner must retain the daily test records for three years after the test occurred.

# 1. Daily flow scale test records.

## Daily flow scale test records

- Vessel name
- Month, day, and year of test
- Time test started to the nearest minute

### I. Weigh fish on observer platform scale

- Collect approximately 400 kg of fish in baskets and weigh it on the platform scale.
- Record the weight of each basket of fish (basket plus fish)

### II. Calculate percent error of flow scale

- Record the total weight of all baskets plus fish in the first box
- Record the weight of the baskets in the second box.
- Subtract the weight of the baskets from the total weight of fish plus baskets to determine the weight of the fish only; record this weight in the third box. This is the platform scale weight of the fish (A).
- Record the weight displayed on the flow scale before and after the test fish are weighed.
- Weigh the fish from the baskets on the flow scale. Record the weight in the fourth box (B).
- Calculate error of flow scale by subtracting the platform scale weight (A) from the flow scale weight (B).
- Record the error (C) in the fifth box
- Calculate percent error by dividing the error (C) by the known weight of the fish (A) and multiplying by 100.
- Record this information in the last box of Section II. When tested, the total catch weighing scale and the observer sampling station scale must agree within 3 percent. If the scale fails the daily test, it may be re-tested at any time. However, it may not be used to weigh fish until it passes the daily test. The scale is weighing within 3 percent error if the result is between -3.0% and +3.0%.

### III. Sea Conditions (Beaufort Scale) at Time of Scale Test (Check One)

- Record Beaufort Scale sea conditions at time of test

Signatures of vessel operator and observer

<b>Records of daily flow scale tests, Respondent</b>	
<b>Number of respondents</b>	<b>43</b>
21 Amendment 80, rockfish, and GRS	
22 AFA	
<b>Total annual responses (43 x 135)</b>	
Frequency of response = 135	<b>5805</b>
<b>Total burden hours (4353.75 )</b>	
Time per response (45 min/60 min = 0.75)	<b>4,354 hr</b>
<b>Total personnel cost</b>	
Personnel cost = \$25/hr	<b>\$108,850</b>
<b>Total miscellaneous costs (\$1505)</b>	
Binders, printer paper = \$35 x 43	<b>\$1,505</b>

<b>Records of daily flow scale tests, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

## 2. Daily Automatic Hopper Scale Test Records

Three crab processors in the Crab Rationalization Program use hopper scales.

### Daily Automatic Hopper Scale Test Records

Vessel name  
 Vessel operator signature  
 Date of test  
 Time test started  
 Minimum capacity of scale  
 Test weights  
 Weight on scale indicator  
 Error  
 % Error  
 Maximum capacity of scale  
 Test weights  
 Weight on scale indicator  
 Error  
 % Error  
 Sea conditions (Beaufort scale) at time of scale test

<b>Records of daily hopper scale tests, Respondent</b>	
<b>Number of respondents</b>	<b>3</b>
<b>Total annual responses</b> (3 x 135)	<b>405</b>
Frequency of response =135	
<b>Total burden hours</b> (303.75 )	<b>304 hr</b>
Hours per response (45 min/60 min= 0.75)	
<b>Total personnel cost</b> (\$25 x 304)	<b>\$7,600</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous costs</b> (3 x \$35)	<b>\$105</b>
Binders, printer paper = 35	

<b>Records of daily hopper scale tests, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous costs</b>	<b>0</b>

### e. Printed output of at-sea scales used to weigh catch

Each scale used to weigh catch must be equipped with a printer. A printout(s) showing the total weight of each haul, set, or delivery must be generated after each delivery has been weighed. Reports must be printed at least once every 24 hours when use of the scale is required. Reports must be printed before any information stored in the scale computer memory is replaced.

Although scales may be recalibrated or tested at any time during the day, the audit trail is designed to record information that will be used to determine whether a scale had been incorrectly adjusted and then readjusted just prior to the scale test. The printed output of scale weights is used by NMFS staff, observers, and NOAA enforcement personnel to maintain accurate records of catch and to ensure compliance with quotas. The scale printout also forms

the basis of an audit trail for each haul that can be used to resolve inconsistencies in catch reports submitted by the observer and the vessel or processor.

These printouts are not submitted to NMFS, but they must be available for inspection at any time upon request of the observer, the scale inspector, NMFS staff, or an authorized officer on board the vessel during the fishing year and retained by the vessel owner for three years after the test occurred.

**Printed output from the at-sea scale**

The scale software is programmed to print the required information, and printing is nearly automatic.

- Vessel name
- Federal fisheries permit number
- Haul or set number
- Total weight of the haul or set
- Total cumulative weight of all fish or other material weighed on the scale

<b>Printed output, at-sea scale, Respondent</b>	
<b>Number of respondents</b>	<b>46</b>
<b>Total annual responses</b> (46 x 135)	<b>6,210</b>
Frequency of response = 135	
<b>Total burden hours</b> (124.2)	<b>124 hr</b>
Time per response (1 min/60 min=0.02)	
<b>Total personnel cost</b>	<b>\$3,100</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b> (46 x \$35)	<b>\$1,610</b>
Binders, paper = \$35	

<b>Printed output, at-sea scale, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

Each vessel must provide a single collection point for observers (observer sampling station) to collect samples of unsorted catch. Observer sampling of each haul is necessary to determine the percentage of the total catch that is comprised of groundfish and to estimate total groundfish weight.

**f. Inspection request, observer sampling station.**

Each vessel is required to provide an observer sampling station that meets specifications for size, location, and content. These stations provide a location where observers can work safely and effectively. An inspection request for an observer sampling station provides the basic information needed to schedule and conduct an inspection.

Each observer sampling station must be inspected and approved by NMFS prior to its use for the first time and then one time each year within 12 months of the date of the most recent inspection. In addition, if the observer sampling station is moved or if the space or equipment available to the observer is reduced or removed when use of the observer sampling station is required, the observer sampling station must be re-inspected and approved by NMFS.

Observer Platform Scale Inspection Report.

Upon approval of the scale after inspection, the inspector will issue an Observer Platform Scale Inspection Report to the operator. This report must be maintained on board the vessel when use of the observer sampling station is required and made available to authorized NMFS and United States Coast Guard (USCG) personnel.

**Observer sampling station inspection request form**

- Vessel name
- Federal fisheries permit number
- Requested inspection date
- Business mailing address
- Name, telephone number, and fax number for contact person on vessel
- Vessel location, including street address and city
- Today's date
- Signature of requestor
- If the vessel received and passed a scale inspection, indicate the date of the most recent inspection
- Attachment

For catcher/processors using trawl gear and motherships, include a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, and the location of the observer sampling station, including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.

For all other vessels, include a diagram drawn to scale showing the location(s) where catch comes on board the vessel, the location where observers will sample unsorted catch, the location of the observer sampling station, including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.

<b>Inspection Request, observer sampling station, Respondent</b>	
<b>Number of respondents</b>	<b>46</b>
<b>Total annual responses</b>	<b>46</b>
Responses per respondent = 1	
<b>Total burden hours</b>	<b>92 hr</b>
Time per response = 2 hr	
<b>Total personnel cost</b>	<b>\$2,300</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost (9.55)</b>	<b>\$10</b>
Cost of photocopy (0.05 x 46 = 2.30)	
Cost of fax (\$5 x 1 = 5)	
Cost of email (0.05 x 45 = 2.25)	

<b>Inspection Request, observer sampling station, Federal Government</b>	
<b>Total annual responses</b>	<b>46</b>
<b>Total burden hours (11.50)</b>	<b>12 hr</b>
Time per response = 15 minutes = 0.25	
<b>Total personnel cost</b>	<b>\$300</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

## I. CRAB CATCH MONITORING PLAN (CMP)

### a. Proposed CMP

A CMP is a plan submitted by a Registered Crab Receiver (RCR) for each location or processing vessel where the RCR wishes to take deliveries of Crab Rationalization Program (CR) crab. The CMP must detail how the RCR will meet the catch monitoring standards detailed in §680.23(g)(5), except that an RCR that processes only CR crab harvested under a catcher/processor owner or catcher/processor crew Individual Fishing Quota (IFQ) permit is not required to prepare a CMP. Catcher/processor owner IFQ means crab IFQ derived from quota share initially issued to persons who held LLP crab permits and had qualifying landings derived from landings processed at sea, to annually harvest and process CR crab. Catcher/processor crew IFQ means crab IFQ derived from quota share initially issued to persons who historically held Alaska Commercial Fisheries Entry Commission crab permits and signed fish tickets for qualifying landings based on landings processed at sea, to annually harvest and process CR crab.

There are 15 shore based crab processing plants. Three catcher/processors are required to have an RCR but are not required to have a CMP. The other RCRs use one of the 15 processing facilities to process their crab and follow that processor's approved CMP.

#### **CMP**

##### Crab Sorting and weighing

All crab, including crab parts and crab that are dead or otherwise unmarketable, delivered to the RCR must be sorted and weighed by species. CMP must show how and where crab are sorted and weighed.

##### Scales used for weighing crab

The CMP must identify by serial number each scale used to weigh crab and describe the rationale for its use.

##### Scale testing plan

Scales identified in the CMP must be accurate. For each scale identified in the CMP a testing plan list:

Test weights and equipment required to test the scale

Where the test weights and equipment will be stored

Names of the personnel responsible for conducting the scale testing

##### Printed record

The scale must produce a complete and accurate printed record of the weight of each species in a landing.

All of the crab in a delivery must be weighed on a scale capable of producing a complete printed record.

A printed record of each landing must be printed before the RCR submits a CR crab landing report

(see OMB 0648-0515).

##### Observation area.

Each CMP must designate an observation area. The observation area is a location where an individual may monitor the offloading and weighing of crab. The observation area must meet the following standards:

Access to the observation area. must be freely accessible to NMFS staff or NMFS-authorized personnel at any time during the effective period of the CMP.

Monitoring the offloading and weighing of crab. From the observation area, must have an unobstructed view or otherwise be able to monitor the entire offload of crab between the first location where crab are removed from the boat and a location where all sorting has taken place and each species has been weighed.

Sheltered. must be sheltered from extreme weather and not exposed to unreasonable safety hazards

##### Plant liaison

Orienting new observers to the plant

Assisting in the resolution of observer concerns

Informing NMFS if changes must be made to the CMP

Drawing to scale of delivery location.

CMP must be accompanied by a drawing to scale of the delivery location or vessel showing:

Where and how crab are removed from the delivering vessel

The observation area

The location of each scale used to weigh crab

Each location where crab is sorted

All offload and weighing locations detailed in a CMP must be located on the same vessel or in the same geographic location. If a CMP describes facilities for the offloading of vessels at more than one location, it must be possible to see all locations simultaneously.

<b>Crab CMP, Respondent</b>	
<b>Number of respondents</b>	<b>15</b>
<b>Total annual responses</b>	<b>15</b>
Responses per respondent = 1	
<b>Total burden hours (15 x 16)</b>	<b>240 hr</b>
Hours per response = 16	
<b>Total personnel cost</b>	<b>\$6,000</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>\$11</b>
Photocopy 0.05 x 15 pp x 15 = \$11.25	

<b>Crab CMP, Federal Government</b>	
<b>Total annual responses</b>	<b>15</b>
<b>Total burden hours</b>	<b>240 hr</b>
Hours per response = 16	
<b>Total personnel cost</b>	<b>\$6,000</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

**b. CMP addendum**

An RCR must notify NMFS in writing if changes are made in operations or layout during the approval year by submitting a CMP addendum. Depending on the nature and magnitude of the change requested, NMFS may require an additional CMP inspection.

**CMP addendum**

Name and signature of the submitter

Address, telephone number, fax number and e-mail address (if available) of submitter

Complete description of the proposed CMP change

<b>CMP Addendum, Respondent</b>	
<b>Number of respondents</b>	<b>3</b>
<b>Total annual responses</b>	<b>3</b>
Responses per respondent = 1	
<b>Total burden hours</b>	<b>24 hr</b>
Time per response = 8 hr	
<b>Total personnel cost</b>	<b>\$600</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>\$2</b>
Photocopy 0.05 x 10 pp x 3 = 1.5	

<b>CMP Addendum, Federal Government</b>	
<b>Total annual responses</b>	<b>3</b>
<b>Total burden hours</b>	<b>3</b>
Time per response = 1 hr	
<b>Total personnel cost</b>	<b>\$75</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

### c. Inspection request, CMP

The location or vessel identified in the CMP must be inspected by NMFS prior to approval of the CMP to ensure that the location conforms to the elements addressed in the CMP. If NMFS disapproves a CMP, the plant owner or manager may resubmit a revised CMP.

An annual CMP inspection may be arranged by submitting a request for a CMP inspection. No form exists for the CMP inspection request; the request is made by telephone or e-mail. An inspection must be requested no less than 10 working days before the requested inspection date. NMFS staff will conduct CMP inspections in any port located in the United States that can be reached by regularly scheduled commercial air service. This inspection request is usually done by telephone or email.

#### Inspection request, CMP

Name and signature of the submitter and date of the request

Address, telephone number, fax number, and e-mail address (if available) of submitter

Proposed CMP

<b>Inspection Request, CMP, Respondent</b>	
<b>Number of respondents</b>	<b>15</b>
<b>Total annual responses</b>	<b>15</b>
Frequency of response = 1	
<b>Total burden hours (1.20)</b>	<b>1 hr</b>
Time per response (5min/60 min = 0.08)	
<b>Total personnel cost</b>	<b>\$25</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost (0.75)</b>	<b>\$1</b>
Photocopy 0.05 x 1 pp x 15	

<b>Inspection Request, CMP, Federal Government</b>	
<b>Total annual responses</b>	<b>15</b>
<b>Total burden hours (7.5)</b>	<b>8 hr</b>
Time per response (30 min/60 min = 0.5)	
<b>Total personnel cost</b>	<b>\$200</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

### **III. CATCH MONITORING AND CONTROL PLAN (CMCP) FOR SHORESIDE PROCESSORS AND SFPs**

Scale requirements in this section are in addition to those requirements set forth by the State of Alaska, and nothing in this paragraph may be construed to reduce or supersede the authority of the State of Alaska to regulate, test, or approve scales within the State of Alaska or its territorial sea. Scales used to weigh groundfish catch that are also required to be approved by the State of Alaska under Alaska Statute 45.75 must meet the following requirements:

- ◆ The scale must display a valid State of Alaska sticker indicating that the scale was inspected and approved within the previous 12 months.
- ◆ The scale and scale display must be visible simultaneously to the observer. Observers, NMFS personnel, or an authorized officer must be allowed to observe the weighing of fish on the scale and be allowed to read the scale display at all times.
- ◆ Printouts of the scale weight of each haul, set, or delivery must be made available to observers, NMFS personnel, or an authorized officer at the time printouts are generated and thereafter upon request for the duration of the fishing year.

#### **a. CMCP**

A CMCP is a plan submitted by the owner or manager of each shoreside processor or SFP and approved by NMFS, detailing how the processing plant will meet the catch monitoring and control standards detailed in §679.28(g)(7). The owner or manager of a shoreside processor or SFP receiving fish harvested in the following fisheries must prepare, submit, and have approved a CMCP prior to the receipt of fish harvested in these fisheries:

- ◆ AFA pollock,
- ◆ Aleutian Islands directed pollock,
- ◆ Rockfish Program, unless those fish are harvested under the entry level rockfish fishery as described under § 679.83.

The CMCP must be maintained on the premises and made available to authorized officers or NMFS-authorized personnel upon request.

#### **CMCP**

##### Catch Sorting and weighing

All groundfish delivered to the plant must be sorted and weighed by species. The CMCP must detail

Amount and location of space for sorting catch

Number of staff assigned to catch sorting

Maximum rate that catch will flow through the sorting area

##### Scales used for weighing groundfish.

The CMCP must identify by serial number each scale used to weigh groundfish and describe the rationale for its use

Scale testing procedure

Scales identified in the CMCP must be accurate within the specified limits.

For each scale identified in the CMCP a testing plan must

- Describe the procedure the plant will use to test the scale
- List the test weights and equipment required to test the scale
- List where the test weights and equipment are stored
- Lists the plant personnel responsible for conducting the scale testing

Printed record

Request for exemption

- Identification of any scale that cannot produce a complete printed record
- Explain how the processor will use the scale, and
- Explain how the plant intends to produce a complete record of the total weight of each delivery

Delivery point

The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location.

- If the catch is pumped from the hold of a catcher vessel or a codend, the delivery point is where the pump first discharges the catch.
- If catch is removed from a vessel by brailing, the delivery point normally is the bin or belt where the brailer discharges the catch.

Observation area.

The observation area is a location designated on the CMCP where an individual may monitor the flow of fish during a delivery.

- Must be freely accessible to NMFS staff or NMFS-authorized personnel at any time a valid CMCP is required
- Must have an unobstructed view or otherwise be able to monitor the entire flow of fish between the delivery point and a location where all sorting has taken place and each species has been weighed

Observer work station

- Must identify an observer work station for the exclusive use of NMFS-certified observers.
- The observer area must be located near the observer work station.
- The plant liaison must be able to walk between the work station and the observation area in less than 20 seconds without encountering safety hazards.
- The work station must meet the following criteria
  - Be located in an area protected from the weather where the observer has access to unsorted catch
  - Provide a platform scale of at least 50 kg capacity
  - Include a workspace
    - at least 4.5 sq m
    - a table
    - a secure and lockable cabinet or locker of at least 0.5 cu m.

Communication with observer

Each CMCP must describe what communication equipment (such as radios, pagers or cellular telephones) is used to facilitate communications within the plant and provide the NMFS-certified observer with the same communications equipment used by plant staff.

Plant liaison

- Each CMCP must designate a plant liaison responsible for
  - Orienting new observers to the plant
  - Assisting in the resolution of observer concerns
  - Informing NMFS if changes must be made to the CMCP

Scale drawing of inshore processor plant

- Each CMCP must be accompanied by a scale drawing of the plant showing
  - Delivery point
  - Observation area
  - Observer work station
  - Location of each scale used to weigh catch
  - Each location where catch is sorted

<b>CMCP, Respondent</b>	
<b>Number of respondents</b>	<b>13</b>
8 AFA	
5 GOA Rockfish	
<b>Total annual responses</b>	<b>13</b>
Responses per respondent = 1	
<b>Total burden hours</b>	<b>520 hr</b>
Time per response = 40 hr	
<b>Total personnel cost</b>	<b>\$13,000</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost (\$9.75)</b>	<b>\$10</b>
Photocopy 0.05 x 15 pp x 13	

<b>CMCP, Federal Government</b>	
<b>Total annual responses</b>	<b>13</b>
<b>Total burden hours</b>	<b>65 hr</b>
Time per response = 5 hr	
<b>Total personnel cost = \$25/hr</b>	<b>\$1,625</b>
<b>Total miscellaneous cost</b>	<b>0</b>

## b. CMCP Addendum

An owner or manager of a shoreside processor or SFP must notify NMFS in writing if changes are made in plant operations or layout that does not conform to the CMCP. An owner or manager may change an approved CMCP by submitting a CMCP addendum to NMFS. NMFS will approve the modified CMCP if it continues to meet the performance standards.

### CMCP Addendum

Name and signature of the submitter

Address, telephone number, fax number and email address (if available) of submitter

Complete description of the proposed CMCP change

<b>CMCP Addendum, Respondent</b>	
<b>Number of respondents</b>	<b>4</b>
<b>Total annual responses</b>	<b>4</b>
Responses per respondent = 1	
<b>Total burden hours</b>	<b>32 hr</b>
Time per response = 8 hr	
<b>Total personnel cost</b>	<b>\$800</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>\$2</b>
Photocopy 0.05 x 10 pp x 4 = 2	

<b>CMCP Addendum, Federal Government</b>	
<b>Total annual responses</b>	<b>4</b>
<b>Total burden hours</b>	<b>4</b>
Time per response = 1 hr	
<b>Total personnel cost</b>	<b>\$100</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

**c. Inspection Request, CMCP**

The owner or manager may arrange for a CMCP inspection by submitting to NMFS a request for a CMCP inspection. No form exists for the CMCP inspection request; the request is made by telephone or e-mail. NMFS will annually approve a CMCP if it meets all the performance standards and requirements. The processor must be inspected by NMFS prior to approval of the CMCP to ensure that the processor conforms to the elements addressed in the CMCP. NMFS will complete its review of the CMCP within 14 working days of receiving a complete CMCP and conducting a CMCP inspection. This inspection request is usually done by telephone or email.

**Inspection Request, CMCP**

Name and signature of the submitter

Date of the application

Address, telephone number, fax number, and e-mail address (if available) of submitter

Proposed CMCP

<b>Inspection Request, CMCP, Respondent</b>	
<b>Number of respondents</b>	<b>13</b>
<b>Total annual responses</b>	<b>13</b>
Frequency of response = 1	
<b>Total burden hours (1.04)</b>	<b>1 hr</b>
Time per response (5min/60 min = 0.08)	
<b>Total personnel cost</b>	<b>\$25</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost (0.65)</b>	<b>\$1</b>
Photocopy 0.05 x 1 pp x 13	

<b>Inspection Request, CMCP, Federal Government</b>	
<b>Total annual responses</b>	<b>13</b>
<b>Total burden hours</b>	<b>52 hr</b>
Time per response = 4 hr	
<b>Total personnel cost = \$25/hr</b>	<b>\$1,300</b>
<b>Total miscellaneous cost</b>	<b>0</b>

**d. Shoreside processor or SFP inseason scale tests**

Scales in shoreside processors plants and SFPs are under the jurisdiction of the State of Alaska Division of Measurement Standards. The State of Alaska requires that fish be weighed on a scale approved under Alaska statutes, because the buying and selling of fish is commerce. The State of Alaska determines what constitutes an approved scale, how often the scale has to be tested, what tests must be conducted, and what performance requirements shoreside processors and SFPs must meet. These performance requirements are significantly more restrictive -- maximum permissible errors -- and operate in a less hostile environment than those scales used at sea. The environment in which the weighing occurs is different from at-sea, and, therefore, the design of the land-based versus at-sea scales is different. Once calibrated and sealed, land-based scales are expected to hold their calibration over an extended period.

Scales identified in an approved CMCP must be tested in accordance with the CMCP when testing is requested by NMFS-staff or NMFS- authorized personnel. NMFS must provide plant personnel no less than 20 minutes notice that a scale is to be tested. No form exists for this notice. This notice consists of NMFS staff or NMFS-authorized personnel verbally informing the plant personnel that a scale test is scheduled.

NMFS or NMFS-authorized personnel will test the scales and will approve or pass an inseason test of a shoreside processor or SFP scale by verifying that:

- ◆ The scale display and printed information are clear and easily read under all conditions of normal operation.
- ◆ Weight values are visible on the display until the value is printed.
- ◆ Finally, the scale does not exceed the maximum permissible errors.

There is no respondent burden for these tests.

**e. Printed record from the State of Alaska scale**

A scale identified in a CMCP must produce a printed record for each delivery, or portion of a delivery, weighed on that scale. All of the groundfish in a delivery must be weighed on a scale capable of producing a complete printed record. Printouts must be retained and made available to NMFS-authorized personnel including observers.

If approved by NMFS as part of the CMCP, scales not designed for automatic bulk weighing may be exempted from part or all of the printed record requirements.

**Printed output from the State of Alaska scale**

- Processor name
- Weight of each load in the weighing cycle
- Total weight of fish in each delivery, or portion of the delivery that was weighed on that scale
- Total cumulative weight of all fish or other material weighed on the scale since the last annual inspection
- Date and time the information is printed
- Name and Alaska Department of Fish & Game number of the vessel making the delivery (This information may be written on the scale printout in pen by the scale operator at the time of delivery.)

<b>Printed output, State scale, Respondent</b>	
<b>Number of respondents</b>	<b>13</b>
<b>Total annual responses</b>	<b>1,755</b>
Frequency of response = 135	
<b>Total burden hours (35.10)</b>	<b>35 hr</b>
Time per response (1 min/60 min= 0.02)	
<b>Total personnel cost (25 x 35)</b>	<b>\$875</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost (13 x 35)</b>	<b>\$455</b>
Binders, paper = \$35	

<b>Printed output, State scale, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

NMFS may exempt scales not designed for automatic bulk weighing from some or all of the printed record requirements if the CMCP identifies any scale that cannot produce a complete printed record, states how the processor will use the scale, and states how the plant intends to produce a complete record of the total weight of each delivery.

**f. Notification to observer of BSAI pollock delivery**

The plant manager or plant liaison must notify the observer of the offloading schedule for each delivery of BSAI pollock by an AFA catcher vessel at least 1 hour prior to offloading. No form exists for this notice. This notice consists of plant personnel verbally informing the observer that a pollock delivery is scheduled. An observer must monitor each delivery of BSAI pollock from an AFA catcher vessel and be on site the entire time the delivery is being weighed or sorted.

There are eight shoreside processors and stationary floating processors that accept deliveries of BSAI pollock.

<b>Observer notification of pollock delivery, Respondent</b>	
<b>Number of respondents</b>	<b>8</b>
<b>Total annual responses</b> Responses per respondent = 135	<b>1,080</b>
<b>Total burden hours (89.99)</b> Time per response (5 min/60 min)	<b>90 hr</b>
<b>Total personnel cost (\$25 x 86)</b> Personnel cost = \$25/hr	<b>\$2,250</b>
<b>Total miscellaneous cost</b>	<b>0</b>

<b>Observer notification of pollock delivery, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

**g. Notification to observer of CDQ delivery.**

The plant manager or plant liaison must notify the level 2 observer of the schedule for each CDQ delivery at least 1 hour prior to offloading. No form exists for this notice. This notice consists of plant personnel verbally informing the observer that a CDQ delivery is scheduled. The observer must monitor the sorting and weighing of the entire delivery.

<b>Observer notification of CDQ delivery, Respondent</b>	
<b>Number of respondents</b>	<b>8</b>
<b>Total annual responses</b>	<b>1,080</b>
Responses per respondent =135	
<b>Total burden hours</b>	<b>90hr</b>
Time per response (5 min/60 min)	
<b>Total personnel cost (\$25 x 86)</b>	<b>\$2,250</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

<b>Observer notification of CDQ delivery, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

**f. Notification to observer of Rockfish Program delivery.**

The plant manager or plant liaison must notify the observer of the offloading schedule for each delivery of groundfish harvested in a Rockfish Program fishery at least 1 hour prior to offloading. No form exists for this notice. This notice consists of plant personnel verbally informing the observer that a Rockfish Program delivery is scheduled.

The observer must be available to monitor each delivery of groundfish harvested in a Rockfish Program fishery and must be available the entire time the delivery is being weighed or sorted.

There are five processors eligible to accept deliveries of GOA Rockfish.

<b>Observer notification of Rockfish delivery, Respondent</b>	
<b>Number of respondents</b>	<b>5</b>
<b>Total annual responses</b>	<b>675</b>
Responses per respondent = 135	
<b>Total burden hours (56.25)</b>	<b>56hr</b>
Time per response (5 min/60 min)	
<b>Total personnel cost (\$25 x 54)</b>	<b>\$1400</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>0</b>

<b>Observer notification of Rockfish delivery, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

#### **IV. BIN MONITORING (Cameras, Monitors, & Digital Video Recording System)**

Each operator must facilitate observation and monitoring of crew activities within a bin or tank by one of three options:

- ◆ Prohibit crew members from entering bins unless the observer is able to monitor all crew activities within the bin
- ◆ Install viewing ports in the bins
- ◆ Install video monitoring system in the bins.

##### Prohibit crew members from entering bins unless the observer is able to monitor all crew activities within the bin.

Vessel operators that choose the first option must ensure that crew members do not enter a fish bin when fish are in it, unless the observer has been given a chance to observe the activities of the crew inside the bin. Based on conversations with vessel owners and operators in this sector, a crew member may be required to be inside the bin to facilitate the movement of fish from the bin. Crew members would be allowed inside bins if the flow of fish has been stopped between the tank and the location where the observer collects unsorted catch, all catch has been cleared from all locations between the tank and the location where the observer collects unsorted catch, and the observer has been given notice that the vessel crew must enter the tank.

When informed by an observer that all sampling has been completed for a given haul, crew would be able to enter a tank containing fish from that haul without stopping the flow of fish or clearing catch between the tank and the observer sampling station. Vessel operators may be able to use water to facilitate the movement of fish in some fisheries. However, industry has indicated that water may degrade the quality of some fish species (e.g., AI POP), which could decrease the value of these fish. Therefore, options were developed to allow an observer to see inside the bin while fish are exiting the bin, and ensure that presorting activities are not occurring.

##### Install viewing ports in the bins.

Vessel operators that choose the second option would be required to provide a viewing window into the bin. The observer must be able to see all actions of the crew member inside the bin from the same position they are conducting their normal sampling duties. For example, while the observer is sorting catch at the observer sample station table, crew member activities inside the bin must be viewable by the observer through the window from the sample station table. This option would be acceptable for vessels that may not need a crew member in the bin frequently or have uniformly shaped bins and an observer sampling station in close proximity to the bin area.

##### Install video monitoring system in the bins.

Vessel operators that choose the third option would be required to develop and install a digital video monitoring system. The system would include a sufficient number of cameras to view all activities of anyone inside the bin. Video cameras would be required to record images in color and in low light conditions. To ensure that an observer can monitor crew member activities in

the bin while sampling, a color monitor would be required to be located in the observer sampling station. An observer would be given the opportunity to review any video data at any time during a trip. Each video system would be required to provide enough storage capacity to store all video data for an entire trip. Because NMFS may not be aware of potential presorting violations until after an observer disembarks the vessel and is debriefed, the vessel must retain all data for a minimum of 120 days from the beginning of each trip, unless notified by NMFS that the data may be removed. Specific requirements for cameras, resolution, recording formats, and other technical information is detailed in the regulatory text under § 679.28(i)(1)(iii).

If at any time during a trip, the viewing port or video options do not allow an observer to monitor crew activities within the fish bin or do not meet the required specifications, the vessel must revert to the first option and prohibit crew from entering the bin. The use of options two and three would be approved by NMFS during the vessel's annual bin monitoring inspection as described at § 679.28(d).

If the video monitoring option is chosen, the processor would be required to provide and maintain cameras, a monitor, and a digital video recording system for all areas of the bin or tank where crew could be located preceding the point where the observer collects catch.

A number of electronic monitoring technologies are now being applied to fisheries monitoring. Video technology is proposed as a potential way to:

- ◆ Supplement existing observer coverage
- ◆ Enhance the value of the data NMFS receives
- ◆ Fill data gaps that have proven difficult to fill with human observers.

#### **a. Electronic Bin Monitoring System**

##### Software And Hardware

The vessel owner or operator must ensure that the electronic monitoring system

- ◆ Has sufficient data storage capacity to store all video data from an entire trip. Each frame of stored video data must record a time/date stamp in Alaska local time. At a minimum, all periods of time when fish are inside the bin must be recorded and stored.
- ◆ Includes at least one external Universal Serial Bus (USB) (1.1 or 2.0) port (hard drive) or other removable storage device approved by NMFS. An USB is a way of setting up communication between a computer and peripheral devices.
- ◆ Uses commercially available software.

- ◆ Color cameras must have at a minimum 420 TV lines of resolution, a lux rating of 0.1, and auto-iris capabilities.
- ◆ Video data must be maintained and made available to NMFS staff, or any individual authorized by NMFS, upon request. These data must be retained onboard the vessel for no less than 120 days after the beginning of a trip unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period.
- ◆ Provides sufficient resolution and field of view to see and read a text sample written in 130 point type (corresponding to line two of a standard Snellen eye chart) from any location within the tank where crew could be located;
- ◆ Records at a speed of no less than 5 frames per second at all times when fish are inside the tank;
- ◆ Provides a 16-bit or better color monitor, for viewing activities within the tank in real time within the observer sampling station. The monitor must:
  - Have the capacity to display all cameras simultaneously;
  - Be operating at all times when fish are in the tank;
  - Be securely mounted at or near eye level;
- ◆ Enables the observer to view any earlier footage from any point in the trip and be assisted by crew knowledgeable in the operation of the system.

### Specifications of the System

At a minimum, must include:

- Length and width (in pixels) of each image
- File type in which the data are recorded
- Type and extent of compression
- Frame rate at which the data will be recorded
- Brand and model number of the cameras used
- Brand, model, and specifications of the lenses used
- Size and type of storage device
- Type, speed, and operating system of any computer that is part of the system

### Miscellaneous Costs

Assuming that vessels choose to purchase redundant storage capacity, and that Universal Serial Bus (USB) compatible hard drives cost approximately \$1.00 per GB, NMFS estimates that storage will cost between \$400 and \$3,000, for an average cost of \$1,700. Maintenance costs are difficult to estimate because much of this technology has not been extensively used at sea by the

U.S. fleet. However, a hard disk failure rate is estimated at 20 percent per year, and a DVR/computer lifespan of three years, or between \$680 and \$4,100 per year.

<b>Electronic Bin Monitoring System, Respondent</b>	
<b>Number of respondents</b>	<b>21</b>
17 AFA trawl catcher/processors	
3 AFA motherships	
1 non-AFA trawl catcher/processor	
<b>Total annual responses</b>	<b>252</b>
Responses per respondent = 12 (1/month)	
<b>Total burden hours</b>	<b>252 hr</b>
Time per response = 1 hr	
<b>Total personnel cost</b>	<b>\$6,300</b>
Personnel cost = \$25/hr	
<b>Total miscellaneous cost</b>	<b>\$85,890</b>
Data storage (\$400 to \$3,000 = av. \$1,700)	
Annual system maintenance (\$680 to \$4,100= avg \$2,390)	
\$1,700 + \$2,390 = 4,090 *21	

<b>Electronic Bin Monitoring System, Federal Government</b>	
<b>Total annual responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous cost</b>	<b>0</b>

**b. Inspection Request, Bin Monitoring**

The owner may arrange the time and place for an inspection of the electronic bin monitoring by submitting to NMFS by fax (206) 526-4066 or e-mail [station.inspections@noaa.gov](mailto:station.inspections@noaa.gov) an Inspection Request available. The electronic bin monitoring inspection request form is also found on the NMFS Alaska Region Web site at <http://www.alaskafisheries.noaa.gov>.

Inspections will be scheduled no later than 10 working days after NMFS receives a complete application for an inspection. Inspections will be conducted on vessels tied to docks in Alaska at Dutch Harbor and Kodiak and in the Puget Sound area of Washington State.

Electronic Monitoring System (EMS) Inspection Report

An Electronic Monitoring System (EMS) Inspection Report, valid for 12 months from the date it is signed by NMFS, will be issued to the vessel owner if the electronic monitoring system meets the requirements. The EMS Inspection Report must be made available to the observer, NMFS personnel, or to any authorized officer upon request. The vessel owner must maintain a current EMS Inspection Report onboard the vessel at all times the vessel is required to provide an approved electronic monitoring system.

Scale Inspection Report and Scale Inspection Sticker

A Scale Inspection Report and a Scale Inspection Sticker, valid for 12 months, will be issued to the vessel owner or operator if the bin monitoring system meets the requirements under the line

of sight option described in §679.28(i)(1)(ii) or the video option described in §679.28 (i)(1)(iii). The vessel owner must maintain a current Scale Inspection Report and a Scale Inspection Sticker onboard the vessel at all times the vessel is required to provide an approved bin monitoring inspection.

**Request for Inspection, Bin Monitoring, Video Option**

- Vessel name and Federal fisheries permit number
- Requested inspection date
- Business mailing address
- Printed name and signature of contact person on vessel
- Today's date
- Telephone number and fax number for contact person
- Location of vessel, including street address and city
- If vessel previously received an electronic monitoring system inspection, enter the date of the most recent inspection report
- Indicate bin monitoring option
- Attachment
  - Include a diagram drawn to scale showing the locations
    - where all catch will be weighed and sorted by the observer
    - Where unsorted catch will be collected
    - Where any video equipment or viewing panels or ports

<b>Inspection Request, Electronic Bin Monitoring System, Respondent</b>	
<b>Number of respondents</b>	<b>21</b>
<b>Total annual responses</b>	<b>21</b>
Responses per year = 1	
<b>Total burden hours</b>	<b>42</b>
Estimated time per response = 2 hr	
<b>Total personnel cost</b>	<b>\$1,050</b>
Cost per hour = \$25	
<b>Total miscellaneous cost (2.10)</b>	<b>\$2</b>
Photocopy (0.05*21)	
Email submittal (0.05*21)	

<b>Inspection request, Electronic Bin Monitoring System, Federal Government</b>	
<b>Total annual responses</b>	<b>21</b>
<b>Total burden hours (2.31)</b>	<b>2</b>
Time per response = 0.11 hr x 21	
<b>Total personnel cost</b>	<b>\$50</b>
Cost per hour = \$25	
<b>Total miscellaneous cost</b>	<b>0</b>

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the following paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality

guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The CMCP and CMP are large documents with various sizes of pages which are not suitable for automated submittal. These documents would be mailed or delivered.

The inspection requests are “fillable” forms available at the NMFS Alaska Region Home Page at [www.alaskafisheries.noaa.gov](http://www.alaskafisheries.noaa.gov), for the participant to complete online, download, print, and fax to NMFS.

The required printed output format is programmed into each scale. Complying with NMFS’ requirements is either automatic when the scale operator changes memories or requires only invoking the “print” command on the scale display.

The daily flow scale test form is available as a Microsoft Excel template that can be installed on the vessel’s computer if the operator wishes to do so. The daily flow scale and daily hopper scale test forms also are available as “fillable” forms on the web page indicated above.

The scale type evaluation package is not available electronically. Because of the complexity of this process, we prefer that an applicant directly contact the program manager so that he can work with them personally on completing the package.

**4. Describe efforts to identify duplication.**

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

This collection-of-information does not impose a significant impact on small entities. No small businesses are affected by this collection: 32 large AFA, 0 small; 7 large Rockfish, 0 small; 3 large CR crab, 0 small.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

This collection-of-information describes performance, technical, operational, maintenance, and testing requirement for motion-compensated scales that are required by NMFS to weigh catch at sea.

Without the daily scale test results and the printed output from the scale, NMFS would be unable to effectively audit catch in fisheries requiring use of scales. Without the daily scale testing and printed output frequency, NMFS would not be as confident of the accuracy of the scales. Given that scales are used only in fisheries where there are expectations of highly accurate catch monitoring, this would not be acceptable.

Without the inspection request forms, NMFS would be unable to coordinate and schedule inspections expeditiously. The video option for crew monitoring in the tank or bin is one of three options to satisfy the regulatory requirement; it is the NMFS-preferred option. Without the requirements to monitor crew, the Program's ability to control halibut PSC would be decreased.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

No special circumstances are associated with this information collection.

**8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A Federal Register Notice was published on March 1, 2010 (75 FR 9157) soliciting public comments on the information collection. No comments were received.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payment or gift will be provided under this program.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

As stated on the forms, the information collected under Magnuson-Stevens Act, as amended in 2006, is confidential under section 402(b). The information is also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

This information collection does not involve information of a sensitive nature.

**12. Provide an estimate in hours of the burden of the collection of information.**

Estimated total unique respondents: 61 (2 scale manufacturers, 46 at-sea processors, 13 inshore processors) down from 113. Estimated total responses: 23,650, up from 9,305. Estimated total time burden: 6,548 hours, up from 5,209 hours. Estimated total personnel cost: \$163,700, up from \$130,232. Personnel labor costs are estimated to the average wage equivalent to a GS-7 employee in Alaska, including COLA, at \$25 per hour.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).**

Total operational and maintenance costs: \$113,664, up from \$51,131. Total annualized capital costs: \$2,500, down from \$577,373.

Capital costs are costs incurred for a flow scale, observer sampling station, and video monitoring system to be used in the production of product -- in other words, the total cost needed to bring a project to a commercially operable status. Capital costs are fixed and are therefore independent of the level of output. Unlike operating costs, capital costs are one-time expenses, although payment may be spread out over several years for financial purposes and for three years for PRA purposes.

In 2005, NMFS submitted a revision of this collection for the Groundfish Retention Program for a capital total of \$320,000 with the costs dispersed each year over three years. By the end of 2008, these capital costs were accounted for. In 2006, NMFS submitted a revision for the Rockfish Pilot Program for a capital total of \$231,173 with the costs dispersed each year over three years. By the end of 2009, these capital costs were accounted for. And finally, in 2007 NMFS submitted a revision for the Amendment 80 Program for a total of \$83,312 with the costs dispersed each year over three years. By the end of 2010, these capital costs will be accounted for. With this renewal, NMFS submits a renewal with capital costs involved with a scale type evaluation at \$2,500 which will be accounted for by the end of 2013.

**14. Provide estimates of annualized cost to the Federal government.**

Estimated total responses: 178, down from 182. Estimated total time burden: 479 hr, down from 868. Estimated total personnel cost: \$11,975, down from \$21,706.

**15. Explain the reasons for any program changes or adjustments.**

This action contains program adjustments which update, and in some cases, correct this existing collection. In addition, numbers are adjusted to reflect actual values in some cases, e.g., number of respondents and frequency of responses.

NMFS-approved flow scales is removed, as new scales are not required at this time.

a decrease of 2 respondents and responses, 0 instead of 2

a decrease of \$73,333 capital costs, \$0 instead of \$73,333

Scale type evaluation is revised, as two new scales may be evaluated.

- a decrease of 1 respondent, 2 instead of 3
- an increase of 1 response, 2 instead of 1
- an increase of 79 hr burden, 100 hr instead of 21 hr
- an increase of \$1,975 personnel costs, \$2,500 instead of \$525
- an increase of \$10,034 miscellaneous costs, \$24,050 instead of \$14,016
- an increase of \$2,500 capital costs, \$2,500 instead of \$0

Inspection request for at-sea scales is corrected to reflect actual numbers of requests and the fact that no new scales are required.

- a decrease of 8 respondents and responses, 46 instead of 54
- a decrease of 1 hour, 5 instead of 6
- a decrease of \$25 personnel costs, \$125 instead of \$150
- a decrease of \$251 miscellaneous costs, \$10 instead of \$261

At-sea scale approval report/sticker is removed to correct an error, as this sticker is awarded by the NMFS-approved inspector to the operator when a scale passes the scale test; no time or cost is required from the respondent.

- a decrease of 54 respondents and responses, 0 instead of 54
- a decrease of 108 hr burden, 0 hr instead of 108 hr
- a decrease of \$2,700 personnel costs, \$0 instead of \$2700

Observer notification of scale tests is corrected, to reflect actual values, and to correct the value for responses which is based on number of fishing days. In the previous statement written to include the Amendment 80 Program, NMFS indicated that one test per vessel each day of 30 fishing days occurred about which the observer should be notified ( $53 \times 30 = 1590$ ). The current number is one test per day per vessel for 135 days ( $46 \times 135$ ).

- a decrease of 7 respondents, 46 instead of 53
- an increase of 4,620 responses, 6,210 instead of 1,590
- an increase of 138 hr burden, 186 hr instead of 48 hr
- an increase of \$3,450 personnel costs, \$4,650 instead of \$1,200

Records of daily flow scale tests is revised, to reflect an increased response frequency.

- a decrease of 2 respondents, 43 instead of 45
- an increase of 4,455 responses, 5,805 instead of 1,350
- an increase of 3,342 hr burden, 4354 hr instead of 1,012 hr
- an increase of \$83,550 personnel costs, \$108,850 instead of \$25,300
- a decrease of \$70 miscellaneous costs, \$1,505 instead of \$1,575

Records of daily hopper scale tests is revised, to reflect actual values.

- a decrease of 5 respondents, 3 instead of 8
- a decrease of 675 responses, 405 instead of 1,080
- a decrease of 506 hr burden, 304 hr instead of 810 hr
- a decrease of \$12,650 personnel costs, \$7,600 instead of \$20,250
- a decrease of \$175 miscellaneous costs, \$105 instead of \$280

Printed output from at-sea scale is revised, to reflect actual values and increased response frequency.

- a decrease of 7 respondents, 46 instead of 53
- an increase of 4,620 responses, 6,210 instead of 1,590
- an increase of 92 hr burden, 124 hr instead of 32 hr
- an increase of \$2,300 personnel costs, \$3,100 instead of \$800
- a decrease of \$245 miscellaneous costs, \$1,610 instead of \$1,855

Observer sampling station is removed, because no new stations are required.

- a decrease of 53 respondents and responses, 0 instead of 53
- a decrease of \$6,000 capital costs, 0 instead of \$6,000

Inspection request for observer sampling station is revised to reflect actual values.

- a decrease of 7 respondents and responses, 46 instead of 53
- a decrease of 14 hours burden, 92 instead of 106 hours
- a decrease of \$350 personnel costs, \$2,300 instead of \$2,650
- a decrease of \$458 miscellaneous costs, \$10 instead of \$468

Crab CMP is revised to reflect actual values.

- a decrease of 28 respondents and responses, 15 instead of 43
- a decrease of 448 hours burden, 240 instead of 688 hours
- a decrease of \$11,200 personnel costs, \$6,000 instead of \$17,200
- a decrease of \$32 miscellaneous costs, \$11 instead of \$43

Crab CMP Addendum is revised to reflect actual values.

- a decrease of 1 respondents and responses, 3 instead of 4
- a decrease of 8 hours burden, 24 instead of 32 hours
- a decrease of \$200 personnel costs, \$600 instead of \$800
- an increase of \$2 miscellaneous costs, \$2 instead of \$0

Inspection request for CMP is added, not because it is new, but because it was inadvertently omitted from earlier analyses.

- an increase of 15 respondents and responses, 15 instead of 0
- an increase of 1 hour burden, 1 instead of 0 hours
- an increase of \$25 personnel costs, \$25 instead of \$0
- an increase of \$1 miscellaneous costs, \$1 instead of \$0

CMCP is revised to reflect actual values.

- a decrease of 1 respondents and responses, 13 instead of 14
- a decrease of 40 hour burden, 520 instead of 560 hours
- a decrease of \$1,000 personnel costs, \$13,000 instead of \$14,000
- a decrease of \$32 miscellaneous costs, \$10 instead of \$42

CMCP Addendum is revised to reflect actual values.

- an increase of \$2 miscellaneous costs, \$2 instead of \$0

Inspection request for CMCP is revised to reflect actual values.

- a decrease of 1 respondents and responses, 13 instead of 14
- a decrease of 6 hour burden, 1 instead of 7 hours
- a decrease of \$150 personnel costs, \$25 instead of \$175
- a decrease of \$181 miscellaneous costs, \$1 instead of \$182

Printed output from state scale is revised, to reflect actual values and an increase in response frequency.

- a decrease of 1 respondents, 13 instead of 14
- an increase of 1,335 responses, 1755 instead of 420
- an increase of 27 hr burden, 35 hr instead of 8 hr
- an increase of \$675 personnel costs, \$875 instead of \$200
- a decrease of \$35 miscellaneous costs, \$455 instead of \$490

Observer notification.

The analyses previously listed observer notification as one collection. NMFS breaks down this category by distinct type of activity that needs the observer's attention: pollock delivery, CDQ delivery, and Rockfish Program delivery. This action divides observer notification by management program. The number of respondents and the number of notifications remain the same.

- a. Observer notification of pollock delivery is revised, to reflect actual values.
  - a decrease of 13 respondents, 8 instead of 21
  - a decrease of 1,755 responses, 1,080 instead of 2,835
  - a decrease of 141 hr burden, 86 hr instead of 227 hr
  - a decrease of \$3,525 personnel costs, \$2,150 instead of \$5,675
  
- b. Observer notification of CDQ delivery is added; it was previously inadvertently omitted from earlier analyses.
  - an increase of 8 respondents, 8 instead of 0
  - an increase of 1,080 responses, 1,080 instead of 0
  - an increase of 86 hr burden, 86 hr instead of 0 hr
  - an increase of \$2,150 personnel costs, \$2,150 instead of \$0
  
- c. Observer notification of Rockfish delivery is added; it was previously inadvertently omitted from earlier analyses.
  - an increase of 5 respondents, 5 instead of 0
  - an increase of 675 responses, 675 instead of 0
  - an increase of 54 hr burden, 54 hr instead of 0 hr
  - an increase of \$1,350 personnel costs, \$1,350 instead of \$0

Electronic bin monitoring system is revised, to reflect actual values.

- an increase of 13 respondents, 21 instead of 8
- an increase of 156 responses, 252 instead of 96
- an increase of 156 hr burden, 252 hr instead of 96 hr
- an increase of \$3,900 personnel costs, \$6,300 instead of \$2,400
- an increase of \$81,800 miscellaneous costs, \$85,890 instead of \$4,090
- a decrease of \$3,979 capital costs, \$0 instead of \$3,979

Inspection request for electronic bin monitoring is revised to reflect actual values.

- an increase of 20 respondents and responses, 21 instead of 1
- an increase of 40 hours burden, 42 instead of 2 hours
- an increase of \$1,000 personnel costs, \$1,050 instead of \$50
- a decrease of \$3 miscellaneous costs, \$2 instead of \$5

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

The information collected will not be published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Not Applicable.

**18. Explain each exception to the certification statement.**

Not Applicable.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.

<h2 style="margin: 0;">BIN MONITORING INSPECTION REQUEST FORM</h2>	Fax, mail, or e-mail completed forms and diagrams to:  Jason Stern North Pacific Groundfish Observer Program 7600 Sand Point Way NE, Bldg 4 Seattle, WA 98115 Ph: 206-526-4518 Fax: 206-526-4066 e-mail: station.inspections@noaa.gov
Vessel Name	
Federal Fishery Permit Number	Requested Inspection Date
Business Mailing Address	Contact Person On Vessel
Today's Date	Telephone Number for Contact Person
Location of vessel, including street address and city	Fax Number
	Requesting Person's Signature



1. Have you received and passed a prior bin monitoring inspection?     YES     NO
2. If YES, what is the date of the most recent inspection? \_\_\_\_\_

**Note:** Inspections will be scheduled within ten (10) working days of receiving a request. Requests for inspections in Dutch Harbor and Kodiak will be scheduled within ten (10) days, but may be delayed several days due to weather or logistics.

<b>Select Option:</b> <input type="checkbox"/> No crew in bin <input type="checkbox"/> Line of Sight <input type="checkbox"/> Video
<b>Attachment:</b> Include a diagram drawn to scale showing the locations where all catch will be weighed and sorted by the observer, the location where unsorted catch will be collected, and the location of any video equipment or viewing panels or ports.

**PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the 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 estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NOAA, National Marine Fisheries Service, Alaska Region, Attn: Assistant Regional Administrator, Sustainable Fisheries Division, P.O. Box 21668, Juneau, AK 99802-1668 (Attn: Records Officer).

**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 being used to manage the At-Sea Scales Program and commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) as amended in 2006; 4) Submission of this information is necessary for NMFS to approve scales to weigh catch at sea; 5) Responses to this information request are not confidential.



# RECORD OF DAILY AUTOMATIC HOPPER SCALE TESTS

Vessel Name: \_\_\_\_\_ Vessel Operator Signature: \_\_\_\_\_

<b>DATE:</b>				<b>TIME TEST STARTED</b>								
MINIMUM CAPACITY OF SCALE				MAXIMUM CAPACITY OF SCALE								
TEST WEIGHTS	WEIGHT ON SCALE INDICATOR	ERROR (B) - (A)	% ERROR = (C) / (A) X 100	TEST WEIGHTS	WEIGHT ON SCALE INDICATOR	ERROR (B) - (A)	% ERROR = (C) / (A) X 100					
(A)	(B)	(C)		(A)	(B)	(C)						
<b>SEA CONDITIONS (BEAUFORT SCALE) AT TIME OF SCALE TEST (CHECK ONE)</b>												
0	1	2	3	4	5	6	7	8	9	10	11	12
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>DATE:</b>				<b>TIME TEST STARTED</b>								
MINIMUM CAPACITY OF SCALE				MAXIMUM CAPACITY OF SCALE								
TEST WEIGHTS	WEIGHT ON SCALE INDICATOR	ERROR (B) - (A)	% ERROR = (C) / (A) X 100	TEST WEIGHTS	WEIGHT ON SCALE INDICATOR	ERROR (B) - (A)	% ERROR = (C) / (A) X 100					
(A)	(B)	(C)		(A)	(B)	(C)						
<b>SEA CONDITIONS (BEAUFORT SCALE) AT TIME OF SCALE TEST (CHECK ONE)</b>												
0	1	2	3	4	5	6	7	8	9	10	11	12
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>DATE:</b>				<b>TIME TEST STARTED</b>								
MINIMUM CAPACITY OF SCALE				MAXIMUM CAPACITY OF SCALE								
TEST WEIGHTS	WEIGHT ON SCALE INDICATOR	ERROR (B) - (A)	% ERROR = (C) / (A) X 100	TEST WEIGHTS	WEIGHT ON SCALE INDICATOR	ERROR (B) - (A)	% ERROR = (C) / (A) X 100					
(A)	(B)	(C)		(A)	(B)	(C)						
<b>SEA CONDITIONS (BEAUFORT SCALE) AT TIME OF SCALE TEST (CHECK ONE)</b>												
0	1	2	3	4	5	6	7	8	9	10	11	12
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### INSTRUCTIONS

1. Record the date and time the scale test is started. Multiple days are provided on one page.
2. Record the weight of test weights equal to minimum capacity of the scale (A).
3. Record the weight displayed on the scale indicator after the test weights are added to the bottom of the scale (B).
4. Calculate error of the scale by subtracting the weight of test weights (A) from the weight indicated on the scale (B). Record the error (C).
5. Calculate percent error by dividing the error (C) by the known weight (A) and multiplying by 100. Record this information in the last box. The scale is weighing within 2 percent error if the result is between -2.0% and +2.0%.
6. Repeat steps 1 to 5 for the maximum capacity of the scale.
7. Record Beaufort Scale sea conditions at time of test.
8. Have form signed by vessel operator.

# DAILY AUTOMATIC HOPPER SCALE TEST

## ADDITIONAL INFORMATION

- ✓ A daily scale test must be conducted once every 24 hours when the scale is being used to weigh catch at-sea.
- ✓ If the scale fails the daily test, it may be re-tested at any time. However, it may not be used to weigh crab until it passes the daily test.
- ✓ This form must be maintained on board the vessel until the end of the fishing year in which it was completed. It must be retained by the vessel owner for three years, and must be made available to NMFS personnel, observers or authorized officers when requested.
- ✓ Questions or comments concerning this form or the daily test can be directed to:

Alan Kinsolving At - Sea Scales Program Coordinator 2245 CO Bar Trail Flagstaff, AZ 8600 Ph: (928) 774-4362 Fx: (928) 774-4362 Email: alan.kinsolving@noaa.gov	Jennifer Watson CMP/CMCP Program Coordinator P.O. Box 21668 Juneau, AK 99802-1668 Ph: (907) 586-7537 or (907) 586-7228 Fx: (907) 586-7465 Email: jennifer.watson@noaa.gov
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### PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Ak 99802 (Attn: Records Officer).

### ADDITIONAL INFORMATION

1) NMFS cannot conduct or sponsor this information request, and you are not required to respond this information request, unless the form displays a currently valid OMB control number; 2) this information is being used to manage the At-Sea Scales Program; 3) Federal law and regulations require and authorize NMFS to manage commercial fishing effort; 4) Submission of this information is required for scales approved by NMFS to weigh catch at sea; 5) Responses to this information request are not confidential except as required under the Privacy Act.

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# RECORD OF DAILY FLOW SCALE TESTS



Vessel Name: \_\_\_\_\_

Date: \_\_\_\_\_

Time test started: \_\_\_\_\_

## I. WEIGH FISH ON OBSERVER PLATFORM SCALE

BASKET #	WT FISH + BASKET (kg)	BASKET #	WT FISH + BASKET (kg)	BASKET #	WT FISH + BASKET (kg)	BASKET #	WT FISH + BASKET (kg)
1		8		15		21	
2		9		16		22	
3		10		17		23	
4		11		18		24	
5		12		19		25	
6		13		20		26	
7		14		Total weight all fish+baskets		0.00	

## II. CALCULATE PERCENT ERROR OF FLOW SCALE

Scale Indicator

Begin Test: \_\_\_\_\_ kg

End Test: \_\_\_\_\_ kg

TOTAL WEIGHT FISH AND BASKETS (kg)	-	WEIGHT OF BASKET	=	PLATFORM SCALE WEIGHT OF FISH (kg)	WEIGHT OF FISH ON FLOW SCALE (kg)	ERROR (B) - (A)	% ERROR = (C) ÷ (A) X 100
				(A)	(B)	(C)	

## III. SEA CONDITIONS (BEAUFORT SCALE) AT TIME OF SCALE TEST (CHECK ONE):

0  1  2  3  4  5  6  7  8  9  10  11  12

SIGNATURE OF VESSEL OPERATOR \_\_\_\_\_

I observed this test and to the best of my knowledge it was conducted in accordance with 50 CFR 679.28 (b)(3)

Signature of observer \_\_\_\_\_

## INSTRUCTIONS

- Collect approximately 400 kg of fish in baskets and weigh the baskets of fish on the platform scale. Record the weight of each basket of fish (basket plus fish) in Section I.
- Record the total weight of all baskets plus fish in the first box in Section II.
- Record the weight of the baskets in the second box. Subtract the weight of the baskets from the total weight of fish plus baskets to determine the weight of the fish only, record this weight in the third box in Section II. This is the platform scale weight of the fish (A).
- Record the weight displayed on the flow scale before and after the test fish are weighed.
- Weigh the fish from the baskets on the flow scale. Record the weight in the fourth box of Section II (B).
- Calculate error of flow scale by subtracting the platform scale weight (A) from the flow scale weight (B). Record the error (C) in the fifth box of Section II.
- Calculate percent error by dividing the error (C) by the known weight of the fish (A) and multiplying by 100. Record this information in the last box of Section II. The scale is weighing within 3 percent error if the result is between -3.0% and +3.0%.
- Record the Beaufort Scale sea conditions at time of test.
- Have form signed by vessel operator and observer.

# DAILY FLOW SCALE TEST

## ADDITIONAL INFORMATION

- ✓ A daily scale test must be conducted once every 24 hours when the scale is being used to weigh catch at-sea.
- ✓ If the scale fails the daily test, it may be re-tested at any time. However, it may not be used to weigh fish until it passes the daily test.
- ✓ This form must be maintained on board the vessel until the end of the fishing year in which it was completed. It must be retained by the vessel owner for three years, and must be made available to NMFS personnel, observers or authorized officers when requested.
- ✓ Questions or comments concerning this form or the daily test can be directed to:

Alan Kinsolving  
At - Sea Scales Program Coordinator  
2245 CO Bar Trail  
Flagstaff AZ, 86001  
Ph: (928) 774-4362  
Fx: (928) 774-4362  
Email: alan.kinsolving@noaa.gov

Jennifer Watson  
CMP/CMCP Program Coordinator  
P.O. Box 21668  
Juneau, AK 99802-1668  
Ph: (907) 586-7537 or  
(907) 586-7228  
Fx: (907) 586-7465  
Email: jennifer.watson@noaa.gov

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### PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Ak 99802 (Attn: Records Officer).

### ADDITIONAL INFORMATION

1) NMFS cannot conduct or sponsor this information request, and you are not required to respond this information request, unless the form displays a currently valid OMB control number; 2) this information is being used to manage the At-Sea Scales Program; 3) Federal law and regulations require and authorize NMFS to manage commercial fishing effort; 4) Submission of this information is required for scales approved by NMFS to weigh catch at sea; 5) Responses to this information request are not confidential except as required under the Privacy Act.

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<p><b>OBSERVER SAMPLING STATION INSPECTION REQUEST FORM</b></p>		<p>Fax, mail, or e-mail completed forms and diagrams to:</p> <p>Jason Stern North Pacific Groundfish Observer Program 7600 Sand Point Way NE, Bldg 4 Seattle, WA 98115 Ph: 206-526-4518 Fax: 206-526-4066 e-mail: station.inspections@noaa.gov</p>	
Vessel Name			
Federal Fishery Permit Number		Requested Inspection Date	
Business Mailing Address		Contact Person On Vessel	
Fax Number		Telephone Number for Contact Person	
Location of vessel, including street address and city		Today's Date	
		Requesting Person's Signature	

1. For scale inspections, please contact Alan Kinsolving at 928-774-4362 for scheduling.
2. Have you received and passed a scale inspection?  YES  NO
3. If YES, what is the date of the most recent inspection? \_\_\_\_\_

Inspections will be scheduled within ten (10) working days of receiving a request. Requests for inspections in Dutch Harbor and Kodiak will be scheduled within ten (10) days, but may be delayed several days due to weather or logistics.

<b>OBSERVER SAMPLING STATION</b>
<p><b>Attachment</b></p> <p><b>For catcher/processors using trawl gear and motherships</b>, include a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, and the location of the observer sampling station, including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.</p> <p><b>For all other vessels</b>, include a diagram drawn to scale showing the location(s) where catch comes on board the vessel, the location where observers will sample unsorted catch, the location of the observer sampling station, including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.</p>

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## **PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the 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 estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668 (Attn: Records Officer).

## **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 the At-Sea Scales Program and commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) as amended by Public Law 109-479; 4) Submission of this information is necessary for NMFS to approve scales to weigh catch at sea; 5) Responses to this information request are not confidential.

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<p><b>Scale Type Evaluation Platform and Hanging Scales</b></p>	<p>National Marine Fisheries Service                  P.O. Box 21668                  Juneau, AK 99802-1668                  (907) 586-7228                  FAX (907) 586-7465</p>
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I. INFORMATION ABOUT THE SCALE TESTED	
Name of Scale Manufacturer:	Name of Manufacturer's Representative:
Mailing Address of Scale Manufacturer:	Mailing Address of Representative, if different:
Model of Scale Submitted for Evaluation:	Telephone Number of Representative:
Serial Number of Scale Submitted for Evaluation:	FAX Number of Representative:

II. INFORMATION ABOUT ALL SCALES						
Provide information about the scale submitted for evaluation at #1. Identify all other models of scales of the same type of scale that will be covered by laboratory evaluation.						
#	Model Designation	Maximum Capacity	Value of Scale Divisions	Number of Scale Divisions	Minimum Load	Accuracy Class
1						
2						
3						
4						
5						
6						
7						
8						
9						

**III. INFORMATION ABOUT THE CERTIFYING LABORATORY**

Name of Laboratory:	Name and Address of Government Agency Accrediting Laboratory:
Mailing Address of Laboratory:	
Telephone: FAX:	

**IV. CERTIFICATION OF COMPLIANCE WITH NMFS AT-SEA SCALE REQUIREMENTS**

I certify that I have examined the scale or scale component described above and found it to be in compliance with the performance and technical requirements in 50 CFR 679 (§679.28(b)(3) and Appendix A) as indicated in the attached checklist and test report forms.

Signature of Manufacturer's Representative:	Date
Printed Name of Manufacturer Representative:	

**V. LIST OF ATTACHMENTS**

- A. Written description and diagrams of the scale indicating primary features of the scale, how the scale operates, and how the scale compensates for vessel motion.
- B. Describe the difference between the scale submitted for laboratory evaluation and all other scales for which the laboratory evaluation will apply.
- C. Laboratory test results
- D. List of adjustments included in the audit trail
- D. Other (please list)

**VI. GENERAL REQUIREMENTS CHECKLIST--PLATFORM OR HANGING SCALE**

Appendix A reference	Title	+	-	Remarks
4.3.1.1	General: Indicators and Printers			
4.3.1.2	Values Defined			
4.3.1.3	Units			
4.3.1.4	Value of the Scale Division			
4.3.1.5	Printed Information			
4.3.1.6	Permanence of Markings			
4.3.1.7	Power Loss			
4.3.1.8(a)	Security Means			
4.3.1.8(b)	Audit Trail			
4.3.1.9	Zero-load Adjustment			
4.3.1.9.1	Manual			
4.3.1.9.2	Semi-automatic			
4.3.1.10	Damping Means			
4.3.2.1	Overload Protection			
4.3.2.2	Adjustable Components			
4.3.2.3	Motion Compensation			
4.3.4	Marking			
4.3.4.1	Presentation			

**PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 80 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Durall).

**ADDITIONAL INFORMATION**

Before completing this form please note the following: 1) NMFS cannot conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) this information is being used to manage the At-Sea Scales Program; 3) Federal law and regulations require and authorize NMFS to manage commercial fishing effort; 4) Submission of this information is required for scales approved by NMFS to weigh catch at sea; 5) Responses to this information request are not confidential.

## Instructions

### Scale Type Evaluation AUTOMATIC HOPPER SCALES

#### Block I. Information about the scale tested .

This block supplies basic background and contact information so that NMFS can maintain accurate contact records.

Name and mailing address of scale manufacturer  
Name, mailing address (if different from manufacturer), telephone and FAX number  
of manufacturer's representative  
Model and serial number of scale submitted for evaluation.

#### Block II. Information about all scales.

More than one model of scale may be evaluated at the same time. However, the models may differ from the model submitted for evaluation only in the elements of the scale that perform motion compensation, the size or capacity of the scale, and the software used by the scale. If other elements differ, a separate application must be completed.

Model Designation: Enter the model name or number that will be visible to the scale inspector and will allow him to clearly determine that the scale he is inspecting is on the list of approved scales.

Maximum capacity: Report in kilograms.

Value of scale divisions: Enter the smallest division displayed by the scale.

Number of scale divisions: Is the maximum capacity divided by the value of scale divisions.

Minimum Weighment: This must not be less than 20 percent of the maximum capacity or less than 100 scale intervals (except the final weighment of a lot).

Minimum Totalized Load: This may not be less than 4 weighments, and should be reported in kilograms.

#### Block III. Information about the certifying laboratory

Information about the laboratory which performed the laboratory evaluation and type testing. The laboratory must be accredited by the government of the country in which testing was conducted.

Name of laboratory  
Mailing address, telephone and FAX of laboratory  
Name and Address of Government Agency accrediting the laboratory

#### **Block IV. Certification of compliance**

This block is to certify that the manufacturer's representative believes the scale or scale component is in compliance with regulations at 50 CFR 679 as indicated in the checklist and test report forms.

Signature and printed name of representative. Enter name and signature of person responsible for evaluation of the scale

Date of signature

#### **Block V. List of attachments**

This block is a checklist of attachments intended to help the manufacturer's representative include the correct documentation that NMFS needs to approve the scale. The information provided must be sufficient to allow NMFS to judge whether the scale is appropriate for its intended use on a vessel at-sea. Requirements for motion compensation are specifically described in Appendix A, section 2.3.2.6.

Each scale listed in Block II must be described.

Written description and diagrams of the scale indicating primary features of the scale, how the scale operates, and how the scale compensates for vessel motion.

Describe the difference between the scale submitted for laboratory evaluation and all other scales for which the laboratory evaluation will apply.

Laboratory test results: Verification of test results that a scale meets the laboratory evaluation and testing requirements in appendix A to 50 CFR part 679 and each of the influence quantity and disturbance tests as specified in the annex to appendix A that:

Led to an International Organization of Legal Metrology (OIML) certificate of conformance or

Demonstrates that the scale meets all test requirements in Appendix A or the annex to Appendix A of 50 CFR 679.28. An National Type Evaluation Program (NTEP) certificate will be accepted only for the specific influence factor tests which were conducted to receive the NTEP certificate additional information must be submitted to verify compliance with the laboratory tests that are not performed under the NTEP.

List of adjustments. Enter a list of types of scale adjustments that will be recorded on the audit trail, including the name of the adjustment as it will appear on the audit trail, and a written description of the adjustment. An audit trail in the form of an event logger must be provided to document changes made using adjustable components.

Other.

This should include any supporting information that will assist NMFS in determining if the scale meets the performance and technical standards.

#### **Block VI. General Requirements checklist**

This checklist is provided for your own convenience and does not need to be submitted to NMFS. Each item on this list is required before a scale may be approved by NMFS. For each item on the checklist, there is a reference to a paragraph of Appendix A to 50 CFR 679.28 (attached). If the scale being evaluated meets that criterion, place a mark in the plus column. If a scale does not meet the criterion, or you are not certain whether it meets the criterion, place a mark in the minus column.

<p><b>Scale Type Evaluation Automatic Hopper Scales</b></p>	<p>National Marine Fisheries Service                  P.O. Box 21668                  Juneau, AK 99802-1668                  (907) 586-7228                  FAX (907) 586-7465</p>
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I. INFORMATION ABOUT THE SCALE TESTED	
Name of Scale Manufacturer:	Name of Manufacturer's Representative:
Mailing Address of Scale Manufacturer:	Mailing Address of Representative, if different:
Model of Scale Submitted for Evaluation:	Telephone Number of Representative:
Serial Number of Scale Submitted for Evaluation:	FAX Number of Representative:

II. INFORMATION ABOUT ALL SCALES						
Provide information about the scale submitted for evaluation at #1. Identify all other models of scales of the same type of scale that will be covered by laboratory evaluation.						
#	Model Designation	Maximum Capacity	Value of Scale Divisions	Number of Scale Divisions	Minimum Weight	Minimum Totalized Load
1						
2						
3						
4						
5						
6						
7						
8						
9						

**III. INFORMATION ABOUT THE CERTIFYING LABORATORY**

Name of Laboratory:	Name and Address of Government Agency Accrediting Laboratory:
Mailing Address of Laboratory:	
Telephone: Fax:	

**IV. CERTIFICATION OF COMPLIANCE WITH NMFS AT-SEA SCALE REQUIREMENTS**

I certify that I have examined the scale or scale component described above and found it to be in compliance with the performance and technical requirements in 50 CFR 679 (§679.28(b)(3) and Appendix A) as indicated in the attached checklist and test report forms.

Signature of Manufacturer's Representative:	Date
Printed Name of Manufacturer Representative:	

**V. LIST OF ATTACHMENTS**

- A. Written description and diagrams of the scale indicating primary features of the scale, how the scale operates, and how the scale compensates for vessel motion.
- B. Describe the difference between the scale submitted for laboratory evaluation and all other scales for which the laboratory evaluation will apply.
- C. Laboratory test results
- D. List of adjustments included in the audit trail
- D. Other (please list)

VI. GENERAL REQUIREMENTS CHECKLIST--AUTOMATIC HOPPER SCALE				
Appendix A reference	Title	+	-	Remarks
3.3.1.1	General: Indicators and Printers			
3.3.1.2	Values Defined			
3.3.1.3	Units			
3.3.1.4	Value of the Scale Division			
3.3.1.5	Weighing Sequence			
3.3.1.6	Printing Sequence			
3.3.1.7	Printed Information			
3.3.1.8	Permanence of Markings			
3.3.1.9	Range of Indication			
3.3.1.10	Non-Resettable Values			
3.1.1.11	Power Loss			
3.3.1.12	Adjustable Components			
3.3.1.13	Audit Trail			
3.3.1.14.1	Manual Zero Load Adjustment			
3.3.1.14.2	Semi-automatic Zero Load Adjustment			
3.3.1.15	Damping Means			
3.3.1.16	Adjustments to Scale Weights			
3.3.2	Interlocks and Gate Control			
3.3.3	Overfill Sensor			
3.3.4.1	Overload Protection			
3.3.4.2	Adjustable Components			
3.3.4.3	Motion Compensation			
3.3.6	Marking			
3.3.6.1	Presentation			

PUBLIC REPORTING BURDEN STATEMENT
<p>Public reporting burden for this collection of information is estimated to average 80 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Durall).</p> <p style="text-align: center;"><b>ADDITIONAL INFORMATION</b></p> <p>Before completing this form please note the following: 1) NMFS cannot conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) this information is being used to manage the At-Sea Scales Program; 3) Federal law and regulations require and authorize NMFS to manage commercial fishing effort; 4) Submission of this information is required for scales approved by NMFS to weigh catch at sea; 5) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C.1801, <i>et seq.</i>).</p>

<p><b>Scale Type Evaluation</b> <b>Belt scale</b></p>	<p>National Marine Fisheries Service                  P.O. Box 21668                  Juneau, AK 99802-1668                  (907) 586-7228                  FAX (907) 586-7465</p>	
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I. INFORMATION ABOUT THE SCALE TESTED	
Name of Scale Manufacturer:	Name of Manufacturer's Representative:
Mailing Address of Scale Manufacturer:	Mailing Address of Representative, if different:
Model of Scale Submitted for Evaluation:	Telephone Number of Representative:
Serial Number of Scale Submitted for Evaluation:	FAX Number of Representative:

II. INFORMATION ABOUT ALL SCALES								
Provide information about the scale submitted for evaluation at #1. Identify all other models of scales of the same type of scale that will be covered by laboratory evaluation.								
#	Model Designation	Value of Scale Divisions	Max. Flow Rate	Min. Flow Rate	Min. Totalized Load	Belt Speed	Weigh Length	Max. Capacity
1								
2								
3								
4								
5								
6								
7								
8								
9								

**III. INFORMATION ABOUT THE CERTIFYING LABORATORY**

Name of Laboratory:	Name and Address of Government Agency Accrediting Laboratory:
Mailing Address of Laboratory:	
Telephone: FAX:	

**IV. CERTIFICATION OF COMPLIANCE WITH NMFS AT-SEA SCALE REQUIREMENTS**

I certify that I have examined the scale or scale component described above and found it to be in compliance with the performance and technical requirements in 50 CFR 679 (§679.28(b)(2) and Appendix A) as indicated in the attached checklist and test report forms.

Signature of Manufacturer's Representative:	Date
Printed Name of Manufacturer Representative:	

**V. LIST OF ATTACHMENTS**

- A. Written description and diagrams of the scale indicating primary features of the scale, how the scale operates, and how the scale compensates for vessel motion.
- B. Describe the difference between the scale submitted for laboratory evaluation and all other scales for which the laboratory evaluation will apply.
- C. Laboratory test results
- D. List of adjustments included in the audit trail
- E. Other (please list)

**VI. GENERAL REQUIREMENTS CHECKLIST--BELT SCALE**

Appendix A reference	Title	+	-	Remarks
2.3.1.1	Indicators and Printers: General			
2.3.1.2	Values Defined			
2.3.1.3	Units			
2.3.1.4	Value of the Scale Division			
2.3.1.5	Range of Indication			
2.3.1.6	Resettable and non-resettable values			
2.3.1.7	Rate of Flow Indicator			
2.3.1.8	Printed Information			
2.3.1.9	Permanence of Markings			
2.3.1.10	Power Loss			
2.3.1.11	Adjustable Components			
2.3.1.12	Audit Trail			Written description must be attached
2.3.2.1	Speed Measurement			
2.3.2.2	Conveyor Belt			
2.3.2.3	Overload Protection			
2.3.2.4	Speed Control			
2.3.2.5	Adjustable Components			
2.3.2.6	Motion Compensation			Written description must be attached
2.3.4	Marking			
2.3.4.1	Presentation			

**PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 190 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

**ADDITIONAL INFORMATION**

Before completing this form please note the following: 1) NMFS cannot conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) this information is being used to manage the At-Sea Scales Program; 3) Federal law and regulations require and authorize NMFS to manage commercial fishing effort; 4) Submission of this information is required for scales approved by NMFS to weigh catch at sea; 5) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C.1801, *et seq.*).

<p>Instructions</p> <p><b>Scale Type Evaluation</b></p> <p><b>BELT SCALE</b></p>
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**Block I. Information about the scale tested.**

This block supplies basic background and contact information so that NMFS can maintain accurate contact records.

- Name and mailing address of scale manufacturer
- Name, mailing address (if different from manufacturer), telephone and FAX number of manufacturer's representative
- Model and serial number of scale submitted for evaluation.

**Block II. Information about all scales.**

More than one model of scale may be evaluated at the same time. However, the models may differ from the model submitted for evaluation only in the elements of the scale that perform motion compensation, the size or capacity of the scale, and the software used by the scale. If other elements differ, a separate application must be completed.

Model Designation: Enter the model name or number that will be visible to the scale inspector and will allow him to clearly determine that the scale he is inspecting is on the list of approved scales.

Value of Scale Divisions: Enter the smallest division displayed by the scale.

Maximum Flow Rate: Report in metric tons per hour or kilograms per hour.

Minimum Flow Rate: Report in metric tons per hour or kilograms per hour. This must not be greater than 35 percent of the maximum flow rate.

Minimum Totalized Load: Report in kilograms per hour.

Belt Speed: Report in meters per hour. This is the speed at which the belt travels when the scale is at its maximum flow rate.

Weigh Length: Enter either the length of the weighing plate or the distance between the two imaginary lines at the half distance between the axes of the end weighing rollers and the axes of the nearest carrying rollers. When there is only one weighing roller, the weigh length is equal to half the distance between the axes of the nearest carrying rollers on either side of the weighing roller.

Maximum capacity: Report in kilograms.

**Block III. Information about the certifying laboratory**

Information about the laboratory which performed the laboratory evaluation and type testing. The laboratory must be accredited by the government of the country in which tests were conducted.

- Name of laboratory
- Mailing address, telephone and FAX of laboratory

Name and address of government agency accrediting the laboratory

#### **Block IV. Certification of compliance**

This block is to certify that the manufacturer's representative believes the scale or scale component is in compliance with regulations at 50 CFR 679 as indicated in the checklist and test report forms.

Signature and printed name of representative. Enter name and signature of person responsible  
for evaluation of the scale  
Date of signature

#### **Block V. List of attachments**

This block is a checklist of attachments intended to help the manufacturer's representative include the correct documentation that NMFS needs to approve the scale. The information provided must be sufficient to allow NMFS to judge whether the scale is appropriate for its intended use on a vessel at-sea. Requirements for motion compensation are specifically described in Appendix A, section 2.3.2.6.

Each scale listed in Block II must be described.

Written description and diagrams of the scale indicating primary features of the scale, how the scale operates, and how the scale compensates for vessel motion.

Describe the difference between the scale submitted for laboratory evaluation and all other scales for which the laboratory evaluation will apply.

Laboratory test results: Verification of test results that a scale meets the laboratory evaluation and testing requirements in appendix A to 50 CFR part 679 and each of the influence quantity and disturbance tests as specified in the annex to appendix A that:

Led to an International Organization of Legal Metrology (OIML) certificate of conformance or

Demonstrates that the scale meets all test requirements in Appendix A or the annex to Appendix A of 50 CFR 679.28. An National Type Evaluation Program (NTEP) certificate will be accepted only for the specific influence factor tests which were conducted to receive the NTEP certificate additional information must be submitted to verify compliance with the laboratory tests that are not performed under the NTEP.

List of adjustments. Enter a list of types of scale adjustments that will be recorded on the audit trail, including the name of the adjustment as it will appear on the audit trail, and a written description of the adjustment. An audit trail in the form of an event logger must be provided to document changes made using adjustable components.

Other.

This should include any supporting information that will assist NMFS to determine if the scale meets the performance and technical standards.

#### **Block VI. General Requirements checklist**

This checklist is provided for your own convenience and does not need to be submitted to NMFS. Each item on this list is required before a scale may be approved by NMFS. For each item on the checklist, there is a reference to a paragraph of Appendix A to 50 CFR 679.28 (attached). If the scale being evaluated meets that criterion, place a mark in the plus column. If a scale does not meet the criterion, or you are not certain whether it meets the criterion, place a mark in the minus column.

<b>INSPECTION REQUEST At-Sea Scales</b>		NOAA/National Marine Fisheries Service P.O. Box 21668 Juneau, AK 99802-1668 Telephone: 928-774-4362 or 907-586-7228 FAX: 928-774-4362 or 907-586-7465	
<b>GENERAL</b>			
Company name:		Vessel name:	
Mailing address:		Exact location of vessel:	
Contact person on board:		Telephone No. for contact person:	
Requested Inspection date:		FAX No. for contact person:	
Today's date:		Please give a telephone number on the vessel where the inspector may be contacted during the inspection:	
<b>SCALES TO BE INSPECTED</b>			
	Manufacturer	Model	
1			
2			
Will the repair company be on site at time of inspection? YES <input type="checkbox"/> NO <input type="checkbox"/>			
Company name:		Contact person and phone:	

At the time of scale inspection please make sure that:

- 1) the scale is installed in a rigid and level manner,
- 2) the display and printer are connected and operational,
- 3) belts leading to the scale are connected and operational  
(not applicable to platform and hanging scales),
- 4) test weights and test weight certification documents are available for inspection  
(platform scales only),
- 5) a crew member will be available to help the inspector transport test materials and conduct the testing.

For more information contact:  
 Alan Kinsolving,  
 At-sea scales program coordinator,  
 Telephone: 928-774-4362  
 Email: [alan.kinsolving@noaa.gov](mailto:alan.kinsolving@noaa.gov)

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## **PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, 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 the At-sea Scales Program for commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, et seq.) as amended by Public Law 109-479; 3) Submission of this information is necessary for NMFS to approve scales to weigh catch at sea; 5) Responses to this information request are not confidential.

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## Instructions

### Scale Type Evaluation PLATFORM & HANGING SCALES

#### Block I. Information about the scale tested .

This block supplies basic background and contact information so that NMFS can maintain accurate contact records.

Name and mailing address of scale manufacturer  
Name, mailing address (if different from manufacturer), telephone and FAX number of manufacturer's representative  
Model and serial number of scale submitted for evaluation.

#### Block II. Information about all scales.

More than one model of scale may be evaluated at the same time. However, the models may differ from the model submitted for evaluation only in the elements of the scale that perform motion compensation, the size or capacity of the scale, and the software used by the scale. If other elements differ, a separate application must be completed.

Model Designation: Enter the model name or number that will be visible to the scale inspector and will allow him to clearly determine that the scale he is inspecting is on the list of approved scales.

Maximum capacity: Report in kilograms.

Value of scale divisions: Enter the smallest division displayed by the scale.

Number of scale divisions: Is the maximum capacity divided by the value of scale divisions.

Minimum Load: As designated by the manufacturer, enter 20d for a Class III scale or enter 10d for a Class IIII scale.

Accuracy Class: As designated by the manufacturer, enter accuracy class III and class IIII.

#### Block III. Information about the certifying laboratory

Information about the laboratory which performed the laboratory evaluation and type testing. The laboratory must be accredited by the government of the country in which testing was conducted.

Name of laboratory  
Mailing address, telephone and FAX of laboratory

Name and address of government agency accrediting the laboratory

#### **Block IV. Certification of compliance**

This block is to certify that the manufacturer's representative believes the scale or scale component is in compliance with regulations at 50 CFR 679 as indicated in the checklist and test report forms.

Signature and printed name of representative. Enter name and signature of person responsible for evaluation of the scale

Date of signature

#### **Block V. List of attachments**

This block is a checklist of attachments intended to help the manufacturer's representative include the correct documentation that NMFS needs to approve the scale. The information provided must be sufficient to allow NMFS to judge whether the scale is appropriate for its intended use on a vessel at-sea. Requirements for motion compensation are specifically described in Appendix A, section 2.3.2.6.

Each scale listed in Block II must be described.

Written description and diagrams of the scale indicating primary features of the scale, how the scale operates, and how the scale compensates for vessel motion.

Describe the difference between the scale submitted for laboratory evaluation and all other scales for which the laboratory evaluation will apply.

Laboratory test results. Verification of test results that a scale meets the laboratory evaluation and testing requirements in appendix A to 50 CFR part 679 and each of the influence quantity and disturbance tests as specified in the annex to appendix A that:

Led to an International Organization of Legal Metrology (OIML) certificate of conformance or

Demonstrates that the scale meets all test requirements in Appendix A or the annex to Appendix A of 50 CFR 679.28. An National Type Evaluation Program (NTEP) certificate will be accepted only for the specific influence factor tests which were conducted to receive the NTEP certificate additional information must be submitted to verify compliance with the laboratory tests that are not performed under the NTEP.

List of adjustments. Enter a list of types of scale adjustments that will be recorded on the audit trail, including the name of the adjustment as it will appear on the audit trail, and a written description of the adjustment. An audit trail in the form of an event logger must be provided to document changes made using adjustable components.

Other.

This should include any supporting information that will assist NMFS in determining if the scale meets the performance and technical standards.

**Block VI. General Requirements checklist**

This checklist is provided for your own convenience and does not need to be submitted to NMFS. Each item on this list is required before a scale may be approved by NMFS. For each item on the checklist, there is a reference to a paragraph of Appendix A to 50 CFR 679.28 (attached). If the scale being evaluated meets that criterion, place a mark in the plus column. If a scale does not meet the criterion, or you are not certain whether it meets the criterion, place a mark in the minus column.

section shall be available for disaster prevention or relief projects.

**(c) Availability of funds**

Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this subchapter shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.

(Pub. L. 91-378, title II, §211, as added Pub. L. 109-154, §2(f)(2), Dec. 30, 2005, 119 Stat. 2892.)

**CHAPTER 38—FISHERY CONSERVATION AND MANAGEMENT**

**SUBCHAPTER I—GENERALLY**

- Sec.  
1801. Findings, purposes and policy.  
1802. Definitions.  
1803. Authorization of appropriations.

**SUBCHAPTER II—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES**

1811. United States sovereign rights to fish and fishery management authority.  
1812. Highly migratory species.  
1813. Omitted.

**SUBCHAPTER III—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS**

1821. Foreign fishing.  
1822. International fishery agreements.  
1823. Congressional oversight of international fishery agreements.  
1824. Permits for foreign fishing.  
1825. Import prohibitions.  
1826. Large-scale driftnet fishing.  
1826a. Denial of port privileges and sanctions for high seas large-scale driftnet fishing.  
1826b. Duration of denial of port privileges and sanctions.  
1826c. Definitions.  
1826d. Prohibition.  
1826e. Negotiations.  
1826f. Certification.  
1826g. Enforcement.  
1826h. Biennial report on international compliance.  
1826i. Action to strengthen international fishery management organizations.  
1826j. Illegal, unreported, or unregulated fishing.  
1826k. Equivalent conservation measures.  
1827. Observer program regarding certain foreign fishing.  
1828. Foreign fishing incursions.  
1829. International monitoring and compliance.

**SUBCHAPTER IV—NATIONAL FISHERY MANAGEMENT PROGRAM**

1851. National standards for fishery conservation and management.  
1852. Regional Fishery Management Councils.  
1853. Contents of fishery management plans.  
1853a. Limited access privilege programs.  
1854. Action by Secretary.  
1855. Other requirements and authority.  
1856. State jurisdiction.  
1857. Prohibited acts.  
1858. Civil penalties and permit sanctions.  
1859. Criminal offenses.  
1860. Civil forfeitures.  
1861. Enforcement.  
1861a. Transition to sustainable fisheries.  
1861b. Fisheries enforcement plans and reporting.  
1862. North Pacific fisheries conservation.  
1863. Northwest Atlantic Ocean Fisheries Reinvestment Program.

- Sec.  
1864. Regional coastal disaster assistance, transition, and recovery program.  
1865. Bycatch reduction engineering program.  
1866. Shark feeding.  
1867. Cooperative research and management program.  
1868. Herring study.  
1869. Restoration study.

**SUBCHAPTER V—FISHERY MONITORING AND RESEARCH**

1881. Registration and information management.  
1881a. Information collection.  
1881b. Observers.  
1881c. Fisheries research.  
1881d. Incidental harvest research.  
1882. Fisheries systems research.  
1883. Gulf of Mexico red snapper research.  
1884. Deep sea coral research and technology program.

**SUBCHAPTER VI—MISCELLANEOUS**

1891. Investment in United States seafood processing facilities.  
1891a. Community-based restoration program for fishery and coastal habitats.  
1891b. Fisheries Conservation and Management Fund.  
1891c. United States catch history.  
1891d. Secretarial representative for international fisheries.

**SUBCHAPTER I—GENERALLY**

**§ 1801. Findings, purposes and policy**

**(a) Findings**

The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminat-

ing the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.

(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this chapter.

(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

#### **(b) Purposes**

It is therefore declared to be the purposes of the Congress in this chapter—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

#### **(c) Policy**

It is further declared to be the policy of the Congress in this chapter—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this chapter;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this chapter;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this chapter;

(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;

(6) to foster and maintain the diversity of fisheries in the United States; and

(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

(Pub. L. 94-265, § 2, Apr. 13, 1976, 90 Stat. 331; Pub. L. 95-354, § 2, Aug. 28, 1978, 92 Stat. 519; Pub. L. 96-561, title II, § 233, Dec. 22, 1980, 94 Stat. 3299; Pub. L. 99-659, title I, §101(c)(1), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101-627, title I, §101, Nov. 28, 1990, 104 Stat. 4437; Pub. L. 102-251, title III, §301(a), Mar. 9, 1992, 106 Stat. 62; Pub. L. 104-297, title I, §101, Oct. 11, 1996, 110 Stat. 3560; Pub. L. 109-479, §3(a), title IV, §402, Jan. 12, 2007, 120 Stat. 3577, 3626.)

#### AMENDMENT OF SUBSECTION (b)(1)

*Pub. L. 102-251, title III, §§ 301(a), 308, Mar. 9, 1992, 106 Stat. 62, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b)(1) is amended by inserting “, and fishery resources in the special areas” before the semicolon at the end.*

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(11), (b), and (c), was in the original “this Act”, meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

Presidential Proclamation 5030, referred to in subsec. (b)(1), is set out under section 1453 of this title.

#### AMENDMENTS

2007—Subsec. (a)(11). Pub. L. 109-479, §3(a), added par. (11).

Subsec. (a)(12). Pub. L. 109-479, §402, added par. (12).

1996—Subsec. (a)(2). Pub. L. 104-297, §101(1), added par. (2) and struck out former par. (2) which read as follows: “As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.”

Subsec. (a)(6). Pub. L. 104-297, §101(2), inserted “to facilitate long-term protection of essential fish habitats,” after “to insure conservation.”

Subsec. (a)(9), (10). Pub. L. 104-297, §101(3), added pars. (9) and (10).

Subsec. (b)(3). Pub. L. 104-297, §101(4), substituted “principles, including the promotion of catch and re-

lease programs in recreational fishing” for “principles”.

Subsec. (b)(5). Pub. L. 104-297, §101(5), struck out “and” after semicolon at end.

Subsec. (b)(6). Pub. L. 104-297, §101(6), substituted “development in a non-wasteful manner; and” for “development.”

Subsec. (b)(7). Pub. L. 104-297, §101(7), added par. (7).

Subsec. (c)(3). Pub. L. 104-297, §101(8), substituted “considers efficiency” for “promotes efficiency” and inserted “minimize bycatch and” after “practical measures that”.

Subsec. (c)(7). Pub. L. 104-297, §101(9)-(11), added par. (7).

1990—Subsec. (a)(8). Pub. L. 101-627, §101(a), added par. (8).

Subsec. (b)(1)(A). Pub. L. 101-627, §101(b)(1), struck out “except highly migratory species” after “fish”.

Subsec. (b)(5). Pub. L. 101-627, §101(b)(2), substituted “exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of” for “prepare, monitor, and revise”.

Subsec. (c)(3). Pub. L. 101-627, §101(c)(1), inserted “considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;” after “and enforcement;”.

Subsec. (c)(5). Pub. L. 101-627, §101(c)(3), substituted “, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation; and” for period at end.

Subsec. (c)(6). Pub. L. 101-627, §101(c)(4), added par. (6).

1986—Subsec. (b)(1). Pub. L. 99-659, §101(c)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;”.

Subsec. (c)(5). Pub. L. 99-659, §101(c)(1)(B), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources.”

1980—Subsec. (b)(6). Pub. L. 96-561 inserted “, and to that end, to ensure that optimum yield determinations promote such development” after “fish off Alaska”.

1978—Subsec. (a)(7). Pub. L. 95-354, §2(a), substituted “the United States fishing industry” for “United States fishermen”.

Subsec. (b)(6). Pub. L. 95-354, §2(b), inserted requirement for development by the United States fishing industry.

#### REFERENCES TO MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT CONSIDERED TO INCLUDE SECTION 401(a) OF PUB. L. 108-219

References to the Magnuson-Stevens Fishery Conservation and Management Act or any provision of that Act considered to be references to that Act as it would be in effect if section 401(a) of Pub. L. 108-219 were a provision of that Act, see section 401(c)(1) of Pub. L. 108-219, set out in an Implementation of Pacific Albacore Tuna Treaty note under section 1821 of this title.

#### REFERENCES TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT REDESIGNATED AS REFERENCES TO MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided

that: “Effective 15 days after the enactment of the Sustainable Fisheries Act [Pub. L. 104-297, enacted Oct. 11, 1996], all references to the Magnuson Fishery Conservation and Management Act [see Short Title note below] shall be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act.”

REFERENCES TO FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 REDESIGNATED AS REFERENCES TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Section 238(b) of title II of Pub. L. 96-561 provided that: “Effective 15 days after the date of enactment of this title [Dec. 22, 1980], all references to the Fishery Conservation and Management Act of 1976 [see Short title note below] shall be redesignated as references to the Magnuson Fishery Conservation and Management Act.”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 109-479, §1(a), Jan. 12, 2007, 120 Stat. 3575, provided that: “This Act [enacting chapters 88 and 89 of this title, chapter 45 of Title 33, Navigation and Navigable Waters, subchapters VI of chapter 31 and of chapter 38 of this title, sections 1826h to 1826k, 1829, 1853a, 1864 to 1869, and 1884 of this title, amending this section, sections 757d, 773f, 773g, 971a, 971h, 971i, 1377, 1802, 1803, 1812, 1821, 1824, 1826a, 1826b, 1851 to 1853, 1854, 1855, 1857, 1861, 1861a, 1862, 1881, 1881a, 1881c, 1882, 1883, 3645, 4107, 5156, 5610, and 5727 of this title, and section 53706 of Title 46, Shipping, enacting provisions set out as notes under sections 460ss, 1361, 1853 to 1855, 1861a, 1864, 6901, and 7001 of this title and section 3201 of Title 33, and amending provisions set out as notes under sections 1822, 1851, 1855, and 1856 of this title] may be cited as the ‘Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006’.”

SHORT TITLE OF 1996 AMENDMENT

Section 1(a) of Pub. L. 104-297 provided that: “This Act [enacting sections 1803, 1861a, 1881 to 1881d, 1883, 5107a, and 5107b of this title and sections 1279f and 1279g of Title 46, Appendix, Shipping, amending this section, sections 757d, 1362, 1802, 1812, 1821 to 1824, 1826, 1851 to 1858, 1860, 1861, 1862, 1863, 1882, 1883, 4107, 5102, 5103, and 5108 of this title, section 713c-3 of Title 15, Commerce and Trade, and section 1274 of Title 46, Appendix, enacting provisions set out as notes under sections 1802, 1853 to 1856, 1861a, and 1881c of this title and section 1245 of Title 46, Appendix, amending provisions set out as a note under section 971c of this title, and repealing provisions set out as a note under section 1851 of this title] may be cited as the ‘Sustainable Fisheries Act’.”

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104-43, title VI, §601, Nov. 3, 1995, 109 Stat. 391, provided that: “This title [enacting sections 1826d to 1826g of this title and provisions set out as a note under section 1826d of this title] may be cited as the ‘High Seas Driftnet Fishing Moratorium Protection Act’.”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-582, §1, Nov. 2, 1992, 106 Stat. 4900, provided that: “This Act [enacting sections 1826a to 1826c of this title and section 1707a of Title 46, Appendix, Shipping, amending sections 1362, 1371, 1852, and 1862 of this title, section 1978 of Title 22, Foreign Relations

and Intercourse, and section 2110 of Title 46, repealing section 1111c of Title 46, Appendix, and enacting provisions set out as notes under sections 1823, 1826a, and 1861 of this title and section 2110 of Title 46] may be cited as the ‘High Seas Driftnet Fisheries Enforcement Act’.”

SHORT TITLE OF 1990 AMENDMENT

Section 1(a) of Pub. L. 101-627 provided that: “The Act [enacting sections 971b-1, 1385, and 1862 of this title, amending this section, sections 757d, 758e-5, 971a, 971b, 971d, 971h, 1371, 1802, 1811, 1812, 1821, 1822, 1824 to 1826, 1852 to 1861, 1882, 4005, 4006, 4008, 4103, and 4107 of this title, section 713c-3 of Title 15, Commerce and Trade, and section 1977 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under sections 971a, 1373, 1802, 1812, 1822, 1825, 1854, 4004, and 4005 of this title] may be cited as the ‘Fishery Conservation Amendments of 1990’.”

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-220, §1, Dec. 29, 1987, 101 Stat. 1458, provided that: “This Act [enacting section 1912 of Title 33, Navigation and Navigable Waters, amending sections 1121 to 1131, 1901 to 1903, 1905, and 1907 to 1909 of Title 33, and enacting provisions set out as notes under this section, sections 1822 and 1823 of this title, sections 883a, 1121, 1125, 1901, 1902, and 2267 of Title 33, and section 6981 of Title 42, The Public Health and Welfare] may be cited as the ‘United States-Japan Fishery Agreement Approval Act of 1987’.”

SHORT TITLE OF 1980 AMENDMENT

Section 201 of title II of Pub. L. 96-561 provided that: “This title [enacting section 1511b of Title 15, Commerce and Trade, amending sections 917, 1801, 1821, 1824, 1852, and 1855 of this title, section 713c-3 of Title 15, sections 1972 and 1980 of Title 22, Foreign Relations and Intercourse, section 1321 of Title 33, Navigation and Navigable Waters, section 1843 of Title 43, Public Lands, and sections 1271, 1273, 1274, and 1275 of Title 46, Appendix, Shipping, and enacting provisions set out as notes under this section, sections 742c, 1821, and 1824 of this title, and section 1980 of Title 22] may be cited as the ‘American Fisheries Promotion Act’.”

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-6, §1, Feb. 21, 1977, 91 Stat. 14, provided: “That this joint resolution [enacting section 1826 of this title, repealing sections 981 to 991 of this title, and enacting provisions set out as notes under sections 981 and 1823 of this title] may be cited as the ‘Fishery Conservation Zone Transition Act’.”

SHORT TITLE

Section 1 of Pub. L. 94-265, as amended by Pub. L. 96-561, title II, §238(a), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(a)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided: “That this Act [enacting this chapter, amending section 971 of this title and sections 1972 and 1973 of Title 22, Foreign Relations and Intercourse, enacting provisions set out as notes under this section and sections 971, 1362, 1857 of this title, and sections 1972 and 1973 of Title 22, and repealing chapters 21 and 21A of this title] may be cited as the ‘Magnuson-Stevens Fishery Conservation and Management Act’.”

[Section 101(a) [title II, §211(a)] of div. A of Pub. L. 104-208 provided that the amendment made by that section to section 1 of Pub. L. 94-265, set out above, is effective 15 days after Oct. 11, 1996.]

[Section 238(a) of Pub. L. 96-561 provided that the amendment made by that section to section 1 of Pub. L. 94-265, set out above, is effective 15 days after Dec. 22, 1980.]

EX. ORD. NO. 12962. RECREATIONAL FISHERIES

Ex. Ord. No. 12962, June 7, 1995, 60 F.R. 30769, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-d, and e-j), the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801-1882), and other pertinent statutes, and in order to conserve, restore, and enhance aquatic systems to provide for increased recreational fishing opportunities nationwide, it is ordered as follows:

SECTION 1. *Federal Agency Duties.* Federal agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities by: (a) developing and encouraging partnerships between governments and the private sector to advance aquatic resource conservation and enhance recreational fishing opportunities;

(b) identifying recreational fishing opportunities that are limited by water quality and habitat degradation and promoting restoration to support viable, healthy, and, where feasible, self-sustaining recreational fisheries;

(c) fostering sound aquatic conservation and restoration endeavors to benefit recreational fisheries;

(d) providing access to and promoting awareness of opportunities for public participation and enjoyment of U.S. recreational fishery resources;

(e) supporting outreach programs designed to stimulate angler participation in the conservation and restoration of aquatic systems;

(f) implementing laws under their purview in a manner that will conserve, restore, and enhance aquatic systems that support recreational fisheries;

(g) establishing cost-share programs, under existing authorities, that match or exceed Federal funds with nonfederal contributions;

(h) evaluating the effects of Federally funded, permitted, or authorized actions on aquatic systems and recreational fisheries and document those effects relative to the purpose of this order; and

(i) assisting private landowners to conserve and enhance aquatic resources on their lands.

SEC. 2. *National Recreational Fisheries Coordination Council.* A National Recreational Fisheries Coordination Council ("Coordination Council") is hereby established. The Coordination Council shall consist of seven members, one member designated by each of the following Secretaries—Interior, Commerce, Agriculture, Energy, Transportation, and Defense—and one by the Administrator of the Environmental Protection Agency. The Coordination Council shall: (a) ensure that the social and economic values of healthy aquatic systems that support recreational fisheries are considered by Federal agencies in the course of their actions;

(b) reduce duplicative and cost-inefficient programs among Federal agencies involved in conserving or managing recreational fisheries;

(c) share the latest resource information and management technologies to assist in the conservation and management of recreational fisheries;

(d) assess the implementation of the Conservation Plan required under section 3 of this order; and

(e) develop a biennial report of accomplishments of the Conservation Plan.

The representatives designated by the Secretaries of Commerce and the Interior shall cochair the Coordination Council.

SEC. 3. *Recreational Fishery Resources Conservation Plan.* (a) Within 12 months of the date of this order, the Coordination Council, in cooperation with Federal agencies, States, and Tribes, and after consulting with the Federally chartered Sport Fishing and Boating Partnership Council, shall develop a comprehensive Recreational Fishery Resources Conservation Plan ("Conservation Plan").

(b) The Conservation Plan will set forth a 5-year agenda for Federal agencies identified by the Coordination Council. In so doing, the Conservation Plan will establish, to the extent permitted by law and where practicable; (1) measurable objectives to conserve and restore aquatic systems that support viable and healthy recreational fishery resources, (2) actions to be taken by the identified Federal agencies, (3) a method of ensuring the accountability of such Federal agencies, and (4) a comprehensive mechanism to evaluate achievements. The Conservation Plan will, to the extent practicable, be integrated with existing plans and programs, reduce duplication, and will include recommended actions for cooperation with States, Tribes, conservation groups, and the recreational fisheries community.

SEC. 4. *Joint Policy for Administering the Endangered Species Act of 1973.* All Federal agencies will aggressively work to identify and minimize conflicts between recreational fisheries and their respective responsibilities under the Endangered Species Act of 1973 ("ESA") (16 U.S.C. 1531 *et seq.*). Within 6 months of the date of this order, the Fish and Wildlife Service and the National Marine Fisheries Service will promote compatibility and reduce conflicts between the administration of the ESA and recreational fisheries by developing a joint agency policy that will: (1) ensure consistency in the administration of the ESA between and within the two agencies, (2) promote collaboration with other Federal, State, and Tribal fisheries managers, and (3) improve and increase efforts to inform nonfederal entities of the requirements of the ESA.

SEC. 5. *Sport Fishing and Boating Partnership Council.* To assist in the implementation of this order, the Secretary of the Interior shall expand the role of the Sport Fishing and Boating Partnership Council to: (a) monitor specific Federal activities affecting aquatic systems and the recreational fisheries they support;

(b) review and evaluate the relation of Federal policies and activities to the status and conditions of recreational fishery resources; and

(c) prepare an annual report of its activities, findings, and recommendations for submission to the Coordination Council.

SEC. 6. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.

WILLIAM J. CLINTON.

## § 1802. Definitions

As used in this chapter, unless the context otherwise requires—

(1) The term "anadromous species" means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term "bycatch" means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

(3) The term "charter fishing" means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46) who is engaged in recreational fishing.

(4) The term "commercial fishing" means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.

(Pub. L. 94-265, title II, §207, as added Pub. L. 109-479, title IV, §401, Jan. 12, 2007, 120 Stat. 3625.)

#### SUBCHAPTER IV—NATIONAL FISHERY MANAGEMENT PROGRAM

### § 1851. National standards for fishery conservation and management

#### (a) In general

Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this subchapter shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(2) Conservation and management measures shall be based upon the best scientific information available.

(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.

(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 United States 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 manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(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.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(8) Conservation and management measures shall, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), 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.

(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.

(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

#### (b) Guidelines

The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.

(Pub. L. 94-265, title III, §301, Apr. 13, 1976, 90 Stat. 346; Pub. L. 97-453, §4, Jan. 12, 1983, 96 Stat. 2484; Pub. L. 98-623, title IV, §404(3), Nov. 8, 1984, 98 Stat. 3408; Pub. L. 104-297, title I, §106, Oct. 11, 1996, 110 Stat. 3570; Pub. L. 109-479, title I, §101(a), Jan. 12, 2007, 120 Stat. 3579.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(8), was in the original "this Act", meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

#### AMENDMENTS

2007—Subsec. (a)(8). Pub. L. 109-479 inserted "by utilizing economic and social data that meet the requirements of paragraph (2)," after "fishing communities".

1996—Subsec. (a)(5). Pub. L. 104-297, §106(a), substituted "consider efficiency" for "promote efficiency".

Subsec. (a)(8) to (10). Pub. L. 104-297, §106(b), added pars. (8) to (10).

1984—Subsec. (a)(1). Pub. L. 98-623 inserted "for the United States fishing industry".

1983—Subsec. (b). Pub. L. 97-453 substituted "advisory guidelines (which shall not have the force and effect of law)" for "guidelines".

#### SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-146, §1, Dec. 16, 1997, 111 Stat. 2672, provided that: "This Act [repealing section 757g of this title, amending provisions set out as notes under this section and listed in a table of National Wildlife Conservation Areas set out under section 668dd of this title, and repealing provisions set out as notes under this section] may be cited as the 'Atlantic Striped Bass Conservation Act Amendments of 1997'."

#### GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM

Pub. L. 108-199, div. B, title VIII, §802, Jan. 23, 2004, 118 Stat. 110, as amended by Pub. L. 109-479, title II, §218, Jan. 12, 2007, 120 Stat. 3621, provided that: "The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall: (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; and (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan

is authorized by the Council and implemented by the Secretary, or 5 years from date of implementation, whichever is earlier.”

IMPLEMENTATION OF STELLER SEA LION PROTECTIVE MEASURES

Pub. L. 106-554, §1(a)(4) [div. A, §209], Dec. 21, 2000, 114 Stat. 2763, 2763A-176, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) the western population of Steller sea lions has substantially declined over the last 25 years.

“(2) scientists should closely research and analyze all possible factors relating to such decline, including the possible interactions between commercial fishing and Steller sea lions and the localized depletion hypothesis;

“(3) the authority to manage commercial fisheries in Federal waters lies with the regional councils and the Secretary of Commerce (hereafter in this section ‘Secretary’) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.] (hereafter in this section ‘Magnuson-Stevens Act’); and

“(4) the Secretary of Commerce shall comply with the Magnuson-Stevens Act when using fishery management plans and regulations to implement the decisions made pursuant to findings under the Endangered Species Act [of 1973, 16 U.S.C. 1531 et seq.], and shall utilize the processes and procedures of the regional fishery management councils as required by the Magnuson-Stevens Act.

“(b) INDEPENDENT SCIENTIFIC REVIEW.—The North Pacific Fishery Management Council (hereafter in this section ‘North Pacific Council[.]’) shall utilize the expertise of the National Academy of Sciences to conduct an independent scientific review of the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries (hereafter in this section ‘Biological Opinion’), its underlying hypothesis, and the Reasonable and Prudent Alternatives (hereafter in this section ‘Alternatives’) contained therein. The Secretary shall cooperate with the independent scientific review, and the National Academy of Sciences is requested to give its highest priority to this review.

“(c) PREPARATION OF FISHERY MANAGEMENT PLANS AND REGULATIONS TO IMPLEMENT PROTECTIVE MEASURES IN THE NOVEMBER 30, 2000 BIOLOGICAL OPINION.—

“(1) The Secretary of Commerce shall submit to the North Pacific Council proposed conservation and management measures to implement the Alternatives contained in the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries. The North Pacific Council shall prepare and transmit to the Secretary a fishery management plan amendment or amendments to implement such Alternatives that are consistent with the Magnuson-Stevens Act (including requirements in such Act relating to best available science, bycatch reduction, impacting on fishing communities, the safety of life at sea, and public comment and hearings.)

“(2) The Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in a manner consistent with the Alternatives contained in the Biological Opinion, except as otherwise provided in this section. The Alternatives shall become fully effective no later than January 1, 2002, as revised if necessary and appropriate based on the independent scientific review referred to in subsection (b) and other new information, and shall be phased in in 2001 as described in paragraph (3).

“(3) The 2001 Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in accordance with the fishery management plan and Federal regulations in effect for such fisheries prior to July 15, 2000, including—

“(A) conservative total allowable catch levels;

“(B) no entry zones within three miles of rookeries;

“(C) restricted harvest levels near rookeries and haul-outs;

“(D) federally-trained observers;

“(E) spatial and temporal harvest restrictions;

“(F) federally-mandated bycatch reduction programs; and

“(G) additional conservation benefits provided through cooperative fishing arrangements, and said regulations are hereby restored to full force and effect.

“(4) The Secretary shall amend these regulations by January 20, 2001, after consultation with the North Pacific Council and in a manner consistent with all law, including the Magnuson-Stevens Act, and consistent with the Alternatives to the maximum extent practicable, subject to the other provisions of this subsection.

“(5) The harvest reduction requirement (‘Global Control Rule’) shall take effect immediately in any 2001 groundfish fishery in which it applies, but shall not cause a reduction in the total allowable catch of any fishery of more than 10 percent.

“(6) In enforcing regulations for the 2001 fisheries, the Secretary, upon recommendation of the North Pacific Council, may open critical habitat where needed, adjust seasonal catch levels, and take other measures as needed to ensure that harvest levels are sufficient to provide income from these fisheries for small boats and Alaskan on-shore processors that is no less than in 1999.

“(7) The regulations that are promulgated pursuant to paragraph (4) shall not be modified in any way other than upon recommendation of the North Pacific Council, before March 15, 2001.

“(d) SEA LION PROTECTION MEASURES.—\$20,000,000 is hereby appropriated to the Secretary of Commerce to remain available until expended to develop and implement a coordinated, comprehensive research and recovery program for the Steller sea lion, which shall be designed to study—

“(1) available prey species;

“(2) predator/prey relationships;

“(3) predation by other marine mammals;

“(4) interactions between fisheries and Steller sea lions, including the localized depletion theory;

“(5) regime shift, climate change, and other impacts associated with changing environmental conditions in the North Pacific and Bering Sea;

“(6) disease;

“(7) juvenile and pup survival rates;

“(8) population counts;

“(9) nutritional stress;

“(10) foreign commercial harvest of sea lions outside the exclusive economic zone;

“(11) the residual impacts of former government-authorized Steller sea lion eradication bounty programs; and

“(12) the residual impacts of intentional lethal takes of Steller sea lions.

Within available funds the Secretary shall implement on a pilot basis innovative non-lethal measures to protect Steller sea lions from marine mammal predators including killer whales.

“(e) ECONOMIC DISASTER RELIEF.—\$30,000,000 is hereby appropriated to the Secretary of Commerce to make available as a direct payment to the Southwest Alaska Municipal Conference to distribute to fishing communities, businesses, community development quota groups, individuals, and other entities to mitigate the economic losses caused by Steller sea lion protection measures heretofore incurred; provided that the President of such organization shall provide a written report to the Secretary and the House and Senate Appropriations Committee within 6 months of receipt of these funds.”

LIMITATION ON FISHING PERMITS

Pub. L. 105-277, div. A, §101(b) [title VI, §617], Oct. 21, 1998, 112 Stat. 2681-50, 2681-115, as amended by Pub. L. 106-31, title III, §3025, May 21, 1999, 113 Stat. 100, provided that:

“(a) None of the funds made available in this Act or any other Act hereafter enacted may be used to issue or renew a fishing permit or authorization for any fishing vessel of the United States greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower as specified in the permit application required under part 648.4(a)(5) of title 50, Code of Federal Regulations, part 648.12 of title 50, Code of Federal Regulations, and the authorization required under part 648.80(d)(2) of title 50, Code of Federal Regulations, to engage in fishing for Atlantic mackerel or herring (or both) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), unless the regional fishery management council of jurisdiction recommends after October 21, 1998, and the Secretary of Commerce approves, conservation and management measures in accordance with such Act to allow such vessel to engage in fishing for Atlantic mackerel or herring (or both).

“(b) Any fishing permit or authorization issued or renewed prior to the date of the enactment of this Act [Oct. 21, 1998] for a fishing vessel to which the prohibition in subsection (a) applies that would allow such vessel to engage in fishing for Atlantic mackerel or herring (or both) during fiscal year 1999 shall be null and void, and none of the funds made available in this Act [see Tables for classification] may be used to issue a fishing permit or authorization that would allow a vessel whose permit or authorization was made null and void pursuant to this subsection to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States.”

#### BERING SEA POLLOCK FISHERY

Pub. L. 108-199, div. B, title VIII, § 803, Jan. 23, 2004, 118 Stat. 110, provided that:

“(a) ALEUTIAN ISLANDS POLLOCK ALLOCATION.—Effective January 1, 2004 and thereafter, the directed pollock fishery in the Aleutian Islands Subarea [AI] of the BSAI (as defined in 50 CFR 679.2) shall be allocated to the Aleut Corporation (incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)). Except with the permission of the Aleut Corporation or its authorized agent, the fishing or processing of any part of such allocation shall be prohibited by section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857), subject to the penalties and sanctions under section 308 of such Act (16 U.S.C. 1858), and subject to the forfeiture of any fish harvested or processed.

“(b) ELIGIBLE VESSELS.—Only vessels that are 60 feet or less in length overall and have a valid fishery endorsement, or vessels that are eligible to harvest pollock under section 208 of title II of division C of Public Law 105-277 [set out below], shall be eligible to form partnerships with the Aleut Corporation (or its authorized agents) to harvest the allocation under subsection (a). During the years 2004 through 2008, up to 25 percent of such allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and 50 percent shall be harvested by vessels eligible under such section of Public Law 105-277.

“(c) GROUND FISH OPTIMUM YIELD LIMITATION.—The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. For the purposes of implementing subsections (a) and (b) without adversely affecting current fishery participants, the allocation under subsection (a) may be in addition to such optimum yield during the years 2004 through 2008 upon recommendation by the North Pacific Council and approval by the Secretary of Commerce (if consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)).

“(d) MANAGEMENT AND ALLOCATION.—For the purposes of this section, the North Pacific Fishery Management Council shall recommend and the Secretary shall approve an allocation under subsection (a) to the Aleut Corporation for the purposes of economic development in Adak, Alaska pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).”

Pub. L. 105-277, div. C, title II, subtitle II, Oct. 21, 1998, 112 Stat. 2681-621, as amended by Pub. L. 106-31, title III, § 3027(a)(2)-(7), May 21, 1999, 113 Stat. 101; Pub. L. 107-20, title II, § 2202(e)(1), July 24, 2001, 115 Stat. 170; Pub. L. 107-77, title II, § 211, Nov. 28, 2001, 115 Stat. 779; Pub. L. 107-206, title I, § 1103, Aug. 2, 2002, 116 Stat. 884, provided that:

#### “SEC. 205. DEFINITIONS.

“As used in this subtitle—

“(1) the term ‘Bering Sea and Aleutian Islands Management Area’ has the same meaning as the meaning given for such term in part 679.2 of title 50, Code of Federal Regulations, as in effect on October 1, 1998;

“(2) the term ‘catcher/processor’ means a vessel that is used for harvesting fish and processing that fish;

“(3) the term ‘catcher vessel’ means a vessel that is used for harvesting fish and that does not process pollock onboard;

“(4) the term ‘directed pollock fishery’ means the fishery for the directed fishing allowances allocated under paragraphs (1), (2), and (3) of section 206(b);

“(5) the term ‘harvest’ means to commercially engage in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish;

“(6) the term ‘inshore component’ means the following categories that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area:

“(A) shoreside processors, including those eligible under section 208(f); and

“(B) vessels less than 125 feet in length overall that process less than 126 metric tons per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod;

“(7) the term ‘Magnuson-Stevens Act’ means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

“(8) the term ‘mothership’ means a vessel that receives and processes fish from other vessels in the exclusive economic zone of the United States and is not used for, or equipped to be used for, harvesting fish;

“(9) the term ‘North Pacific Council’ means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G));

“(10) the term ‘offshore component’ means all vessels not included in the definition of ‘inshore component’ that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area;

“(11) the term ‘Secretary’ means the Secretary of Commerce; and

“(12) the term ‘shoreside processor’ means any person or vessel that receives unprocessed fish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving fish for personal consumption or bait.

#### “SEC. 206. ALLOCATIONS.

“(a) POLLOCK COMMUNITY DEVELOPMENT QUOTA.—Effective January 1, 1999, 10 percent of the total allowable catch of pollock in the Bering Sea and Aleutian Islands Management Area shall be allocated as a directed fishing allowance to the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

“(b) INSHORE/OFFSHORE.—Effective January 1, 1999, the remainder of the pollock total allowable catch in the Bering Sea and Aleutian Islands Management Area, after the subtraction of the allocation under subsection

(a) and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species (including under the western Alaska community development quota program) shall be allocated as directed fishing allowances as follows—

“(1) 50 percent to catcher vessels harvesting pollock for processing by the inshore component;

“(2) 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component; and

“(3) 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component.

“SEC. 207. BUYOUT.

“(a) FEDERAL LOAN.—Under the authority of sections 1111 and 1112 [renumbered 1113, 1114] of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) [now 46 U.S.C. 53735 and 53702(b)] and notwithstanding the requirements of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a), the Secretary shall, subject to the availability of appropriations for the cost of the direct loan, provide up to \$75,000,000 through a direct loan obligation for the payments required under subsection (d).

“(b) INSHORE FEE SYSTEM.—Notwithstanding the requirements of section 304(d) or 312 of the Magnuson-Stevens Act (16 U.S.C. 1854(d) and 1861a), the Secretary shall establish a fee for the repayment of such loan obligation which—

“(1) shall be six-tenths (0.6) of one cent for each pound round-weight of all pollock harvested from the directed fishing allowance under section 206(b)(1); and

“(2) shall begin with such pollock harvested on or after January 1, 2000, and continue without interruption until such loan obligation is fully repaid; and

“(3) shall be collected in accordance with section 312(d)(2)(C) of the Magnuson-Stevens Act (16 U.S.C. 1861a(d)(2)(C)) and in accordance with such other conditions as the Secretary establishes.

“(c) FEDERAL APPROPRIATION.—Under the authority of section 312(c)(1)(B) of the Magnuson-Stevens Act (16 U.S.C. 1861a(c)(1)(B)), there are authorized to be appropriated \$20,000,000 for the payments required under subsection (d).

“(d) PAYMENTS.—Subject to the availability of appropriations for the cost of the direct loan under subsection (a) and funds under subsection (c), the Secretary shall pay by not later than December 31, 1998—

“(1) up to \$90,000,000 to the owner or owners of the catcher/processors listed in paragraphs (1) through (9) of section 209, in such manner as the owner or owners, with the concurrence of the Secretary, agree, except that—

“(A) the portion of such payment with respect to the catcher/processor listed in paragraph (1) of section 209 shall be made only after the owner submits a written certification acceptable to the Secretary that neither the owner nor a purchaser from the owner intends to use such catcher/processor outside of the exclusive economic zone of the United States to harvest any stock of fish (as such term is defined in section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802)) that occurs within the exclusive economic zone of the United States; and

“(B) the portion of such payment with respect to the catcher/processors listed in paragraphs (2) through (9) of section 209 shall be made only after the owner or owners of such catcher/processors submit a written certification acceptable to the Secretary that such catcher/processors will be scrapped by December 31, 2000 and will not, before that date, be used to harvest or process any fish; and

“(2)(A) if a contract has been filed under section 210(a) by the catcher/processors listed in section 208(e), \$5,000,000 to the owner or owners of the catcher/processors listed in paragraphs (10) through (14) of such section in such manner as the owner or owners, with the concurrence of the Secretary, agree; or

“(B) if such a contract has not been filed by such date, \$5,000,000 to the owners of the catcher vessels el-

igible under section 208(b) and the catcher/processors eligible under paragraphs (1) through (20) of section 208(e), divided based on the amount of the harvest of pollock in the directed pollock fishery by each such vessel in 1997 in such manner as the Secretary deems appropriate,

except that any such payments shall be reduced by any obligation to the federal government that has not been satisfied by such owner or owners of any such vessels.

“(e) PENALTY.—If the catcher/processor under paragraph (1) of section 209 is used outside of the exclusive economic zone of the United States to harvest any stock of fish that occurs within the exclusive economic zone of the United States while the owner who received the payment under subsection (d)(1)(A) has an ownership interest in such vessel, or if the catcher/processors listed in paragraphs (2) through (9) of section 209 are determined by the Secretary not to have been scrapped by December 31, 2000 or to have been used in a manner inconsistent with subsection (d)(1)(B), the Secretary may suspend any or all of the federal permits which allow any vessels owned in whole or in part by the owner or owners who received payments under subsection (d)(1) to harvest or process fish within the exclusive economic zone of the United States until such time as the obligations of such owner or owners under subsection (d)(1) have been fulfilled to the satisfaction of the Secretary.

“(f) PROGRAM DEFINED; MATURITY.—For the purposes of section 1111 [renumbered 1113] of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f) [now 46 U.S.C. 53735], the fishing capacity reduction program in this subtitle shall be within the meaning of the term ‘program’ as defined and used in such section. Notwithstanding section 1111(b)(4) [renumbered 1113(b)(4)] of such Act (46 U.S.C. App. 1279f(b)(4)) [now 46 U.S.C. 53735(c)(4)], the debt obligation under subsection (a) of this section may have a maturity not to exceed 30 years.

“(g) FISHERY CAPACITY REDUCTION REGULATIONS.—The Secretary of Commerce shall by not later than October 15, 1998 publish proposed regulations to implement subsections (b), (c), (d), and (e) of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a) and sections 1111 and 1112 [renumbered 1113, 1114] of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) [now 46 U.S.C. 53735 and 53702(b)].

“SEC. 208. ELIGIBLE VESSELS AND PROCESSORS.

“(a) CATCHER VESSELS ONSHORE.—Effective January 1, 2000, only catcher vessels which are—

“(1) determined by the Secretary—

“(A) to have delivered at least 250 metric tons of pollock; or

“(B) to be less than 60 feet in length overall and to have delivered at least 40 metric tons of pollock, for processing by the inshore component in the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;

“(2) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and

“(3) not listed in subsection (b),

shall be eligible to harvest the directed fishing allowance under section 206(b)(1) pursuant to a federal fishing permit.

“(b) CATCHER VESSELS TO CATCHER/PROCESSORS.—Effective January 1, 1999, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

“(1) AMERICAN CHALLENGER (United States official number 633219);

“(2) FORUM STAR (United States official number 925863);

“(3) MUIR MILACH (United States official number 611524);

“(4) NEAHKAHNIE (United States official number 599534);

“(5) OCEAN HARVESTER (United States official number 549892);

- “(6) SEA STORM (United States official number 628959);
- “(7) TRACY ANNE (United States official number 904859); and
- “(8) any catcher vessel—
- “(A) determined by the Secretary to have delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the directed pollock fishery in 1997 to catcher/processors for processing by the offshore component; and
- “(B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary.
- “(c) CATCHER VESSELS TO MOTHERSHIPS.—Effective January 1, 2000, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:
- “(1) ALEUTIAN CHALLENGER (United States official number 603820);
- “(2) ALYESKA (United States official number 560237);
- “(3) AMBER DAWN (United States official number 529425);
- “(4) AMERICAN BEAUTY (United States official number 613847);
- “(5) CALIFORNIA HORIZON (United States official number 590758);
- “(6) MAR-GUN (United States official number 525608);
- “(7) MARGARET LYN (United States official number 615563);
- “(8) MARK I (United States official number 509552);
- “(9) MISTY DAWN (United States official number 926647);
- “(10) NORDIC FURY (United States official number 542651);
- “(11) OCEAN LEADER (United States official number 561518);
- “(12) OCEANIC (United States official number 602279);
- “(13) PACIFIC ALLIANCE (United States official number 612084);
- “(14) PACIFIC CHALLENGER (United States official number 518937);
- “(15) PACIFIC FURY (United States official number 561934);
- “(16) PAPADO II (United States official number 536161);
- “(17) TRAVELER (United States official number 929356);
- “(18) VESTERAALEN (United States official number 611642);
- “(19) WESTERN DAWN (United States official number 524423); and
- “(20) any vessel—
- “(A) determined by the Secretary to have delivered at least 250 metric tons of pollock for processing by motherships in the offshore component of the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;
- “(B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and
- “(C) not listed in subsection (b).
- “(d) MOTHERSHIPS.—Effective January 1, 2000, only the following motherships shall be eligible to process the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:
- “(1) EXCELLENCE (United States official number 967502);
- “(2) GOLDEN ALASKA (United States official number 651041); and
- “(3) OCEAN PHOENIX (United States official number 296779).
- “(e) CATCHER/PROCESSORS.—Effective January 1, 1999, only the following catcher/processors shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:
- “(1) AMERICAN DYNASTY (United States official number 951307);
- “(2) KATIE ANN (United States official number 518441);
- “(3) AMERICAN TRIUMPH (United States official number 646737);
- “(4) NORTHERN EAGLE (United States official number 506694);
- “(5) NORTHERN HAWK (United States official number 643771);
- “(6) NORTHERN JAEGER (United States official number 521069);
- “(7) OCEAN ROVER (United States official number 552100);
- “(8) ALASKA OCEAN (United States official number 637856);
- “(9) ENDURANCE (United States official number 592206);
- “(10) AMERICAN ENTERPRISE (United States official number 594803);
- “(11) ISLAND ENTERPRISE (United States official number 610290);
- “(12) KODIAK ENTERPRISE (United States official number 579450);
- “(13) SEATTLE ENTERPRISE (United States official number 904767);
- “(14) US ENTERPRISE (United States official number 921112);
- “(15) ARCTIC STORM (United States official number 903511);
- “(16) ARCTIC FJORD (United States official number 940866);
- “(17) NORTHERN GLACIER (United States official number 663457);
- “(18) PACIFIC GLACIER (United States official number 933627);
- “(19) HIGHLAND LIGHT (United States official number 577044);
- “(20) STARBOUND (United States official number 944658); and
- “(21) any catcher/processor not listed in this subsection and determined by the Secretary to have harvested more than 2,000 metric tons of the pollock in the 1997 directed pollock fishery and determined to be eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary, except that catcher/processors eligible under this paragraph shall be prohibited from harvesting in the aggregate a total of more than one-half (0.5) of a percent of the pollock apportioned for the directed pollock fishery under section 206(b)(2). Notwithstanding section 213(a), failure to satisfy the requirements of section 4(a) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239; 46 U.S.C. 12108 note) [now 46 U.S.C. 12113 note] shall not make a catcher/processor listed under this subsection ineligible for a fishery endorsement.
- “(f) SHORESIDE PROCESSORS.—(1) Effective January 1, 2000 and except as provided in paragraph (2), the catcher vessels eligible under subsection (a) may deliver pollock harvested from the directed fishing allowance under section 206(b)(1) only to—
- “(A) shoreside processors (including vessels in a single geographic location in Alaska State waters) determined by the Secretary to have processed more than 2,000 metric tons round-weight of pollock in the inshore component of the directed pollock fishery during each of 1996 and 1997; and
- “(B) shoreside processors determined by the Secretary to have processed pollock in the inshore component of the directed pollock fishery in 1996 or 1997, but to have processed less than 2,000 metric tons round-weight of such pollock in each year, except that effective January 1, 2000, each such shoreside processor may not process more than 2,000 metric tons round-weight from such directed fishing allowance in any year.

“(2) Upon recommendation by the North Pacific Council, the Secretary may approve measures to allow catcher vessels eligible under subsection (a) to deliver pollock harvested from the directed fishing allowance under section 206(b)(1) to shoreside processors not eligible under paragraph (1) if the total allowable catch for pollock in the Bering Sea and Aleutian Islands Management Area increases by more than 10 percent above the total allowable catch in such fishery in 1997, or in the event of the actual total loss or constructive total loss of a shoreside processor eligible under paragraph (1)(A).

“(g) REPLACEMENT VESSELS.—In the event of the actual total loss or constructive total loss of a vessel eligible under subsections (a), (b), (c), (d), or (e), the owner of such vessel may replace such vessel with a vessel which shall be eligible in the same manner under that subsection as the eligible vessel, provided that—

“(1) such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent;

“(2) the replacement vessel was built in the United States and if ever rebuilt, was rebuilt in the United States;

“(3) the fishery endorsement for the replacement vessel is issued within 36 months of the end of the last year in which the eligible vessel harvested or processed pollock in the directed pollock fishery;

“(4) if the eligible vessel is greater than 165 feet in registered length, of more than 750 gross registered tons (as measured under chapter 145 of title 46 [United States Code]) or 1,900 gross registered tons [(as measured under chapter 143 of that title), or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel is of the same or lesser registered length, gross registered tons, and shaft horsepower;

“(5) if the eligible vessel is less than 165 feet in registered length, of fewer than 750 gross registered tons, and has engines incapable of producing less than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons or shaft horsepower of the eligible vessel; and

“(6) the replacement vessel otherwise qualifies under federal law for a fishery endorsement, including under section 12102(c) of title 46, United States Code, as amended by this Act [now 46 U.S.C. 12113(b)(2) to (d)].

“(h) ELIGIBILITY DURING IMPLEMENTATION.—In the event the Secretary is unable to make a final determination about the eligibility of a vessel under subsection (b)(8) or subsection (e)(21) before January 1, 1999, or a vessel or shoreside processor under subsection (a), subsection (c)(21), or subsection (f) before January 1, 2000, such vessel or shoreside processor, upon the filing of an application for eligibility, shall be eligible to participate in the directed pollock fishery pending final determination by the Secretary with respect to such vessel or shoreside processor.

“(i) ELIGIBILITY NOT A RIGHT.—Eligibility under this section shall not be construed—

“(1) to confer any right of compensation, monetary or otherwise, to the owner of any catcher vessel, catcher/processor, mothership, or shoreside processor if such eligibility is revoked or limited in any way, including through the revocation or limitation of a fishery endorsement or any federal permit or license;

“(2) to create any right, title, or interest in or to any fish in any fishery; or

“(3) to waive any provision of law otherwise applicable to such catcher vessel, catcher/processor, mothership, or shoreside processor.

#### “SEC. 209. LIST OF INELIGIBLE VESSELS.

“Effective December 31, 1998, the following vessels shall be permanently ineligible for fishery endorsements, and any claims (including relating to catch history) associated with such vessels that could qualify

any owners of such vessels for any present or future limited access system permit in any fishery within the exclusive economic zone of the United States (including a vessel moratorium permit or license limitation program permit in fisheries under the authority of the North Pacific Council) are hereby extinguished:

“(1) AMERICAN EMPRESS (United States official number 942347);

“(2) PACIFIC SCOUT (United States official number 934772);

“(3) PACIFIC EXPLORER (United States official number 942592);

“(4) PACIFIC NAVIGATOR (United States official number 592204);

“(5) VICTORIA ANN (United States official number 592207);

“(6) ELIZABETH ANN (United States official number 534721);

“(7) CHRISTINA ANN (United States official number 653045);

“(8) REBECCA ANN (United States official number 592205); and

“(9) BROWNS POINT (United States official number 587440).

#### “SEC. 210. FISHERY COOPERATIVE LIMITATIONS.

“(a) PUBLIC NOTICE.—(1) Any contract implementing a fishery cooperative under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) in the directed pollock fishery and any material modifications to any such contract shall be filed not less than 30 days prior to the start of fishing under the contract with the North Pacific Council and with the Secretary, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a) or any other provision of law, but taking into account the interest of parties to any such contract in protecting the confidentiality of proprietary information, the North Pacific Council and Secretary shall—

“(A) make available to the public such information about the contract, contract modifications, or fishery cooperative the North Pacific Council and Secretary deem appropriate, which at a minimum shall include a list of the parties to the contract, a list of the vessels involved, and the amount of pollock and other fish to be harvested by each party to such contract; and

“(B) make available to the public in such manner as the North Pacific Council and Secretary deem appropriate information about the harvest by vessels under a fishery cooperative of all species (including bycatch) in the directed pollock fishery on a vessel-by-vessel basis.

#### “(b) CATCHER VESSELS ONSHORE.—

“(1) CATCHER VESSEL COOPERATIVES.—Effective January 1, 2000, upon the filing of a contract implementing a fishery cooperative under subsection (a) which—

“(A) is signed by the owners of 80 percent or more of the qualified catcher vessels that delivered pollock for processing by a shoreside processor in the directed pollock fishery in the year prior to the year in which the fishery cooperative will be in effect; and

“(B) specifies, except as provided in paragraph (6), that such catcher vessels will deliver pollock in the directed pollock fishery only to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock,

the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners vol-

untarily participate pursuant to paragraph (2) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.

“(2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative under paragraph (1) must allow the owners of other qualified catcher vessels to enter into such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the qualified catcher vessels who entered into such contract upon filing.

“(3) QUALIFIED CATCHER VESSEL.—For the purposes of this subsection, a catcher vessel shall be considered a ‘qualified catcher vessel’ if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shore-side processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.

“(4) CONSIDERATION OF CERTAIN VESSELS.—Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel.

“(5) OPEN ACCESS.—A catcher vessel eligible under section 208(a) the catch history of which has not been attributed to a fishery cooperative under paragraph (1) may be used to deliver pollock harvested by such vessel from the directed fishing allowance under section 206(b)(1) (other than pollock reserved under paragraph (1) for a fishery cooperative) to any of the shoreside processors eligible under section 208(f). A catcher vessel eligible under section 208(a) the catch history of which has been attributed to a fishery cooperative under paragraph (1) during any calendar year may not harvest any pollock apportioned under section 206(b)(1) in such calendar year other than the pollock reserved under paragraph (1) for such fishery cooperative.

“(6) TRANSFER OF COOPERATIVE HARVEST.—A contract implementing a fishery cooperative under paragraph (1) may, notwithstanding the other provisions of this subsection, provide for up to 10 percent of the pollock harvested under such cooperative to be processed by a shoreside processor eligible under section 208(f) other than the shoreside processor to which pollock will be delivered under paragraph (1).

“(c) CATCHER VESSELS TO CATCHER/PROCESSORS.—Effective January 1, 1999, not less than 8.5 percent of the directed fishing allowance under section 206(b)(2) shall be available for harvest only by the catcher vessels eligible under section 208(b). The owners of such catcher vessels may participate in a fishery cooperative with the owners of the catcher/processors eligible under paragraphs (1) through (20) of the section 208(e). The owners of such catcher vessels may participate in a fishery cooperative that will be in effect during 1999 only if the contract implementing such cooperative establishes penalties to prevent such vessels from exceeding in 1999 the traditional levels harvested by such vessels in all other fisheries in the exclusive economic zone of the United States.

“(d) CATCHER VESSELS TO MOTHERSHIPS.—

“(1) PROCESSING.—Effective January 1, 2000, the authority in section 1 of the Act of June 25, 1934 (48 Stat. 1213 and 1214; 15 U.S.C. 521 et seq.) shall extend to processing by motherships eligible under section 208(d) solely for the purposes of forming or participating in a fishery cooperative in the directed pollock

fishery upon the filing of a contract to implement a fishery cooperative under subsection (a) which has been entered into by the owners of 80 percent or more of the catcher vessels eligible under section 208(c) for the duration of such contract, provided that such owners agree to the terms of the fishery cooperative involving processing by the motherships.

“(2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative described in paragraph (1) must allow the owners of any other catcher vessels eligible under section 208(c) to enter such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the catcher vessels who entered into such contract upon filing.

“(e) EXCESSIVE SHARES.—

“(1) HARVESTING.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

“(2) PROCESSING.—Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive share of the pollock available to be harvested in the directed pollock fishery. In the event the North Pacific Council recommends and the Secretary approves an excessive processing share that is lower than 17.5 percent, any individual or entity that previously processed a percentage greater than such share shall be allowed to continue to process such percentage, except that their percentage may not exceed 17.5 percent (excluding pollock processed by catcher/processors that was harvested in the directed pollock fishery by catcher vessels eligible under 208(b)) and shall be reduced if their percentage decreases, until their percentage is below such share. In recommending the excessive processing share, the North Pacific Council shall consider the need of catcher vessels in the directed pollock fishery to have competitive buyers for the pollock harvested by such vessels.

“(3) REVIEW BY MARITIME ADMINISTRATION.—At the request of the North Pacific Council or the Secretary, any individual or entity believed by such Council or the Secretary to have exceeded the percentage in either paragraph (1) or (2) shall submit such information to the Administrator of the Maritime Administration as the Administrator deems appropriate to allow the Administrator to determine whether such individual or entity has exceeded either such percentage. The Administrator shall make a finding as soon as practicable upon such request and shall submit such finding to the North Pacific Council and the Secretary. For the purposes of this subsection, any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

“(f) LANDING TAX JURISDICTION.—Any contract filed under subsection (a) shall include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid shall result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 et seq.).

“(g) PENALTIES.—The violation of any of the requirements of this subtitle or any regulation or permit issued pursuant to this subtitle shall be considered the commission of an act prohibited by section 307 of the Magnuson-Stevens Act (16 U.S.C. 1857), and sections 308,

309, 310, and 311 of such Act (16 U.S.C. 1858, 1859, 1860, and 1861) shall apply to any such violation in the same manner as to the commission of an act prohibited by section 307 of such Act (16 U.S.C. 1857). In addition to the civil penalties and permit sanctions applicable to prohibited acts under section 308 of such Act (16 U.S.C. 1858), any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated a requirement of this section shall be subject to the forfeiture to the Secretary of Commerce of any fish harvested or processed during the commission of such act.

“SEC. 211. PROTECTIONS FOR OTHER FISHERIES; CONSERVATION MEASURES.

“(a) GENERAL.—The North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act [probably should be “this title”, see Tables for classification] or fishery cooperatives in the directed pollock fishery.

“(b) CATCHER/PROCESSOR RESTRICTIONS.—

“(1) GENERAL.—The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except that they may be superceded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act [Oct. 21, 1998] by the North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.

“(2) BERING SEA FISHING.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—

“(A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;

“(B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997; and

“(C) fishing for Atka mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands Atka mackerel fishery—

“(i) 11.5 percent in the central area; and

“(ii) 20 percent in the western area.

“(3) BERING SEA PROCESSING.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

“(A) processing any of the directed fishing allowances under paragraphs (1) or (3) of section 206(b); and

“(B) processing any species of crab harvested in the Bering Sea and Aleutian Islands Management Area.

“(4) GULF OF ALASKA.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

“(A) harvesting any fish in the Gulf of Alaska;

“(B) processing any groundfish harvested from the portion of the exclusive economic zone off Alaska known as area 630 under the fishery management plan for Gulf of Alaska groundfish; or

“(C) processing any pollock in the Gulf of Alaska (other than as bycatch in non-pollock groundfish fisheries) or processing, in the aggregate, a total of more than 10 percent of the cod harvested from areas 610, 620, and 640 of the Gulf of Alaska under the fishery management plan for Gulf of Alaska groundfish.

“(5) FISHERIES OTHER THAN NORTH PACIFIC.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) and motherships eligible under section 208(d) are hereby prohibited from harvesting fish in any fishery under the authority of any regional fishery management council established under section 302(a) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)) other than the North Pacific Council, except for the Pacific whiting fishery, and from processing fish in any fishery under the authority of any such regional fishery management council other than the North Pacific Council, except in the Pacific whiting fishery, unless the catcher/processor or mothership is authorized to harvest or process fish under a fishery management plan recommended by the regional fishery management council of jurisdiction and approved by the Secretary.

“(6) OBSERVERS AND SCALES.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) shall—

“(A) have two observers onboard at all times while groundfish is being harvested, processed, or received from another vessel in any fishery under the authority of the North Pacific Council; and

“(B) weigh its catch on a scale onboard approved by the National Marine Fisheries Service while harvesting groundfish in fisheries under the authority of the North Pacific Council.

This paragraph shall take effect on January 1, 1999 for catcher/processors eligible under paragraphs (1) through (20) of section 208(e) that will harvest pollock allocated under section 206(a) in 1999, and shall take effect on January 1, 2000 for all other catcher/processors eligible under such paragraphs of section 208(e).

“(c) CATCHER VESSEL AND SHORESIDE PROCESSOR RESTRICTIONS.—

“(1) REQUIRED COUNCIL RECOMMENDATIONS.—By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—

“(A) prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery; and

“(B) protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery.

If the North Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the North Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation restrict or change the authority in section 210(b) to the extent the Secretary deems appropriate, including by preventing fishery cooperatives from being formed pursuant to such section and by providing greater flexibility with respect to the shoreside processor or shoreside processors to which catcher vessels in a fishery cooperative under section 210(b) may deliver pollock.

“(2) BERING SEA CRAB AND GROUND FISH.—

“(A) Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each cal-

endar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term ‘facilities’ means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.

“(B) Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from harvesting or processing an excessive share of crab or of groundfish in fisheries in the Bering Sea and Aleutian Islands Management Area.

“(C) The catcher vessels eligible under section 208(b) are hereby prohibited from participating in a directed fishery for any species of crab in the Bering Sea and Aleutian Islands Management Area unless the catcher vessel harvested crab in the directed fishery for that species of crab in such Area during 1997 and is eligible to harvest such crab in such directed fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary. The North Pacific Council is directed to recommend measures for approval by the Secretary to eliminate latent licenses under such program, and nothing in this subparagraph shall preclude the Council from recommending measures more restrictive than under this paragraph.

“(3) FISHERIES OTHER THAN NORTH PACIFIC.—

“(A) By not later than July 1, 2000, the Pacific Fishery Management Council established under section 302(a)(1)(F) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(F)) shall recommend for approval by the Secretary conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by this Act [probably should be “this title”, see Tables for classification] or by any fishery cooperatives in the directed pollock fishery.

“(B) If the Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation implement adequate measures including, but not limited to, restrictions on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restrictions on the number of processors eligible to process Pacific groundfish.

“(d) BYCATCH INFORMATION.—Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a), the North Pacific Council may recommend and the Secretary may approve, under such terms and conditions as the North Pacific Council and Secretary deem appropriate, the public disclosure of any information from the groundfish fisheries under the authority of such Council that would be beneficial in the implementation of section 301(a)(9) or section 303(a)(11) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(9) and 1853(a)(11)).

“(e) COMMUNITY DEVELOPMENT LOAN PROGRAM.—Under the authority of title XI of the Merchant Marine Act, 1936 ([former] 46 U.S.C. App. 1271 et seq.) [see chapter 537 of Title 46, Shipping], and subject to the availability of appropriations, the Secretary is authorized to provide direct loan obligations to communities eligible to participate in the western Alaska community devel-

opment quota program established under 304(i) [305(i)] of the Magnuson-Stevens Act (16 U.S.C. 1855(i)) for the purposes of purchasing all or part of an ownership interest in vessels and shoreside processors eligible under subsections (a), (b), (c), (d), (e), or (f) of section 208. Notwithstanding the eligibility criteria in section 208(a) and section 208(c), the LISA MARIE (United States official number 1038717) shall be eligible under such sections in the same manner as other vessels eligible under such sections.

“SEC. 212. RESTRICTION ON FEDERAL LOANS.

“[Amended section 302(b) of Pub. L. 104-297, formerly set out as a note under section 1274 of Title 46, Appendix, Shipping, and now partially set out as a note under section 53706 of Title 46, Shipping.]

“SEC. 213. DURATION.

“(a) GENERAL.—Except as otherwise provided in this title [see Tables for classification], the provisions of this title shall take effect upon the date of the enactment of this Act [Oct. 21, 1998]. There are authorized to be appropriated \$6,700,000 per year to carry out the provisions of this Act [probably should be “this title”, see Tables for classification] through fiscal year 2004.

“(b) EXISTING AUTHORITY.—Except for the measures required by this subtitle [this note], nothing in this subtitle shall be construed to limit the authority of the North Pacific Council or the Secretary under the Magnuson-Stevens Act.

“(c) CHANGES TO FISHERY COOPERATIVE LIMITATIONS AND POLLOCK CDQ ALLOCATION.—The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—

“(1) that supersede the provisions of this subtitle, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery;

“(2) that supersede the allocation in section 206(a) for any of the years 2002, 2003, and 2004, upon the finding by such Council that the western Alaska community development quota program for pollock has been adversely affected by the amendments in this subtitle; or

“(3) that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

“(d) REPORT TO CONGRESS.—Not later than October 1, 2000, the North Pacific Council shall submit a report to the Secretary and to Congress on the implementation and effects of this Act [title], including the effects on fishery conservation and management, on bycatch levels, on fishing communities, on business and employment practices of participants in any fishery cooperatives, on the western Alaska community development quota program, on any fisheries outside of the authority of the North Pacific Council, and such other matters as the North Pacific Council deems appropriate.

“(e) REPORT ON FILLET PRODUCTION.—Not later than June 1, 2000, the General Accounting Office [now Government Accountability Office] shall submit a report to the North Pacific Council, the Secretary, and the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including through the reduction in the supply of such fillets and fillet blocks. If the report determines that such market has been negatively affected, the North Pacific Council shall recommend measures for the Secretary’s approval to mitigate any negative effects.

“(f) SEVERABILITY.—If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circum-

stance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

“(g) INTERNATIONAL AGREEMENTS.—In the event that any provision of section 12102(c) [now 12113(b)(2) to (d)] or section 31322(a) of title 46, United States Code, as amended by this Act, is determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party with respect to the owner or mortgagee on [sic] of a vessel with a fishery endorsement, such provision shall not apply to that owner or mortgagee with respect to their ownership or mortgage interest in such vessel on that date to the extent of any such inconsistency. The provisions of section 12102(c) [now 12113(b)(2) to (d)] and section 31322(a) of title 46, United States Code, as amended by this Act, shall apply to all subsequent owners and mortgagees of such vessel, and shall apply, notwithstanding the preceding sentence, to the owner on [sic] of such vessel if any ownership interest in that owner is transferred to or otherwise acquired by a foreign individual or entity after or if the percentage of foreign ownership in the vessel is increased after the effective date of this subsection [July 24, 2001].”

[Pub. L. 107-20, title II, §2202(e)(2), July 24, 2001, 115 Stat. 170, provided that: “Section 213(g) of the American Fisheries Act (Public Law 105-277, division C, title II) [set out above] shall take effect on the date of enactment of this Act [July 24, 2001].”]

#### RESTRICTION ON FUNDING CERTAIN NEW FISHERY MANAGEMENT PLANS, AMENDMENTS OR REGULATIONS

Pub. L. 104-208, div. A, title I, §101(a) [title II, §§208, 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-40, 3009-41, provided that: “None of the funds appropriated under this Act or any other Act henceforth may be used to develop new fishery management plans, amendments, or regulations which create new individual fishing quota programs (whether such quotas are transferable or not) or to implement any such plans, amendments or regulations approved by a Regional Fishery Management Council or the Secretary after January 4, 1995, until offsetting fees to pay for the cost of administering such plans, amendments, or regulations are expressly authorized under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). This restriction shall also apply to any program relating to the Gulf of Mexico commercial red snapper fishery that authorizes the consolidation of licenses, permits or endorsements that result in different trip limits for vessels in the same class. This restriction shall not apply in any way to the North Pacific halibut and sablefish, South Atlantic wreckfish, or the Mid-Atlantic surfclam and ocean (including mahogany) quohog individual fishing quota programs. The term ‘individual fishing quota’ does not include a community development quota.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104-134, title I, §101[(a)] [title II, §210], Apr. 26, 1996, 110 Stat. 1321, 1321-31; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; repealed by Pub. L. 104-297, title I, §108(f)(6), Oct. 11, 1996, 110 Stat. 3579.

#### ALBEMARLE SOUND-ROANOKE RIVER BASIN: STRIPED BASS STUDY

Pub. L. 100-589, §5, Nov. 3, 1988, 102 Stat. 2984, related to requirement of biological study of striped bass fishery resources and habitats of Albemarle Sound-Roanoke River basin area and development of short-term and long-term recommendations for restoring and conserving these resources and habitats, prior to repeal by Pub. L. 105-146, §3(b), Dec. 16, 1997, 111 Stat. 2677.

#### EXCLUSIVE ECONOMIC ZONE: ATLANTIC STRIPED BASS PROTECTION

Pub. L. 100-589, §6(a)-(f), Nov. 3, 1988, 102 Stat. 2986, as amended by Pub. L. 102-130, §4, Oct. 17, 1991, 105 Stat.

627; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, directed Secretary of Commerce to regulate fishing for Atlantic striped bass in exclusive economic zone determined to be consistent with national standards set forth in this section, prior to repeal by Pub. L. 105-146, §3(c), Dec. 16, 1997, 111 Stat. 2677.

#### ATLANTIC STRIPED BASS CONSERVATION

Pub. L. 98-613, §§1-9, Oct. 31, 1984, 98 Stat. 3187-3190, as amended, formerly set out as a note under this section, was transferred to chapter 71A (§5151 et seq.) of this title.

### § 1852. Regional Fishery Management Councils

#### (a) Establishment

(1) There shall be established, within 120 days after April 13, 1976, eight Regional Fishery Management Councils, as follows:

##### (A) New England Council

The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have 18 voting members, including 12 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

##### (B) Mid-Atlantic Council

The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina, and as provided in paragraph (3)). The Mid-Atlantic Council shall have 21 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

##### (C) South Atlantic Council

The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

##### (D) Caribbean Council

The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

§ 680.23 *Equipment and operational requirements.*

*(a) Catcher Vessel requirements.*

A catcher vessel used to harvest CR crab must:

- (1) Carry and use a VMS as described in paragraph (d) of this section;
- (2) Land all retained crab to an RCR operating under an approved catch monitoring plan as described in paragraph (g) of this section;

*(b) Catcher/Processor requirements.*

A catcher/processor used to harvest CR crab must:

- (1) Carry and use a VMS as described in paragraph (d) of this section;
- (2) Weigh all retained crab to be processed on board, in its raw form, on a scale approved by NMFS as described in paragraph (e) of this section;
- (3) Land all retained crab not processed on board at an RCR;
- (4) **Offload all CR crab** product processed onboard at a shoreside location in the United States accessible by road or regularly scheduled air service and weigh that product on a scale approved by **the state in which the CR crab product is removed from the vessel that harvested the CR crab; and**
- (5) Provide an approved observer platform scale and test weights that meet the requirements in paragraph (e) of this section.

*(c) RCR requirements.*

An RCR must:

- (1) Ensure that all CR crab landings are weighed on a scale approved by the State in which the landing takes place.
- (2) Ensure that all crab landing and weighing be conducted as specified in an approved crab monitoring plan as described in paragraph (g) of this section, and that a copy of the crab monitoring plan is made available to NMFS personnel or authorized officer upon demand.

*(d) Vessel Monitoring System (VMS) requirements*

(1) General requirements.

General VMS requirements concerning the approval and installation of VMS components and the responsibilities of vessel owners and operators are detailed at § 679.28(f)(1) through (5).

(2) VMS Transmission Requirements.

A vessel's transmitter must be transmitting if:

- (i) The vessel is operating in any reporting area (see definitions at § 679.2) off Alaska;
- (ii) The vessel has crab pots or crab pot hauling equipment, or a crab pot launcher onboard; and
- (iii) The vessel has or is required to have a Federal crab vessel permit for that crab fishing year.

*(e) Scales approved by NMFS.*

To be approved by NMFS, a scale used to weigh crab at sea must meet the type evaluation and initial inspection requirements set forth in § 679.28(b)(1) and (2). Once a scale is installed on a vessel and approved by NMFS for use, it must be reinspected annually as described in § 679.28(b) by requesting a scale inspection from NMFS. Each scale must be tested daily and meet the maximum permissible error (MPE) requirements described in paragraph (e)(1) of this section.

(1) At-sea scale tests.

To verify that the scale meets the MPEs specified in this paragraph, the vessel operator must test each scale or scale system used to weigh CR crab one time during each 24-hour period when use of the scale is required. The vessel owner must ensure that these tests are performed in an accurate and timely manner.

(i) Belt scales. The MPE for the daily at-sea scale tests is plus or minus 3 percent of the known weight of the test material. The scale must be tested by weighing at least 400 kg (882 lb) of crab or an alternative material supplied by the scale manufacturer on the scale under test. The known weight of the test material must be determined by weighing it on a platform scale approved for use under § 679.28 (b)(7).

(ii) Automatic hopper scales. An automatic hopper scale must be tested at its minimum and maximum capacity with approved test weights. Test weights must be placed in the bottom of the hopper unless an alternative testing method is approved by NMFS. The

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**§ 680.23 Equipment and operational requirements**

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MPE for the daily at-sea scale tests is plus or minus 2 percent of the weight of the approved test weights.

(iii) Platform scales used for observer sampling. A platform scale used for observer sampling must be tested at 10, 25, and 50 kg (or 20, 50, and 100 lb if the scale is denominated in pounds) using approved test weights. The MPE for the daily at-sea scale test is plus or minus 0.5 percent if the scale is used to determine the known weight of test material for the purpose of testing a belt scale. If the scale is not used for that purpose, the MPE for the daily at-sea scale test is plus or minus 1 percent.

(iv) Approved test weights. Each test weight must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be annually certified by a National Institute of Standards and Technology approved metrology laboratory or approved for continued use by the NMFS authorized inspector at the time of the annual scale inspection.

(v) Requirements for all scale tests.

(A) Notify the observer at least 15 minutes before the time that the test will be conducted, and conduct the test while the observer is present.

(B) Conduct the scale test and record the following information on the at-sea scale test report form:

- (1) Vessel name;
- (2) Month, day, and year of test;
- (3) Time test started to the nearest minute;
- (4) Known weight of test weights;
- (5) Weight of test weights recorded by scale;
- (6) Percent error as determined by subtracting the known weight of the test weights from the weight recorded on the scale, dividing that amount by the known weight of the test weights, and multiplying by 100; and
- (7) Sea conditions at the time of the scale test.

(C) Maintain the test report form on board the vessel until the end of the crab fishing year during which the tests were conducted, and make the report forms available to observers, NMFS personnel, or an authorized officer. In addition, the vessel owner must retain the scale test report forms for 3 years after the end of the crab fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(2) Scale maintenance.

The vessel owner must ensure that the vessel operator maintains the scale in proper operating condition throughout its use, that adjustments made to the scale are made so as to bring the performance errors as close as practicable to a zero value, and that no adjustment is made that will cause the scale to weigh inaccurately.

(3) Printed reports from the scale.

The vessel owner must ensure that the printed reports are provided as required by this paragraph. Printed reports from the scale must be maintained on board the vessel until the end of the year during which the reports were made and be made available to NMFS or NMFS authorized personnel. In addition, the vessel owner must retain printed reports for 3 years after the end of the year during which the printouts were made.

(i) Reports of catch weight and cumulative weight.

Reports must be printed at least once every 24 hours prior to submitting a CR crab landing report as described in § 680.5. Reports must also be printed before any information stored in the scale computer memory is replaced. Scale weights must not be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials. Scale printouts must show:

- (A) The vessel name and Federal crab vessel permit number;
- (B) The weight of each load in the weighing cycle (hopper scales only);
- (C) The date and time the information was printed;
- (D) The total amount weighed since the last printout was made; and
- (E) The total cumulative weight of all crab or other material weighed on the scale.

(ii) Printed report from the audit trail. The printed report must include the information specified in sections 2.3.1.8, 3.3.1.7, and 4.3.1.8 of appendix A to 50 CFR part 679. The printed report must be provided to the authorized scale inspector at each scale inspection and must also be printed at any time upon request of NMFS staff or other NMFS-authorized personnel.

(iii) Platform scales used for observer sampling. A platform scale used for observer sampling is not required to produce a printed record unless that scale is also used to obtain raw weight for a CR crab landing report.

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**(4) Scale installation requirements.**

Unless otherwise approved by NMFS, a scale used to obtain raw weight for a CR crab landing report must be installed such that:

(i) From the location where the observer samples unsorted crab, the observer can ensure that all crab are being weighed;

(ii) The scale may not be installed in a manner that facilitates bypassing. It must not be possible for the scale inspector and an assistant to bypass the scale with 100 kg (220 lb) of test material in less than 20 seconds.

**(f) Scales approved by the state.**

Scale requirements in this paragraph are in addition to those requirements set forth by the State in which the scale is approved, and nothing in this paragraph may be construed to reduce or supersede the authority of the State to regulate, test, or approve scales within the State. Scales used to weigh CR crab that are also required to be approved by the State must meet the following requirements:

**(1) Verification of approval.**

The scale must display a valid State sticker indicating that the scale was inspected and approved within the previous 12 months.

**(2) Visibility.**

An RCR must ensure that the scale and scale display are visible simultaneously. NMFS personnel or NMFS authorized personnel, including observers, must be allowed to observe the weighing of crab on the scale and be allowed to read the scale display at all times.

**(3) Printed scale weights.**

(i) An RCR must ensure that printouts of the scale weight of each delivery or offload are made available to NMFS personnel or to NMFS authorized personnel, including observers, at the time printouts are generated. An RCR must maintain printouts on site until the end of the fishing year during which the printouts were made and make them available upon request by an authorized officer for 3 years after the end of the fishing year during which the printout was made.

(ii) A scale used to weigh any portion of a landing of CR crab or an offload of CR crab product must produce a printed record for each landing, or portion of each landing, weighed on that scale. The printed record must include:

(A) The RCR's name;

(B) The weight of each load in the weighing cycle;

(C) The total weight of crab in each landing, or portion of the landing that was weighed on that scale;

(D) The date and time the information is printed; and

(E) The name and ADF&G vessel registration number of the vessel making the delivery. The scale operator may write this information on the scale printout in ink at the time of landing.

**(4) Inseason scale testing.**

Scales used to weigh CR crab must be tested by RCR personnel when testing is requested by NMFS-staff or by NMFS-authorized personnel.

(i) Inseason testing criteria. To pass an inseason test, NMFS staff or NMFS-authorized personnel will verify that the scale display and printed information are clear and easily read under all conditions of normal operation, that weight values are visible on the display until the value is printed, and that the scale does not exceed the maximum permissible errors specified in the following table:

<b>Test Load in Scale Divisions</b>	<b>Maximum Error in Scale Divisions</b>
(A) 0-500	1
(B) 501-2,000	2
(C) 2,001-4,000	3
(D) >4,000	4

(ii) Test weight requirements. Scales must be tested with the amount and type of weight specified for each scale type in the following tables under paragraphs (f)(4)(ii)(A) through (f)(4)(ii)(D) of this section:

(A) Automatic hopper 0 to 150 kg (0 to 300 lb) capacity.

<b>Certified Test Weights</b>	<b>Other Test Material</b>
(1) Minimum weight or 10 kg (20 lb), whichever is greater	Minimum
(2) Maximum	Maximum

**§ 680.23 Equipment and operational requirements**

(B) Automatic hopper > 150 kg (300 lb) capacity.

<b>Certified Test Weights</b>	<b>Other Test Material</b>
(1) Minimum weight or 10 kg (20 lb), whichever is greater	Minimum
(2) 25 percent of maximum of 150 kg (300 lb), whichever is greater	Maximum

(C) Platform, flatbed or hanging scales less than 150 kg (300 lb) capacity.

<b>Certified Test Weights</b>	<b>Other Test Material</b>
(1) 10 kg (20 lb)	Not Acceptable
(2) Midpoint	Not Acceptable
(3) Maximum	Not Acceptable

(D) Platform, flatbed or hanging scales > 150 kg (300 lb) capacity.

<b>Certified Test Weights</b>	<b>Other Test Material</b>
(1) 10 kg (20 lb)	Not Acceptable
(2) 12.5 percent of maximum or 75 kg (150 lb), whichever is greater	50 percent of maximum or 75 kg (150 lb), whichever is greater
(3) 25 percent of maximum or 150 kg (300 lb), whichever is greater	75 percent of maximum or 150 kg (300 lb), whichever is greater

(iii) Certified test weights. An RCR must ensure that there are sufficient test weights on-site to test each scale used to weigh CR crab. Each test weight used for inseason scale testing must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory every 2 years.

(iv) Other test material. When permitted in paragraph (f)(4)(ii) of this section, a scale may be tested with test material other than certified test weights.

(g) Crab Monitoring Plans (CMP).

A CMP is a plan submitted by an RCR for each location or processing vessel where the RCR wishes to take deliveries of CR crab. The CMP must detail how the RCR will meet the catch monitoring standards detailed in paragraph (g)(5) of this section. An RCR that processes only CR crab harvested under a CPO or CPC IFQ permit is not required to prepare a CMP.

(1) CMP Approval.

NMFS will approve a CMP if it meets all the performance standards specified in paragraph (g)(5) of this section. The location or vessel identified in the CMP may be inspected by NMFS prior to approval of the CMP to ensure that the location conforms to the elements addressed in the CMP. If NMFS disapproves a CMP, the plant owner or manager may resubmit a revised CMP or file an administrative appeal as set forth under the administrative appeals procedures described in § 679.43.

(2) Inspection scheduling.

The time and place of a CMP inspection may be arranged by submitting a written request for an inspection to NMFS, Alaska Region. An inspection must be requested no less than 10 working days before the requested inspection date. NMFS staff will conduct CMP inspections in any port located in the United States that can be reached by regularly scheduled commercial air service. The inspection request must include:

- (i) Name and signature of the person submitting the application and the date of the application;
- (ii) Address, telephone number, facsimile number, and e-mail address (if available) of the person submitting the application; and
- (iii) A proposed CMP detailing how the RCR will meet each of the standards in paragraph (g)(5) of this section.

(3) Approval period.

NMFS will approve a CMP for 1 year if it meets the performance standards specified in paragraph (e)(2) of this section. An owner or manager must notify NMFS in writing if changes are made in plant operations or layout that do not conform to the CMP.

(4) Changing an approved CMP.

An RCR may change an approved CMP by submitting a CMP addendum to NMFS. Depending on the nature and magnitude of the change requested, NMFS may require a CMP inspection as described in paragraph (g)(2) of this section. A CMP addendum must contain:

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(i) Name and signature of the person submitting the addendum;

(ii) Address, telephone number, facsimile number and e-mail address (if available) of the person submitting the addendum; and

(iii) A complete description of the proposed CMP change.

(5) CMP standards

(i) Crab sorting and weighing requirements. All crab, including crab parts and crab that are dead or otherwise unmarketable, delivered to the RCR must be sorted and weighed by species. The CMP must detail how and where crab are sorted and weighed.

(ii) Scales used for weighing crab. The CMP must identify by serial number each scale used to weigh crab and describe the rationale for its use.

(iii) Scale testing procedures. Scales identified in the CMP must be accurate within the limits specified in paragraph (f)(4)(i) of this section. For each scale identified in the CMP a testing plan must be developed that:

(A) Describes the procedure the plant will use to test the scale;

(B) Lists the test weights and equipment required to test the scale;

(C) Lists where the test weights and equipment will be stored; and

(D) Lists the names of the personnel responsible for conducting the scale testing.

(iv) Printed record. An RCR must ensure that the scale produces a complete and accurate printed record of the weight of each species in a landing. All of the crab in a delivery must be weighed on a scale capable of producing a complete printed record as described in paragraph (e)(3) of this section. A printed record of each landing must be printed before the RCR submits a CR crab landing report.

(v) Observation area. Each CMP must designate an observation area. The observation area is a location designated on the CMP where an individual may monitor the offloading and weighing of crab. The observation area must meet the following standards:

(A) Access to the observation area. The observation area must be freely accessible to observer,

NMFS staff or enforcement aides at any time during the effective period of the CMP.

(B) Monitoring the offloading and weighing of crab. From the observation area, an individual must have an unobstructed view or otherwise be able to monitor the entire offload of crab between the first location where crab are removed from the boat and a location where all sorting has taken place and each species has been weighed.

(C) Other Requirements. The observation area must be sheltered from the weather and not exposed to unreasonable safety hazards.

(vi) Plant liaison. The CMP must designate a plant liaison. The plant liaison is responsible for:

(A) Orienting new observers, NMFS staff and enforcement aides to the plant;

(B) Assisting in the resolution of observer concerns; and

(C) Informing NMFS if changes must be made to the CMP.

(vii) Drawing to scale of delivery location. The CMP must be accompanied by a drawing to scale of the delivery location or vessel showing:

(A) Where and how crab are removed from the delivering vessel;

(B) The observation area;

(C) The location of each scale used to weigh crab; and

(D) Each location where crab is sorted.

(viii) Single geographic location. All offload and weighing locations detailed in a CMP must be located on the same vessel or in the same geographic location. If a CMP describes facilities for the offloading of vessels at more than one location, it must be possible to see all locations simultaneously.

**§ 679.84 Rockfish Program recordkeeping, permits, monitoring, and catch accounting.**

*(a) Recordkeeping and reporting.*  
(See § 679.5(r).)

*(b) Permits. See § 679.4(n).*

*(c) Catch monitoring requirements for catcher/processors assigned to a rockfish cooperative or rockfish limited access fishery.*

The requirements under paragraphs (c)(1) through (9) of this section apply to any catcher/processor vessel participating in a rockfish cooperative or the rockfish limited access fishery, and that is subject to a sideboard limit as described in this section. At all times when a vessel has groundfish onboard that were harvested under a CQ permit that were harvested during a rockfish limited access fishery, or that were harvested by a vessel subject to a sideboard limit as described under § 679.82(d) through (g), as applicable, the vessel owner or operator must ensure that:

(1) Catch weighing.

All groundfish are weighed on a NMFS-approved scale in compliance with the scale requirements at § 679.28(b). Each haul must be weighed separately and all catch must be made available for sampling by a NMFS-certified observer.

(2) Observer sampling station.

An observer sampling station meeting the requirements at § 679.28(d) is available at all times.

(3) Observer coverage requirements.

The vessel is in compliance with the observer coverage requirements described at § 679.50(c)(7)(i).

(4) Operational line.

The vessel has no more than one operational line or other conveyance for the mechanized movement of catch between the scale used to weigh total catch and the location where the observer collects species composition samples.

(5) Fish on deck.

No fish are allowed to remain on deck unless an observer is present, except for fish inside the codend and fish accidentally spilled from the codend during hauling and dumping. Fish accidentally spilled from the codend must be moved to the fish bin.

(6) Sample storage.

The vessel owner or operator provides sufficient space to accommodate a minimum of 10 observer

sampling baskets. This space must be within or adjacent to the observer sample station.

(7) Pre-cruise meeting.

The Observer Program Office is notified by phone at 1-907-271-1702 at least 24 hours prior to departure when the vessel will be carrying an observer who had not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager and any observers assigned to the vessel.

(8) Belt and flow operations.

The vessel operator stops the flow of fish and clear all belts between the bin doors and the area where the observer collects samples of unsorted catch when requested to do so by the observer.

(9) Vessel crew in tanks or bins.

The vessel owner or operator must comply with the bin monitoring standards specified in § 679.28(i).

*(d) Catch monitoring requirements for catcher/processors assigned to the opt-out fishery.*

At all times any catcher/processor vessel assigned to the opt-out fishery has groundfish onboard that vessel that were harvested subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, the vessel owner or operator must ensure catch from an individual haul is not mixed with catch from another haul prior to sampling by a NMFS-certified observer, that all catch be made available for sampling by a NMFS-certified observer, and that the requirements in paragraphs (c)(3), (4) (5), (8), and (9) of this section are met.

*(e) Catch monitoring requirements for catcher vessels.*

The owner or operator of a catcher vessel must ensure the vessel complies with the observer coverage requirements described at § 679.50(c)(7)(ii) at all times the vessel is participating in a rockfish cooperative, rockfish limited access fishery, or rockfish sideboard fishery described in this section.

***(f) Catch monitoring requirements for shoreside and stationary floating processors***

**(1) Catch monitoring and control plan (CMCP).**

The owner or operator of a shoreside or stationary floating processor receiving deliveries from a catcher vessel described at § 679.50(c)(7)(ii) must ensure the shoreside or stationary floating processor complies with the CMCP requirements described at § 679.28(g).

**(2) Catch weighing.**

All groundfish landed by catcher vessels described at § 679.50(c)(7)(ii) must be sorted, weighed on a scale approved by the State of Alaska as described at § 679.28(c), and be made available for sampling by a NMFS-certified observer. The observer must be allowed to test any scale used to weigh groundfish to determine its accuracy.

**(3) Notification requirements.**

The plant manager or plant liaison must notify the observer of the offloading schedule for each delivery of groundfish harvested in a Rockfish Program fishery at least 1 hour prior to offloading. An observer must be available to monitor each delivery of groundfish harvested in a Rockfish Program fishery. The observer must be available the entire time the delivery is being weighed or sorted.

***(g) Catch accounting***

**(1) Primary rockfish species and secondary species.**

All primary rockfish species and secondary species harvested by a vessel, including harvests in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is named on an LLP license that is assigned to a rockfish cooperative and fishing under a CQ permit will be debited against the CQ for that rockfish cooperative from May 1:

(i) Until November 15; or

(ii) Until that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

**(2) Rockfish halibut PSC.**

All rockfish halibut PSC used by a vessel, including halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is named on an LLP license that is assigned to a rockfish cooperative and fishing under a CQ permit will be debited against the CQ for that rockfish cooperative from May 1:

(i) Until November 15; or

(ii) Until the designated representative of that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

**(3) Groundfish sideboard limits.**

All groundfish harvested by a vessel, except groundfish harvested by a vessel fishing under a CQ permit in the Central GOA including groundfish harvested in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is subject to a sideboard limit for that groundfish species as described under § 679.82(d) through (h), as applicable, from July 1 until July 31 will be debited against the sideboard limit established for that sector or rockfish cooperative, as applicable.

**(4) Halibut sideboard limits.**

All halibut PSC used by a vessel, except halibut PSC used by a vessel fishing under a CQ permit, or in a rockfish limited access fishery including halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, from July 1 until July 31 will be debited against the sideboard limit established for that sector or rockfish cooperative, as applicable.

§ 679.28 *Equipment and operational requirements.*

*(a) Applicability.*

This section contains the operational requirements for scales, observer sampling stations, bins for volumetric estimates, vessel monitoring system hardware, catch monitoring and control plan, and catcher vessel electronic logbook software. The operator or manager must retain a copy of all records described in this section (§ 679.28) as indicated at § 679.5(a)(5) and (6) and make available the records upon request of NMFS observers and authorized officers as indicated at § 679.5(a)(5).

*(b) Scales used to weigh catch at sea.*

In order to be approved by NMFS a scale used to weigh catch at sea must meet the type evaluation requirements set forth in paragraph (b)(1) of this section and the initial inspection and annual reinspection requirements set forth in paragraph (b)(2) of this section. Once a scale is installed on a vessel and approved by NMFS for use to weigh catch at sea, it must be reinspected annually and must be tested daily and meet the maximum permissible error (MPE) requirements described in paragraph (b)(3) of this section.

(1) List of scales eligible for approval.

The model of scale must be included on the Regional Administrator's list of scales eligible to be approved for weighing catch at sea before an inspector will schedule or conduct a scale inspection under paragraph (b)(2) of this section. A scale will be included on the list when the Regional Administrator receives the information specified in paragraphs (b)(1)(i) through (iv) of this section. This information identifies and describes the scale, sets forth contact information regarding the manufacturer, and sets forth the results of required type evaluations and testing. Type evaluation and testing must be conducted by a laboratory accredited by the government of the country in which the tests are conducted.

(i) Information about the scale.

(A) Name of scale manufacturer.

(B) Name of manufacturer's representative.

(C) Mailing address of scale manufacturer and manufacturer's representative.

(D) Telephone and fax number of manufacturer's representative.

(E) Model and serial number of the scale tested.

(F) A written description of the scale and diagrams explaining how the scale operates and how it compensates for motion.

(G) A list of the model numbers of all scales for which type evaluation results are applicable, identifying the differences between the model evaluated in the laboratory and other models listed. The scales may differ only in the elements of the scale that perform motion compensation, the size or capacity of the scale, and the software used by the scale.

(H) A list of types of scale adjustments that will be recorded on the audit trail, including the name of the adjustment as it will appear on the audit trail, and a written description of the adjustment.

(ii) Information about the laboratory.

(A) Name of laboratory.

(B) Mailing address of laboratory.

(C) Telephone and fax number of laboratory's representative.

(D) Name and address of government agency accrediting the laboratory.

(E) Name and signature of person responsible for evaluation of the scale and the date of signature.

(iii) Checklist. A completed checklist indicating that all applicable technical and performance standards in appendix A to this part and the laboratory tests in the annex to appendix A to this part have been met.

(iv) Verification of test results. Verification that a scale meets the laboratory evaluation and testing requirements in appendix A of this part and each of the influence quantity and disturbance tests as specified in the annex to appendix A to this part:

(A) Test results and data on forms supplied by NMFS;

(B) National Type Evaluation Program (NTEP) Certificates of Conformance, test results and data for a component of a scale or for the entire device. NTEP Certificates of Conformance, test results, and data may be submitted only in lieu of the specific influence factor tests conducted to obtain the NTEP Certificates of Conformance. Additional information must be submitted to verify compliance with the laboratory tests that are not performed under the NTEP; and/or

(C) International Organization of Legal Metrology (OIML) Certificates of Conformance, test results and data.

(v) Exceptions. A scale manufacturer or their representative may request that NMFS approve a custom built automatic hopper scale under the following conditions:

(A) The scale electronics are the same as those used in other scales on the Regional Administrator's list of scales eligible for approval;

(B) Load cells have received Certificates of Conformance from NTEP or OIML;

(C) The scale compensates for motion in the same manner as other scales made by that manufacturer which have been listed on the Regional Administrator's list of scales eligible for approval;

(D) The scale, when installed, meets all of the requirements set forth in paragraph 3 of appendix A to this part, except those requirements set forth in paragraph 3.2.1.1.

(2) Inspection of at-sea scales.

(i) What is an inspection? An inspection is a visual assessment and test of a scale after it is installed on the vessel and while the vessel is tied up at a dock and not under power at sea to determine if the scale meets all of the applicable performance and technical requirements in paragraph (b)(2) of this section and in appendix A to this part. A scale will be approved by the inspector if it meets all of the applicable performance and technical requirements in paragraph (b)(2) of this section and appendix A to this part.

(ii) How often must a scale be inspected? Each scale must be inspected and approved before the vessel may participate in any fishery requiring the weighing of catch at sea with an approved scale. Each scale must be reinspected within 12 months of the date of the most recent inspection.

(iii) Who may perform scale inspections and approvals? Scales must be inspected and approved by a NMFS-staff scale inspector or an inspector designated by NMFS and trained by a NMFS-staff scale inspector.

(iv) How does a vessel owner arrange for a scale inspection? The operator must submit a request for a scale inspection at least 10 working days in advance of the requested date of inspection by filing a request online or by printing and faxing the scale inspection

request at <http://alaskafisheries.noaa.gov/scales/default.htm>.

(v) [Reserved]

(vi) Responsibilities of the vessel owner during a scale inspection. After the vessel owner has installed a model of scale that is on the Regional Administrator's list of scales eligible to be approved for weighing catch at sea, the vessel owner must:

(A) Make the vessel and scale available for inspection by the scale inspector.

(B) Provide a copy of the scale manual supplied by the scale manufacturer to the inspector at the beginning of the inspection.

(C) Transport test weights, test material, and equipment required to perform the test to and from the inspector's vehicle and the location on the vessel where the scale is installed.

(D) Apply test weights to the scale or convey test materials across the scale, if requested by the scale inspector.

(E) Assist the scale inspector in performing the scale inspection and testing.

(vii) Scale inspection report.

(A) A scale is approved for use when the scale inspector completes and signs a scale inspection report verifying that the scale meets all of the requirements specified in this paragraph (b)(2) and appendix A to this part.

(B) The scale inspector must provide the original inspection report to the vessel owner and a copy to NMFS.

(C) The vessel owner must either:

(1) Maintain a copy of the report on board when use of the scale is required and make the report available to the observer, NMFS personnel, or an authorized officer, upon request, or;

(2) Display a valid NMFS-sticker on each approved scale.

(D) When in use, an approved scale must also meet the requirements described in paragraphs (b)(3) through (b)(6) of this section.

(3) At-sea scale tests.

To verify that the scale meets the MPEs specified in this paragraph (b)(3), the vessel operator must test each scale or scale system used to weigh total catch one time during each 24-hour period when use of the scale is required. The vessel owner must ensure that these tests are performed in an accurate and timely manner.

(i) Belt scales and automatic hopper scales.

(A) The MPE in the daily at-sea scale tests is plus or minus 3 percent of the known weight of the test material.

(B) Test procedure. A material test must be conducted by weighing at least 400 kg of fish or an alternative material supplied by the scale manufacturer on the scale under test. The known weight of the test material must be determined by weighing it on a platform scale approved for use under paragraph (b)(7) of this section.

(ii) Platform and hanging scales.

(A) Maximum Permissible Error. The MPE for platform and hanging scales is plus or minus 0.5 percent of the known weight of the test material.

(B) Test weights. Each test weight must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be annually certified by a National Institute of Standards and Technology approved metrology laboratory or approved for continued use by the NMFS authorized inspector at the time of the annual scale inspection. The amount of test weights that must be provided by the vessel owner is specified in paragraphs (b)(3)(ii)(B)(1) and (b)(3)(ii)(B)(2) of this section.

(1) Platform scales used as observer sampling scales or to determine the known weight of test materials. Any combination of test weights that will allow the scale to be tested at 10 kg, 25 kg, and 50 kg.

(2) Scales used to weigh total catch. Test weights equal to the largest amount of fish that will be weighed on the scale in one weighing.

(iii) Requirements for all scale tests.

(A) Notify the observer at least 15 minutes before the time that the test will be conducted, and conduct the test while the observer is present.

(B) Conduct the scale test by placing the test material or test weights on or across the scale and

recording the following information on the at-sea scale test report form:

(1) Vessel name;

(2) Month, day, and year of test;

(3) Time test started to the nearest minute;

(4) Known weight of test material or test weights;

(5) Weight of test material or test weights recorded by scale;

(6) Percent error as determined by subtracting the known weight of the test material or test weights from the weight recorded on the scale, dividing that amount by the known weight of the test material or test weights, and multiplying by 100; and

(7) Sea conditions at the time of the scale test.

(C) Maintain the test report form on board the vessel until the end of the fishing year during which the tests were conducted, and make the report forms available to observers, NMFS personnel, or an authorized officer. In addition, the scale test report forms must be retained by the vessel owner for 3 years after the end of the fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(4) Scale maintenance.

The vessel owner must ensure that the vessel operator maintains the scale in proper operating condition throughout its use; that adjustments made to the scale are made so as to bring the performance errors as close as practicable to a zero value; and that no adjustment is made that will cause the scale to weigh fish inaccurately.

(5) Printed reports from the scale (not applicable to observer sampling scales).

The vessel owner must ensure that the printed reports are provided as required by this paragraph. Printed reports from the scale must be maintained on board the vessel until the end of the year during which the reports were made and be made available to observers, NMFS personnel, or an authorized officer. In addition, printed reports must be retained by the vessel owner for 3 years after the end of the year during which the printouts were made.

(i) Reports of catch weight and cumulative weight. Reports must be printed at least once every 24 hours when use of the scale is required. Reports must also be printed before any information stored in the scale computer memory is replaced. Scale weights must not

be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials. Scale printouts must show:

(A) The vessel name and Federal fisheries or processor permit number.

(B) The haul or set number as recorded in the processor's DCPL (see § 679.5);

(C) The total weight of the haul or set;

(D) The total cumulative weight of all fish or other material weighed on the scale.

(ii) Printed report from the audit trail. The printed report must include the information specified in sections 2.3.1.8, 3.3.1.7, and 4.3.1.8 of appendix A to this part. The printed report must be provided to the authorized scale inspector at each scale inspection and must also be printed at any time upon request of the observer, the scale inspector, NMFS staff, or an authorized officer.

(6) Scale installation requirements.

The scale display must be readable from where the observer collects unsorted catch.

(7) Platform scales used as observer sampling scales or to determine the known weight of test materials.

Platform scales used only as observer sampling scales or to determine the known weight of fish for a material test of another scale are required to meet all of the requirements of paragraph (b) of this section and appendix A to this part except sections 4.3.1 and 4.3.1.5 of appendix A to this part (printer) or section 4.3.1.8 (audit trail) of appendix A to this part.

*(c) Scales approved by the State of Alaska.*

Scale requirements in this paragraph are in addition to those requirements set forth by the State of Alaska, and nothing in this paragraph may be construed to reduce or supersede the authority of the State to regulate, test, or approve scales within the State of Alaska or its territorial sea. Scales used to weigh groundfish catch that are also required to be approved by the State of Alaska under Alaska Statute 45.75 must meet the following requirements:

(1) Verification of approval.

The scale must display a valid State of Alaska sticker indicating that the scale was inspected and approved within the previous 12 months.

(2) Visibility.

The owner and manager of the processor must ensure that the scale and scale display are visible simultaneously to the observer. Observers, NMFS personnel, or an authorized officer must be allowed to observe the weighing of fish on the scale and be allowed to read the scale display at all times.

(3) Printed scale weights.

(i) The owner and manager of the processor must ensure that printouts of the scale weight of each haul, set, or delivery are made available to observers, NMFS personnel, or an authorized officer at the time printouts are generated and thereafter upon request for the duration of the fishing year. The owner and manager must retain scale printouts as records as specified in § 679.5(a)(5)(ii).

(ii) A scale identified in a CMCP (see paragraph (g) of this section) must produce a printed record for each delivery, or portion of a delivery, weighed on that scale. If approved by NMFS as part of the CMCP, scales not designed for automatic bulk weighing may be exempted from part or all of the printed record requirements. The printed record must include:

(A) The processor name;

(B) The weight of each load in the weighing cycle;

(C) The total weight of fish in each delivery, or portion of the delivery that was weighed on that scale;

(D) The total cumulative weight of all fish or other material weighed on the scale since the last annual inspection;

(E) The date and time the information is printed;

(F) The name and ADF&G number of the vessel making the delivery. This information may be written on the scale printout in pen by the scale operator at the time of delivery.

(4) Inseason scale testing.

Scales identified in an approved CMCP (see paragraph (g) of this section) must be tested by plant personnel in accordance with the CMCP when testing is requested by NMFS-staff or NMFS-authorized personnel. Plant personnel must be given no less than 20 minutes notice that a scale is to be tested and no testing may be requested if a scale test has been requested and the scale has been found to be accurate within the last 24 hours.

(i) How does a scale pass an inseason test?

To pass an inseason test, NMFS staff or NMFS-authorized personnel will verify that the scale display and printed information are clear and easily read under all conditions of normal operation, weight values are visible on the display until the value is printed, and the scale does not exceed the maximum permissible errors specified below:

Test Load in Scale Divisions	Maximum Error In Scale Divisions
(A) 0-500	1
(B) 501-2,000	2
(C) 2,001-4,000	3
(D) >4,000	4

(ii) How much weight is required to do an inseason scale test? Scales must be tested with the amount and type of weight specified for each scale type in the following tables:

(A) Automatic hopper 0 to 150 kg (0 to 300 lb) capacity.

Certified Test Weights	Other test material
(1) Minimum weight or 10 kg (20 lb), whichever is greater	Minimum
(2) Maximum	Maximum

(B) Automatic hopper > 150 kg (300 lb) capacity.

Certified Test Weights	Other test material
(1) Minimum weight or 10 kg (20 lb), whichever is greater	Minimum
(2) 25 percent of maximum of 150 kg (300 lb), whichever is greater	Maximum

(C) Platform or flatbed 0 to 150 kg (0 to 300 lb) capacity.

Certified Test Weights	Other test material
(1) 10 kg (20 lb)	Not Acceptable
(2) Midpoint	Not Acceptable
(3) Maximum	Not Acceptable

(D) Platform or flatbed > 150 kg (300 lb) capacity.

Certified Test Weights	Other test material
(1) 10 kg (20 lb)	Not Acceptable
(2) 12.5 percent of maximum or 75 kg (150 lb), whichever is greater	50 percent of maximum or 75 kg (150 lb), whichever is greater
(3) 25 percent of maximum or 150 kg (300 lb), whichever is greater	75 percent of maximum or 150 kg (300 lb), whichever is greater

(E) Observer sampling scale > 50 kg capacity.

Certified Test Weights	Other test material
(1) 10 kg	Not Acceptable
(2) 25 kg	Not Acceptable
(3) 50 kg	Not Acceptable

(iii) Certified test weights. Each test weight used for inseason scale testing must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory every 2 years. An observer platform scale must be provided with sufficient test weights to test the scale at 10 kg, 25 kg, and 50 kg. All other scales identified in an approved CMCP must be provided with sufficient test weights to test the scale as described in this paragraph (c)(4) of this section. Test weights for observer platform scales must be denominated in kilograms. Test weights for other scales may be denominated in pounds.

(iv) Other test material. When permitted in paragraph (c)(4)(ii) of this section, a scale may be tested with test material other than certified test weights. This material must be weighed on an accurate observer platform scale at the time of each use.

(v) Observer sampling scales. Platform scales used as observer sampling scales must:

(A) Have a capacity of no less than 50 kg;

(B) Have a division size of no less than 5 g;

(C) Indicate weight in kilograms and decimal subdivisions; and

(D) Be accurate within plus or minus 0.5 percent when tested at 10 kg, 25 kg, and 50 kg by NMFS staff or a NMFS-certified observer.

*(d) Observer sampling station*

(1) Accessibility.

All of the equipment required for an observer sampling station must be available to the observer at all times while a sampling station is required and the observer is aboard the vessel, except that the observer sampling scale may be used by vessel personnel to conduct material tests of the scale used to weigh total catch under paragraph (b)(3) of this section, as long as the use of the observer's sampling scale by others does not interfere with the observer's sampling duties.

(2) Location.

(i) Motherships and catcher/processors or catcher vessels using trawl gear. The observer sampling station must be located within 4 m of the location from which the observer collects unsorted catch. Clear, unobstructed passage must be provided between the observer sampling station and the location where the observer collects unsorted catch. When standing where unsorted catch is sampled, the observer must be able to see that no fish have been removed between the bin and the scale used to weigh total catch.

(ii) Vessels using nontrawl gear. The observer sampling station must be located within 5 m of the collection area, described at § 679.28(d)(7)(ii)(B), unless any location within this distance is unsafe for the observer. Clear, unobstructed passage must be provided between the observer sampling station and the collection area. Access must be provided to the tally station, described at § 679.28(d)(7)(ii)(A). NMFS may approve an alternative location if the vessel owner submits a written proposal describing the alternative location and the reasons why a location within 5 m of where fish are brought on board the vessel is unsafe, and the proposed observer sampling station meets all other applicable requirements of this section.

(iii) What is clear, unobstructed passage?

Where clear and unobstructed passage is required, passageways must be at least 65 cm wide at their narrowest point, be free of tripping hazards, and be at least 1.8 m high. Doorways or companionways must be free of obstacles.

(3) Minimum work space.

The observer must have a working area for sampling of at least 4.5 square meters. This working area includes the observer's sampling table. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

(4) Table.

The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area used for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.

(5) Observer sampling scale.

The observer sampling station must include a NMFS -approved platform scale with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 m above the floor. The scale must be approved by NMFS under paragraph (b) of this section and must meet the maximum permissible error requirement specified in paragraph (b)(3)(ii)(A) of this section when tested by the observer.

(6) Other requirements.

The sampling station must include flooring that prevents slipping and drains well (grating or other material where appropriate), adequate lighting, and a hose that supplies fresh or sea water to the observer.

(7) Requirements for sampling catch.

(i) Motherships and catcher/processors using trawl gear. The conveyor belt conveying unsorted catch must have a removable board to allow fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located downstream of the scale used to weigh total catch so that the observer can use this scale to weigh large samples. At least 1 m of accessible belt space, located downstream of the scale used to weigh total catch, must be available for the observer's use when sampling a haul.

(ii) Catcher/processors using non-trawl gear. In addition to the sampling station, vessels using non-trawl gear must provide:

(A) Tally station. A place where the observer can see the gear as it leaves the water and can count and identify fish. It must be within 5 m of where fish are brought aboard the vessel and in a location where the observer is not in danger of falling overboard or being injured during gear retrieval. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 m high, grating or other non-slip material, and adequate lighting.

(B) Collection area. A collection area is a place where the observer, or vessel crew under the observer's guidance, collects fish as they come off the line or are removed from pots. It must be located where the observer can see the gear when it leaves the water. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 m high and grating or other non-slip material.

(8) Inspection of the observer sampling station.

Each observer sampling station must be inspected and approved by NMFS prior to its use for the first time and then one time each year within 12 months of the date of the most recent inspection with the following exceptions: If the observer sampling station is moved or if the space or equipment available to the observer is reduced or removed when use of the observer sampling station is required, the observer sampling station inspection report issued under this section is no longer valid, and the observer sampling station must be re-inspected and approved by NMFS. Inspection of the observer sampling station is in addition to inspection of the at-sea scales by an authorized scale inspector required at paragraph (b)(2) of this section.

(i) How does a vessel owner arrange for an observer sampling station inspection? The owner may arrange the inspection time and place by submitting to NMFS by fax (206-526-4066) or e-mailing [station.inspections@noaa.gov](mailto:station.inspections@noaa.gov)) an Inspection Request for Observer Sampling Station available on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>. Inspections will be scheduled no later than 10 working days after NMFS receives a complete application for an inspection. The owner must provide the following information:

(A) Name and signature of the person submitting the application, and the date of the application.

(B) Business mailing address, telephone number, and fax number of the person submitting the application.

(C) Whether the vessel or processor has received an observer sampling scale inspection before and, if so, the date of the most recent inspection report.

(D) Vessel name and name of contact person on vessel.

(E) Federal fishery permit number.

(F) Location of vessel where sampling station inspection is requested to occur, including street address and city.

(G) Requested inspection date.

(H) For catcher/processors using trawl gear and motherships, a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, and the location of the observer sampling station including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.

(I) For all other vessels, a diagram drawn to scale showing the location(s) where catch comes on board the vessel, the location where observers will sample unsorted catch, the location of the observer sampling station, including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.

(J) For all vessels, a copy of the most recent scale inspection report issued under paragraph (b)(2) of this section.

*(e) Certified bins for volumetric estimates of catch weight*

(1) Certification.

The information required in this paragraph (e) must be prepared, dated, and signed by a licensed engineer with no financial interest in fishing, fish processing, or fish tendering vessels. Complete bin certification documents must be submitted to the Regional Administrator prior to harvesting or receiving groundfish from a fishery in which certified bins are required and must be on board the vessel and available to the observer at all times.

(2) Specifications.

(i) Measurement and marking. The volume of each bin must be determined by accurate measurement of the internal dimensions of the bin. The internal walls of the bin must be permanently marked and numbered in 10-cm increments indicating the level of fish in the bin in cm. All marked increments and numerals must be readable from the outside of the bin through a viewing port or hatch at all times. Marked increments are not required on the wall in which the viewing port is located, unless such increments are necessary to determine the level of fish in the bin from another viewing port. Bins must be lighted in a manner that allows marked increments to be read from the outside of the bin by an observer or authorized officer. For bin certification documents dated after July 6, 1998, the numerals at the 10-cm increment marks must be at least 4 cm high.

(ii) Viewing ports. Each bin must have a viewing port or ports from which the internal bin markings and numerals on all walls of the bin can be seen from the outside of the bin, except that bin markings and numerals are not required on the wall in which the viewing port is placed, if that wall cannot be seen from any other viewing port in the bin.

(3) Information required.

For bin certification documents submitted after July 6, 1998, the person certifying the bins must provide:

(i) The vessel name;

(ii) The date the engineer measured the bins and witnessed the location of the marked increments and numerals;

(iii) A diagram, to scale, of each bin showing the location of the marked increments on each internal wall of the bin, the location, and dimensions of each viewing port or hatch, and any additional information needed to estimate the volume of fish in the bin;

(iv) Tables indicating the volume of each certified bin in cubic meters for each 10-cm increment marked on the sides of the bins;

(v) Instructions for determining the volume of fish in each bin from the marked increments and table; and

(vi) The person's name and signature and the date on which the completed bin certification documents were signed.

(4) Recertification.

The bin's volume and the marked and numbered increments must be recertified if the bin is modified in a way that changes its size or shape or if marking strips or marked increments are moved or added.

(5) Operational requirements.

(i) Placement of catch in certified bins. All catch must be placed in a bin certified under this paragraph (e) to estimate total catch weight prior to sorting. Refrigerated seawater tanks may be used for volumetric estimates only if the tanks comply with all other requirements of this paragraph (e). No adjustments of volume will be made for the presence of water in the bin or tank.

(ii) Prior notification. Vessel operators must notify observers prior to any removal of fish from or addition of fish to each bin used for volumetric measurements of catch so that an observer may make bin volume estimates prior to fish being removed from

or added to the bin. Once a volumetric estimate has been made, additional fish may not be added to the bin until at least half the original volume has been removed. Fish may not be removed from or added to a bin used for volumetric estimates of catch weight until an observer indicates that bin volume estimates have been completed and any samples of catch required by the observer have been taken.

(iii) Fish from separate hauls or deliveries from separate harvesting vessels may not be mixed in any bin used for volumetric measurements of catch.

(iv) The bins must not be filled in a manner that obstructs the viewing ports or prevents the observer from seeing the level of fish throughout the bin.

(f) Vessel Monitoring System (VMS) Requirements

(1) What is a VMS?

A VMS consists of a NMFS-approved VMS transmitter that automatically determines the vessels position and transmits it to a NMFS-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS.

(2) How are VMS transmitters and communications service providers approved by NMFS?

(i) NMFS publishes type approval specifications for VMS components in the *Federal Register*.

(ii) Transmitter manufacturers or communication service providers may submit products or services to NMFS for evaluation based on the published specifications.

(iii) NMFS will publish a list of NMFS-approved transmitters and communication service providers in the *Federal Register*. As necessary, NMFS will publish amendments to the list of approved components in the *Federal Register*.

(3) What are the vessel owner's responsibilities?

If you are a vessel owner that must participate in a VMS, you or your crew must:

(i) Obtain a NMFS-approved VMS transmitter and have it installed onboard your vessel in accordance with the instructions provided by NMFS. You may get a copy of the VMS installation and operation instructions from the Regional Administrator upon request.

(ii) Activate the VMS transmitter and receive confirmation from NMFS that the VMS transmissions are being received before engaging in operations when a VMS is required.

(iii) Continue the VMS transmissions until no longer engaged in operations requiring VMS.

(iv) Stop fishing immediately if:

(A) Informed by NMFS staff or an authorized officer that NMFS is not receiving position reports from the VMS transmitter, or

(B) The vessel operator determines that the VMS is not transmitting properly.

(v) Make the VMS transmitter available for inspection by NMFS personnel, observers or an authorized officer.

(vi) Ensure that the VMS transmitter is not tampered with, disabled, destroyed or operated improperly.

(vii) Pay all charges levied by the communication service provider.

(4) What must the vessel owner do before activating a VMS transmitter for the first time?

If you are a vessel owner who must use a VMS and you are activating a VMS transmitter for the first time, you must:

(i) Register the vessel's VMS unit with an appropriate service provider;

(ii) Use VMS check-in report to contact OLE by fax at 907-586-7703 and provide the date (mm/dd/yyyy), vessel name, USCG documentation number, FFP number or Federal crab vessel permit number, name and telephone number of contact person, and VMS transmitter ID or serial number; and

(iii) Call OLE at 907-586-7225, Monday through Friday, between the hours of 0800 hours, A.l.t., and 1630 hours, A.l.t., at least 72 hours before leaving port and receive confirmation that the transmissions are being received.

(5) What must the vessel owner do when the vessel replaces a VMS transmitter?

A vessel owner who must use a VMS and who intends to replace a transmitter, must follow the reporting and confirmation procedure for the replacement transmitter, as described in paragraph (f)(4) of this section.

(6) When must the VMS transmitter be transmitting?

Your vessel's transmitter must be transmitting if:

(i) You operate a vessel in any reporting area (see definitions at § 679.2) off Alaska while any fishery requiring VMS, for which the vessel has a species and gear endorsement on its Federal Fisheries Permit under § 679.4(b)(5)(vi), is open.

(ii) You operate a vessel required to be federally permitted in reporting areas located in the Aleutian Islands subarea or operate a federally permitted vessel in adjacent State waters; or

(iii) You operate a vessel required to be federally permitted with **non-pelagic trawl or dredge** gear onboard in reporting areas located in the GOA or operate a federally permitted vessel with **non-pelagic trawl or dredge** gear onboard in adjacent State waters; or

(iv) When that vessel is required to use functioning VMS equipment in the Rockfish Program as described in § 679.7(n)(3).

***(g) Catch monitoring and control plan requirements (CMCP).***

(1) What is a CMCP?

A CMCP is a plan submitted by the owner and manager of a processing plant, and approved by NMFS, detailing how the processing plant will meet the catch monitoring and control standards detailed in paragraph (g)(7) of this section.

(2) Who is required to prepare and submit a CMCP for approval?

The owner and manager of shoreside or stationary floating processors receiving fish harvested in the following fisheries must prepare, submit, and have approved a CMCP prior to the receipt of fish harvested in these fisheries:

(i) AFA pollock,

(ii) AI directed pollock,

(iii) Rockfish Program, unless those fish are harvested under the entry level rockfish fishery as described under § 679.83.

(3) How is a CMCP approved by NMFS?

NMFS will approve a CMCP if it meets all the requirements specified in paragraph (g)(7) of this section. The processor must be inspected by NMFS prior to approval of the CMCP to ensure that the

processor conforms to the elements addressed in the CMCP. NMFS will complete its review of the CMCP within 14 working days of receiving a complete CMCP and conducting a CMCP inspection. If NMFS disapproves a CMCP, the plant owner or manager may resubmit a revised CMCP or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(4) How is a CMCP inspection arranged?

The time and place of a CMCP inspection may be arranged by submitting a written request for an inspection to NMFS, Alaska Region. NMFS will schedule an inspection within 10 working days after NMFS receives a complete application for an inspection. The inspection request must include:

- (i) Name and signature of the person submitting the application and the date of the application;
- (ii) Address, telephone number, fax number, and email address (if available) of the person submitting the application;
- (iii) A proposed CMCP detailing how the processor will meet each of the performance standards in paragraph (g)(7) of this section.

(5) For how long is a CMCP approved?

NMFS will approve a CMCP for 1 year if it meets the performance standards specified in paragraph (e)(2) of this section. An owner or manager must notify NMFS in writing if changes are made in plant operations or layout that do not conform to the CMCP.

(6) How do I make changes to my CMCP?

An owner and manager may change an approved CMCP by submitting a CMCP addendum to NMFS. NMFS will approve the modified CMCP if it continues to meet the performance standards specified in paragraph (e)(2) of this section. Depending on the nature and magnitude of the change requested, NMFS may require a CMCP inspection as described in paragraph (g)(3) of this section. A CMCP addendum must contain:

- (i) Name and signature of the person submitting the addendum;
- (ii) Address, telephone number, fax number and email address (if available) of the person submitting the addendum;
- (iii) A complete description of the proposed CMCP change.

(7) Catch monitoring and control standards.

(i) Catch sorting and weighing requirements. All groundfish delivered to the plant must be sorted and weighed by species. The CMCP must detail the amount and location of space for sorting catch, the number of staff assigned to catch sorting and the maximum rate that catch will flow through the sorting area.

(ii) Scales used for weighing groundfish. The CMCP must identify by serial number each scale used to weigh groundfish and describe the rationale for its use.

(iii) Scale testing procedures. Scales identified in the CMCP must be accurate within the limits specified in paragraph (c)(4)(i) of this section. For each scale identified in the CMCP a testing plan must be developed that:

- (A) Describes the procedure the plant will use to test the scale;
- (B) Lists the test weights and equipment required to test the scale;
- (C) Lists where the test weights and equipment will be stored; and
- (D) Lists the plant personnel responsible for conducting the scale testing.

(iv) Printed record. The owner and manager must ensure that the scale produces a complete and accurate printed record of the weight of each species in a delivery. All of the groundfish in a delivery must be weighed on a scale capable of producing a complete printed record as described in paragraph (c)(3) of this section. However, NMFS may exempt scales not designed for automatic bulk weighing from some or all of the printed record requirements if the CMCP identifies any scale that cannot produce a complete printed record, states how the processor will use the scale, and states how the plant intends to produce a complete record of the total weight of each delivery.

(v) Delivery point. Each CMCP must identify a single delivery point. The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location. If the catch is pumped from the hold of a catcher vessel or a codend, the delivery point normally will be the location where the pump first discharges the catch. If catch is removed from a vessel by brailing, the delivery point normally will be the bin or belt where the brailer discharges the catch.

(vi) Observation area. Each CMCP must designate an observation area. The observation area is a location designated on the CMCP where an individual may monitor the flow of fish during a delivery. The owner and manager must ensure that the observation area meets the following standards:

(A) Access to the observation area. The observation area must be freely accessible to NMFS staff or NMFS-authorized personnel at any time a valid CMCP is required.

(B) Monitoring the flow of fish. From the observation area, an individual must have an unobstructed view or otherwise be able to monitor the entire flow of fish between the delivery point and a location where all sorting has taken place and each species has been weighed.

(vii) Observer work station. Each CMCP must identify and include an observer work station for the exclusive use of NMFS-certified observers. Unless otherwise approved by NMFS, the work station must meet the following criteria:

(A) Location of observer work station. The observer work station must be located in an area protected from the weather where the observer has access to unsorted catch.

(B) Platform scale. The observer work station must include a platform scale as described in paragraph (c)(4) of this section;

(C) Proximity to observer work station. The observer area must be located near the observer work station. The plant liaison must be able to walk between the work station and the observation area in less than 20 seconds without encountering safety hazards.

(D) Workspace. The observer work station must include: A working area of at least 4.5 square meters, a table as specified in paragraph (d)(4) of this section, and meet the other requirements as specified in paragraph (d)(6) of this section.

(E) Lockable cabinet. The observer work station must include a secure and lockable cabinet or locker of at least 0.5 cubic meters.

(viii) Communication with observer. The CMCP must describe what communication equipment such as radios, pagers or cellular phones, is used to facilitate communications within the plant. The plant owner must ensure that the plant manager provides the NMFS- certified observer with the same communications equipment used by plant staff.

(ix) Plant liaison. The CMCP must designate a plant liaison. The plant liaison is responsible for:

(A) Orienting new observers to the plant;

(B) Assisting in the resolution of observer concerns; and

(C) Informing NMFS if changes must be made to the CMCP.

(x) Scale drawing of plant. The CMCP must be accompanied by a scale drawing of the plant showing:

(A) The delivery point;

(B) The observation area;

(C) The observer work station;

(D) The location of each scale used to weigh catch; and

(E) Each location where catch is sorted.

**(h) *ELB software***.

(1) How do I get my ELB software approved by NMFS?

(i) Specifications. NMFS will provide specifications for ELB software upon request. Interested parties may contact NMFS by mail at NMFS Alaska Region, Sustainable Fisheries Division, Catch Accounting/Data Quality, P.O. Box 21668, Juneau, AK 99802-1668; by telephone at 907-586-7228. The four types of ELB software are:

(A) Catcher vessel longline or pot gear (see § 679.5(c)(3));

(B) Catcher/processor longline or pot gear (see § 679.5(c)(3));

(C) Catcher vessel trawl gear (see § 679.5(c)(4)); and

(D) Catcher/processor trawl gear (see § 679.5(c)(4)).

(ii) ELB submittal package. A vendor or developer wishing to have an ELB approved by NMFS must submit:

(A) A fully operational test copy of the software; and

(B) An application for ELB-approval giving the following information (see paragraphs (h)(1)(ii)(B)(1) through (3) of this section):

(1) Company, contact person, address, telephone number, and fax number for the company developing the software;

(2) Name and type of software; and

(3) Printed name and signature of individual submitting the software for approval.

(C) Copies of all manuals and documentation for the software.

(iii) ELB approval. NMFS will approve ELB software within 60 working days of receipt of all required information if the software meets the following standards in paragraphs (h)(1)(iii)(A) through (H) of this section):

(A) Has fields for the entry of all information required for a paper DFL or DCPL as described in § 679.5(c)(3) and (4), as appropriate.

(B) The software must automatically time and date stamp each printed copy of the ELB logsheet and ELB discard report and clearly identify the first printed copy as an original. If any changes are made to the data in the ELB, subsequent printed copies must clearly be identified as revised. The software must be designed to prevent the operator from overriding this feature.

(C) The software must export data as an ASCII comma delimited text file, xml file, or other format approved by NMFS.

(D) The software must integrate with the vessel's global positioning system (GPS) to allow vessel location fields to be completed automatically.

(E) When the software is started, it must clearly show the software version number.

(F) The software must be designed to facilitate the transfer of an export file to NMFS as an email attachment.

(G) The software must be designed to ensure that an operator can comply with the requirements for ELB use as described in § 679.5(f).

(H) The software must include sufficient data validation capability to prevent a submitter from accidentally transmitting a data file or printing an ELB logsheet that is incomplete or contains clearly erroneous data.

(2) What if I need to make changes to NMFS-approved ELB software?

(i) NMFS-instigated changes. NMFS will provide the developer with information that affects the ELB software as soon as it is available for distribution, e.g., changes in species codes or product codes.

(ii) Developer-instigated changes. The developer must submit a copy of the changed software along with documentation describing the need for the change to NMFS for review and approval as described in paragraph (h)(1)(ii) of this section. NMFS will review and approve the new version according to the guidelines set forth in paragraph (h)(1)(iii) of this section.

(iii) NMFS-approved ELB changes. If changes to ELB software are approved by NMFS, the developer must:

(A) Give the revised software a new version number;

(B) Notify all known ELB users of the software that a new version is available; and

(C) Ensure that the ELB users are provided with a revised copy within 15 days of notification.

(i) ***Bin monitoring***.

(1) Bin monitoring standards.

The vessel owner or operator must comply with the requirements specified in paragraph (i)(1)(i) of this section unless the vessel owner or operator has requested, and NMFS has approved, one of the monitoring options described at paragraph (i)(1)(ii) or (i)(1)(iii) of this section.

(i) Option 1--No crew in bin or tank. No crew may enter any bin or tank preceding the point where the observer samples unsorted catch, unless:

(A) The flow of fish has been stopped between the tank and the location where the observer samples unsorted catch;

(B) All catch has been cleared from all locations between the tank and the location where the observer samples unsorted catch;

(C) The observer has been given notice that the vessel crew must enter the tank; and either

(D) The observer is given the opportunity to observe the activities of the person(s) in the tank; or

(E) The observer informs the vessel operator, or his designee, that all sampling has been completed for a given haul, in which case crew may enter a tank containing fish from that haul without stopping the flow of fish or clearing catch between the tank and the observer sampling station.

(iii) Option 2--Line of sight option. From the observer sampling station, the location where the observer sorts and weighs samples, and the location from which the observer collects unsorted catch, an observer of average height (between 64 and 74 inches (140 and 160 cm)) must be able to see all areas of the bin or tank where crew could be located preceding the point where the observer samples catch. If clear panels are used to comply with this requirement, those panels must be maintained sufficiently clear to allow an individual with normal vision to read text located two feet inside of the bin or tank. The text must be written in 87 point type (corresponding to line four on a standard Snellen eye chart) and the text must be readable from the observer sampling station, the location where the observer sorts and weighs samples, and the location from which the observer collects unsorted catch. The observer must be able to view the activities of crew in the bin from these locations.

(iv) Option 3--Video option. A vessel must provide and maintain cameras, a monitor, and a digital video recording system for all areas of the bin or tank where crew could be located preceding the point where the observer collects catch. The vessel owner or operator must ensure that:

(A) The system has sufficient data storage capacity to store all video data from an entire trip. Each frame of stored video data must record a time/date stamp in Alaska local time (A.l.t.). At a minimum, all periods of time when fish are inside the bin must be recorded and stored;

(B) The system must include at least one external USB (1.1 or 2.0) port or other removable storage device approved by NMFS;

(C) The system uses commercially available software;

(D) Color cameras must have at a minimum 420 TV lines of resolution, a lux rating of 0.1, and auto-iris capabilities;

(E) The video data must be maintained and made available to NMFS staff, or any individual authorized by NMFS, upon request. These data must be retained onboard the vessel for no less than 120 days after the beginning of a trip, unless NMFS has notified the

vessel operator that the video data may be retained for less than this 120-day period;

(F) The system provides sufficient resolution and field of view to see and read a text sample written in 130 point type (corresponding to line two of a standard Snellen eye chart) from any location within the tank where crew could be located;

(G) The system is recording at a speed of no less than 5 frames per second at all times when fish are inside the tank;

(H) A 16-bit or better color monitor, for viewing activities within the tank in real time, is provided within the observer sampling station (or location where the observer sorts and weighs samples, if applicable). The monitor must:

(1) Have the capacity to display all cameras simultaneously;

(2) Be operating at all times when fish are in the tank;

(3) Be securely mounted at or near eye level;

(4) Provide the same resolution as specified in paragraph (i)(1)(iii)(F) of this section.

(I) The observer is able to view any earlier footage from any point in the trip and is assisted by crew knowledgeable in the operation of the system in doing so;

(J) The vessel owner has, in writing, provided the Regional Administrator with the specifications of the system. At a minimum, this must include:

(1) The length and width (in pixels) of each image;

(2) The file type in which the data are recorded;

(3) The type and extent of compression;

(4) The frame rate at which the data will be recorded;

(5) The brand and model number of the cameras used;

(6) The brand, model, and specifications of the lenses used;

(7) A scale drawing of the location of each camera and its coverage area;

(8) The size and type of storage device;

(9) The type, speed, and operating system of any computer that is part of the system;

(10) The individual or company responsible for installing and maintaining the system;

(11) The individual onboard the vessel responsible for maintaining the system and working with the observer on its use; and

(12) Any additional information requested by the Regional Administrator.

(K) Any change to the video system that would affect the system's functionality must be submitted to, and approved by, the Regional Administrator in writing before that change is made.

(v) Failure of line of sight or video option. If the observer determines that a monitoring option selected by a vessel owner or operator specified in paragraph (i)(1)(ii) or (i)(1)(iii) of this section fails to provide adequate monitoring of all areas of the bin where crew could be located, then the vessel must use the monitoring option specified in paragraph (i)(1)(i) of this section until the observer determines that adequate monitoring of all areas of the bin where crew could be located is provided by the monitoring option selected by the vessel owner or operator.

(2) Who must have a bin monitoring option inspection?

A vessel owner or operator choosing to operate under the line of sight option (option 2) in paragraph (i)(1)(ii) of this section or the video option (option 3) in paragraph (i)(1)(iii) of this section must receive an annual bin monitoring option inspection.

(3) How does a vessel owner arrange for a bin monitoring option inspection?

The owner may arrange the inspection time and place by submitting to NMFS by fax (206-526-4066) or e-mail [station.inspections@noaa.gov](mailto:station.inspections@noaa.gov) an Inspection Request for Bin Monitoring available on the NMFS Alaska Region Web site at (<http://alaskafisheries.noaa.gov>). Inspections will be scheduled no later than 10 working days after NMFS receives a complete application for an inspection. The owner must provide the following information:

(i) Name and signature of the person submitting the application, and the date of the application;

(ii) Business mailing address, telephone number, and fax number of the person submitting the application;

(iii) Whether the vessel has received a bin monitoring option inspection before, and if so, the date of the most recent inspection report;

(iv) Vessel name;

(v) Federal fishery permit number;

(vi) Location where the inspection is requested to occur, including street address and city; and

(vii) A diagram drawn to scale showing the locations where all catch will be weighed and sorted by the observer, the location where unsorted catch will be collected, and the location of any video equipment or viewing panels or ports.

(4) Where will bin monitoring option inspections be conducted?

Inspections will be conducted on vessels tied to docks at Dutch Harbor, Alaska, Kodiak, Alaska, and in the Puget Sound area of Washington State.

(5) Bin monitoring option inspection report.

A bin monitoring option inspection report, valid for 12 months from the date it is signed by NMFS, will be issued to the vessel owner if the bin monitoring option meets the requirements of paragraph (i)(1)(ii) or (i)(1)(iii) of this section. The vessel owner must maintain a current bin option inspection report onboard the vessel at all times the vessel is required to provide an approved bin monitoring option under this paragraph (i)(5). The bin monitoring option inspection report must be made available to the observer, NMFS personnel or to an authorized officer upon request.

**SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853**

**95-354, 99-659, 101-627, 104-297**

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

**109-479**

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, 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 was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

**109-479**

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall 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—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

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(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

**109-479**

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

**109-479**

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

**97-453, 99-659, 101-627, 102-251, 104-297**

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]\* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]\*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

**109-479**

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

**109-479**

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

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(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]<sup>15</sup> prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

**97-453, 104-297**

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

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<sup>15</sup> So in original.

**P.L. 109-479, sec. 104(b), MSA § 303 note**

**16 U.S.C. 1853 note**

**EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.**—The amendment made by subsection (a)(10)<sup>16</sup>—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

**109-479**

**SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

**16 U.S.C. 1853a**

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

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<sup>16</sup> Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
  - (ii) the cultural and social framework relevant to the fishery;
  - (iii) economic barriers to access to fishery;
  - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
  - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
  - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]<sup>17</sup> members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

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<sup>17</sup> So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

**16 U.S.C. 1853a**  
**MSA § 303A**

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

**16 U.S.C. 1853a note, 1854**  
**MSA §§ 303A note, 304**

**P.L. 109-479, sec. 106(e), MSA § 303A note**

**16 U.S.C. 1853a note**

**APPLICATION WITH AMERICAN FISHERIES ACT.**—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

**P.L. 104-297, sec. 108(i), MSA § 303 note**

**EXISTING QUOTA PLANS.**—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

## **SEC. 304. ACTION BY THE SECRETARY**

**16 U.S.C. 1854**

### **104-297**

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

104-297

**SEC. 402. INFORMATION COLLECTION**

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

**(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—**

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

**16 U.S.C. 1881a-1881b**  
**MSA §§ 402-403**

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

**104-297**

**SEC. 403. OBSERVERS**

**16 U.S.C. 1881b**

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

## TITLE II – FISHERIES<sup>1</sup>

**SEC. 201. Short Title.** This title may be cited as the “American Fisheries Act”.

**SEC. 202. Standard for Fishery Endorsements.**

(a) **Standard.** Section 1202(c) of title 46, United States Code, is amended to read as follows--

“(c)(1) A vessel owned by a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity is not eligible for a fishery endorsement under section 12108 of this title unless at least 75 per centum of the interest in such entity, at each tier of ownership of such entity and in the aggregate, is owned and controlled by citizens of the United States.

“(2) The Secretary shall apply section 2(c) of the Shipping Act, 1916 (46 App. U.S.C. 802(c)) in determining under this subsection whether at least 75 per centum of the interest in a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or another entity is owned and controlled by citizens of the United States. For the purposes of this subsection and of applying the restrictions on controlling interest in section 2(c) of such Act, the terms “control” or “controlled”—

“(A) shall include—

“(i) the right to direct the business of the entity which owns the vessel;

“(ii) the right to limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity which owns the vessel; or

“(iii) the right to direct the transfer, operation or manning of a vessel with a fishery endorsement; and

“(B) shall not include the right to simply participate in the activities under subparagraph (A), or the use by a mortgagee under paragraph (4) of loan covenants approved by the Secretary.

“(3) A fishery endorsement for a vessel that is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement and used as fishing vessel shall be invalid immediately upon such use.

“(4)(A) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible by reason of an instrument or evidence of

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<sup>1</sup> Enacted as Title II of Division C – Other Matters, of Public Law 105-277, approved October 21, 1998 (112 STAT. 2681, 2681-616), the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.

Section 120 of the Treasury and General Government Appropriations Act, 1999, set forth in Public Law 105-277, approved October 21, 1999 (112 STAT. 2681, 2681-545), the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, provides in part: “For carrying out the provisions of division C, title II of this Act . . . \$6,000,000 and \$2,000,000 for the Secretary of Commerce and Secretary of Transportation, respectively, to implement division C, title II.” Section 624 of Public Law 106-113, Appendix A, approved November 29, 1999 (113 STAT. 1501A-59) the Commerce, State, Justice and Related Agencies Appropriations Act, 2000, provides: “Sec. 624. Funds made available under Public Law 105-277 for costs associated with implementation of the American Fisheries Act of 1998 (division C, title II, of Public Law 105-255) for vessel documentation activities shall remain available until expended.”

indebtedness, secured by a mortgage of the vessel to a trustee eligible to own a vessel with a fishery endorsement that is issued, assigned, transferred or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Secretary determines that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee—

“(i) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

“(ii) is authorized under those laws to exercise corporate trust powers;

“(iii) is subject to supervision or examination by an official of the United States Government or a State;

“(iv) has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

“(v) meets any other requirements prescribed by the Secretary.

“(B) A vessel with a fishery endorsement may be operated by a trustee only with the approval of the Secretary.

“(C) A right under a mortgage of a vessel with a fishery endorsement may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322(a)(4) of this title only with the approval of the Secretary.

“(D) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this paragraph is voidable by the Secretary.

“(5) The requirements of this subsection shall not apply to a vessel when it is engaged in fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(1)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone of the United States or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the federal law that was in effect on October 1, 1998. A fishery endorsement issued by the Secretary pursuant to this paragraph shall be valid for engaging only in fisheries in the exclusive economic zone under the authority of such Council, in such tuna fishing in the Pacific Ocean, or pursuant to such Treaty.

“(6) A vessel greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower is not eligible for a fishery endorsement under section 1208 of this title unless—

“(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

“(ii) the vessel is not placed under foreign registry after the date of the enactment of the American Fisheries Act; and

(iii) in the event of the invalidation of the fishery endorsement after the date of the enactment of the American Fisheries Act, application is made for a new fishery endorsement within fifteen (15) business days of such invalidation; or

“(B) the owner of such vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1))

has recommended after the date of the enactment of the American Fisheries Act, and the Secretary of Commerce has approved, conservation and management measures in accordance with such Act to allow such vessel to be used in fisheries under such council's authority."

(b) **Preferred Mortgage.** Section 31322(a) of title 46, United States Code, is amended--

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3)(B) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting at the end the following paragraph:

"(4) with respect to a vessel with a fishery endorsement that is 100 feet or greater in registered length, has as the mortgagee—

"(A) a person eligible to own a vessel with a fishery endorsement under section 12102(c) of this title;

"(B) a state or federally chartered financial institution that satisfies the controlling interest criteria of section 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(b)); or

"(C) a person that complies with the provisions of section 12102(c)(4) of this title."

### **SEC. 203. ENFORCEMENT OF STANDARD.**

(a) **Effective Date.** The amendments made by section 202 shall take effect on October 1, 2001.

(b) **Regulations.** Final regulations to implement this subtitle shall be published in the Federal Register by April 1, 2000. Letter rulings and other interim interpretations about the effect of this subtitle and amendments made by this subtitle on specific vessels may not be issued prior to the publication of such final regulations. The regulations to implement this subtitle shall prohibit impermissible transfers of ownership or control, specify any transactions which require prior approval of an implementing agency, identify transactions which do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of such industry, and to the opportunity to form fishery cooperatives.

(c) **Vessels Measuring 100 Feet and Greater.** (1) The Administrator of the Maritime Administration shall administer section 12102(c) of the title 46, United States Code, as amended by this subtitle, with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with Administrator of the Maritime Administration on an annual basis to demonstrate compliance with such section. Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement under this paragraph shall be written in a manner to allow the owner of each such vessel to satisfy any annual renewal requirements for a certificate of

documentation for such vessel and to comply with this subsection and section 12101(c) of title 46, United States Code, as amended by this Act, and shall not be required to be notarized.

(2) After October 1, 2001, transfers of ownership and control of vessels subject to section 12102(c) of title 46, United States Code, as amended by this Act, which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of such section, with particular attention given to leases, charters, mortgages, financing, and similar arrangements, to the control of persons not eligible to own a vessel with a fishery endorsement under section 12102(c) of title 46, United States Code, as amended by this Act, over the management, sales, financing, or other operations of an entity, and to contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

(d) **Vessels Measuring Less Than 100 Feet.** The Secretary of Transportation shall establish such requirements as are reasonable and necessary to demonstrate compliance with section 12102(c) of title 46, United States Code, as amended by this Act, with respect to vessel measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate such vessels.

(e) **Endorsement Revoked.** The Secretary of Transportation shall revoke the fishery endorsement of any vessel subject to section 12102(c) of title 46, United States Code, as amended by this Act, whose owner does not comply with such section.

(f) **Penalty.** Section 12122 of title 46, United States Code, is amended by inserting at the end the following new subsection:

“(c) In addition to penalties under subsections (a) and (b), the owner of a documented vessel for which a fishery endorsement has been issued is liable to the United States Government for a civil penalty of up to \$100,000 for each day in which such vessel was engaged in fishing (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) within the exclusive economic zone of the United States, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation with respect to the eligibility of the vessel under section 12102(c) of this title in applying for or applying to renew such fishery endorsement.”

(g) **Certain Vessels.** The vessels EXCELLENCE (United States official number 967502, GOLDEN ALASKA (United States official number 651041), OCEAN PHOENIX (United States official number 296779), NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act) shall be exempt from section 12102(c), as amended by this Act, until such time after October 1, 2001 as more than 50 percent of the interest owned and controlled in the vessel changes, provided that the vessel maintains eligibility for a fishery endorsement under the federal law that was in effect the day before the date of the enactment of this Act, and unless, in the case of the

NORTHERN TRAVELER or the NORTHERN VOYAGER (or such replacement), the vessel is used in any fishery under the authority of a regional fishery management council other than the New England Fishery Management Council or Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 301(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1) (A) and (B)), or in the case of the EXCELLENCE, GOLDEN ALASKA, or OCEAN PHOENIX, the vessel is used to harvest any fish.

## **Subtitle II – Bering Sea Pollock Fishery**

### **SEC. 205. DEFINITIONS.**

As used in this subtitle—

(1) the term “Bering Sea and Aleutian Islands Management Area” has the same meaning as the meaning given for such term in part 679.2 of title 50, Code of Federal Regulations, as in effect on October 1, 1998.

(2) the term “catcher/processor” means a vessel that is used for harvesting fish and that does not process pollock onboard;

(3) the term “catcher vessel” means a vessel that is used for harvesting fish and that does not process pollock onboard;

(4) the term “directed pollock fishery” means the fishery for directed fishing allowances allocated under paragraphs (1), (2), and (3) of section 206(b);

(5) the term “harvest” means to commercially engage in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish;

(6) the term “inshore component” means the following categories that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area:

(A) shoreside processors, including those eligible under section 208(f); and

(B) vessels less than 125 feet in length overall that process less than 126 metric tons per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod;

(7) the term “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(8) the term “mothership” means a vessel that receives and processes fish from other vessels in the exclusive economic zone of the United States and is not used for, or equipped to be used for, harvesting fish;

(9) the term “North Pacific Council” means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G));

(10) the term “offshore component” means all vessels not included in the definition of “inshore component” that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area.

(11) the term “Secretary” means the Secretary of Commerce, and

(12) the term “shoreside processor” means any person or vessel that receives unprocessed fish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving fish for personal consumption or bait.

## **SEC. 206. ALLOCATIONS.**

(a) **Pollock Community Development Quota.** Effective January 1, 1999, 10 percent of the total allowable catch of pollock in the Bering Sea and Aleutian Islands Management Area shall be allocated as a direct fishing allowance to the western Alaska community development quota program established under section 505(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

(b) **Inshore/Offshore.** Effective January 1, 1999, the remainder of the pollock total allowable catch in a Bering Sea and Aleutian Islands Management Area, after the subtraction of the allocation under subsection (a) and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species (including under the western Alaska community development quota program) shall be allocated as directed fishing allowances as follows—

(1) 50 percent to catcher vessels harvesting pollock for processing by the inshore component;

(2) 40 percent to catch/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component; and

(3) 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component.

## **SEC. 207. BUYOUT.**

(a) **Federal Loan.** Under the authority of sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) and notwithstanding the requirements of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a), the Secretary shall, subject to the availability of appropriations for the cost of the direct loan, provide up to \$75,000,000 through a direct loan obligation for the payments required under subsection (d).

(b) **Inshore Fee System.** Notwithstanding the requirements of section 304(d) or 312 of the Magnuson-Stevens Act (16 U.S.C. 1854(d) and 1861(a)), the Secretary shall establish a fee for the repayment of such loan obligations which—

(1) shall be six-tenths (0.6) of one cent for each pound round-weight of all pollock harvested from the directed fishing allowance under section 206(b)(1); and

(2) shall begin with such pollock harvested on or after January 1, 2000, and continue without interruption until such loan obligation is fully repaid; and

(3) shall be collected in accordance with section 312(d)(2)(C) of the Magnuson-Stevens Act (16 U.S.C. 1861a(d)(2)(C)) and in accordance with such other conditions as the Secretary establishes.

(c) **Federal Appropriation.** Under the authority of section 312(c)(1)(B) of the Magnuson-Stevens Act (16 U.S.C. 1861a(c)(1)(B)), there are authorized to be appropriated \$20,000,000 for the payments required under subsection (d).

(d) **Payments.** Subject to the availability of appropriations for the cost of the direct loan under subsection (a) and funds under subsection (c), the Secretary shall pay by not later than December 31, 1998—

(1) up to \$90,000,000 to the owner or owners of the catcher/processors listed in paragraphs (1) through (9) of section 209, in such manner as the owners, with the concurrence of the Secretary, agree, except that—

(A) the portion of such payment with respect to the catcher/processor listed in paragraph (1) of section 209 shall be made only after the owner submits a written certification acceptable to the Secretary that neither the owner nor a purchaser from the owner intends to use such catcher/processor outside the exclusive economic zone of the United States to harvest any stock of fish (as such term is defined in section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802)) that occurs within the exclusive economic zone of the United States; and

(B) the portion of such payment with respect to the catcher/processors listed in paragraphs (2) through (9) of section 209 shall be made only after the owner or owners of such catcher/processors will be scrapped by December 31, 2000 and will not, before that date, be used to harvest or process any fish; and

(2)(A) if a contract has been filed under section 210(a) by the catcher/processors listed in section 208(e), \$5,000,000 to the owner or owners of the catcher/processors listed in paragraphs (10) through (14) of such section in such manner as the owner or owners, with the concurrence of the Secretary, agree; or

(B) if such a contract has not been filed by such date, \$5,000,000 to the owners or the catcher vessels eligible under section 208(b) and the catcher/processors eligible under paragraphs (1) through (20) of section 208(e), divided based on the amount of the harvest of pollock in the directed pollock fishery by each such vessel in 1997 in such manner as the Secretary deems appropriate, except that any such payments shall be reduced by any obligation to the federal government that has not been satisfied by such owner or owners of any such vessels.

(e) **Penalty.** If the catcher/processor under paragraph (1) of section 209 is used outside the exclusive economic zone of the United States to harvest any stock of fish that occurs within the exclusive economic zone of the United States while the owner who received the payment under subsection (d)(1)(A) has an ownership interest in such vessel, or if the catcher/processors listed in paragraph (2) through (9) of section 209 are determined by the Secretary not to have been scrapped by December 31, 2000 or to have been used in a manner inconsistent with subsection (d)(1)(B), the Secretary may suspend any or all of the federal permits which allow any vessels owned in whole or in part by the owner or owners who received payments under subsection (d)(1) to harvest or process fish within the exclusive economic zone of the United States until such time as the obligations of such owner or owners under subsection (d)(1) have been fulfilled to the satisfaction of the Secretary.

(f) **Program Defined; Maturity.** For the purposes of section 1111 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f), the fishing capacity reduction program in this subtitle shall be within the meaning of the term “program” as defined and used in such section. Notwithstanding section 1111(b)(4) of such Act (46 U.S.C. App. 1279f and 1279g).

(g) **Fishery Capacity Reduction Regulations.** The Secretary of Commerce shall by not later than October 15, 1998 publish proposed regulations to implement subsections (b), (c), (d) and (e) of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a) and sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).

**SEC. 208. ELIGIBLE VESSELS AND PROCESSORS.**

(a) **Catcher Vessels Onshore.** Effective January 1, 2000, only catcher vessels which are—

- (1) determined by the Secretary—
  - (A) to have delivered at least 250 metric tons of pollock; or
  - (B) to be less than 60 feet in length overall and to have delivered at least 40 metric tons of pollock, for processing by the inshore component in the directed pollock fishery in any one of the years 1996 or 1997, between January 1, 1998 and September 1, 1998;
- (2) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and
- (3) not listed in subsection (b), shall be eligible to harvest the directed fishing allowance under section 206(b)(1) pursuant to a federal fishing permit.

(b) **Catcher Vessels to Catcher/Processors.** Effective January 1, 1999, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

- (1) AMERICAN CHALLENGER (United States official number 633219);
- (2) FORUM STAR (United States official number 925863);
- (3) MUIR MILACH (United States official number 611524);
- (4) NEAHKAHNIE (United States official number 599534);
- (5) OCEAN HARVESTER (United States official number 549892);
- (6) SEA STORM (United States official number 628959);
- (7) TRACY ANNE (United States official number 904859); and
- (8) any catcher vessel—
  - (A) determined by the Secretary to have delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the directed pollock fishery in 1997 to catcher/processors for processing by the offshore component; and
  - (B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary.

(c) **Catchers Vessels to Motherships.** Effective January 1, 2000, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit.

- (1) ALEUTIAN CHALLENGER (United States official number 603820);
- (2) ALYESKA (United States official number 560237);
- (3) AMBER DAWN (United States official number 529425);
- (4) AMERICAN BEAUTY (United States official number 613847);

- (5) CALIFORNIA HORIZON (United States official number 590758);
- (6) MAR-GUN (United States official number 525608)
- (7) MARGARET LYN (United States official number 615563);
- (8) MARK I (United States official number 509552);
- (9) MISTY DAWN (United States official number 926647);
- (10) NORDIC FURY (United States official number 542651);
- (11) OCEAN LEADER (United States official number 561518);
- (12) OCEANIC (United States official number 602279);
- (13) PACIFIC ALLIANCE (United States official number 612084);
- (14) PACIFIC CHALLENGER (United States official number 618937);
- (15) PACIFIC FURY (United States official number 561934);
- (16) PAPADO II (United States official number 536161);
- (17) TRAVELER (United States official number 929356);
- (18) VESTERAALEN (United States official number 611642);
- (19) WESTERN DAWN (United States official number 524423);
- (20) any vessel—

(A) determined by the Secretary to have delivered at least 250 metric tons of pollock for processing by motherships in the offshore component of the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;

(B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and

(C) not listed in subsection (b).

(d) **Motherships.** Effective January 1, 2000, only the following motherships shall be eligible to process the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:

- (1) EXCELLENCE (United States official number 967502);
- (2) GOLDEN ALASKA (United States official number 651042);
- (3) OCEAN PHOENIX (United States official number 296779).

(e) **Catcher/Processors.** Effective January 1, 1999, only the following catcher/processers shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

- (1) AMERICAN DYNASTY (United States official number 951307);
- (2) KATIE ANN (United States official number 518441);
- (3) AMERICAN TRIUMPH (United States official number 646737);
- (4) NORTHERN EAGLE (United States official number 506694);
- (5) NORTHERN HAWK (United States official number 643771);
- (6) NORTHERN JAEGER (United States official number 521069);
- (7) OCEAN ROVER (United States official number 552100);
- (8) ALASKA OCEAN (United States official number 637856);
- (9) ENDURANCE (United States official number 592206);
- (10) AMERICAN ENTERPRISES (United States official number 594803);
- (11) ISLAND ENTERPRISE (United States official number 610290);

- (12) KODIAK ENTERPRISE (United States official number 579450);
- (13) SEATTLE ENTERPRISE (United States official number 904767);
- (14) US ENTERPRISE (United States official number 921112);
- (15) ARCTIC STORM (United States official number 903511);
- (16) ARCTIC FJORD (United States official number 940866);
- (17) NORTHERN GLACIER (United States official number 663457);
- (18) PACIFIC GLACIER (United States official number 933627);
- (19) HIGHLAND LIGHT (United States official number 577044);
- (20) STARBOUND (United States official number 944658); and

(21) any catcher/processor not listed in this subsection and determined by the Secretary to have harvested more than 2,000 metric tons of the pollock in the 1997 directed pollock fishery and determined to be eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary, except that catcher/processers eligible under this paragraph shall be prohibited from harvesting in the aggregate a total of more than one-half (0.5) of a percent of the pollock apportioned for the directed pollock fishery under section 206(b)(2).

Notwithstanding section 213(a), failure to satisfy the requirements of section 4(a) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239; 46 U.S.C. 12108 note) shall not make a catcher/processor listed under this subsection ineligible for a fishery endorsement.

(f) **Shoreside Processors.** (1) Effective January 1, 2000 and except as provided in paragraph (2), the catcher vessels eligible under subsection (a) may deliver pollock harvested from the directed fishing allowance under section 206(b)(1) only to—

(A) shoreside processors (including vessels in a single geographic location in Alaska State waters) determined by the Secretary to have processed more than 2,000 metric tons round-weight of pollock in the inshore component of the directed pollock fishery during each of 1996 and 1997; and

(B) shoreside processors determined by the Secretary to have processed pollock in the inshore component of the directed pollock fishery in 1996 and 1997, but to have processed less than 2,000 metric tons round-weight of such pollock in each year, except that effective January 1, 2000, each such shoreside processor may not process more than 2,000 metric tons round-weight from such directed fishing allowance in any year;

(2) Upon recommendation by the North Pacific Council, the Secretary may approve measures to allow catcher vessels eligible under subsection (a) to deliver pollock harvested from the directed fishing allowance under section 206(b)(1) to shoreside processors not eligible under paragraph (1) if the total allowable catch for pollock in the Bering Sea and Aleutian Islands Management Area increases by more than 10 percent of the actual total loss or constructive total loss of a shoreside processor eligible under paragraph (1)(A).

(g) **Replacement Vessels.** In the event of the actual total loss or constructive total loss of a vessel eligible under subsections (a), (b), (c), (d), or (e), the owner of such vessel may replace such vessel with a vessel which shall be eligible in the same manner under that subsection as the eligible vessel, provided—

(1) such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent;

(2) the replacement vessel was built in the United States and if ever rebuilt, was rebuilt in the United States;

(3) the fishery endorsement for the replacement vessel is issued within 36 months of the end of the last year in which the eligible vessel harvested or processed pollock in the directed pollock fishery;

(4) if the eligible vessel is greater than 165 feet in registered length, of more than 750 gross registered tons, or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel is of the same or lesser registered length, gross registered tons, and shaft horsepower;

(5) if the eligible vessel is less than 165 feet in registered length, of fewer than 750 gross registered tons, and has engines incapable of producing less than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons or shaft horsepower of the eligible vessel; and

(6) the replacement vessel otherwise qualifies under federal law for a fishery endorsement, including under section 12102(c) of title 46, United States Code, as amended by this Act.

**(h) Eligibility During Implementation.** In the event the Secretary is unable to make a final determination about the eligibility of a vessel under subsection (b)(8) or subsection (3)(21) before January 1, 1999, or a vessel or shoreside processor under subsection (a), subsection (c)(21), or subsection (f) before January 1, 2000, such vessel or shoreside processor, upon the filing of an application for eligibility, shall be eligible to participate in the directed pollock fishery pending final determination by the Secretary with respect to such vessel or shoreside processor.

**(i) Eligibility Not a Right.** Eligibility under this subsection shall not be construed—

(1) to confer any right of compensation, monetary or otherwise, to the owner of any catcher vessel, catcher/processor, mothership, or shoreside processor, if such eligibility is revoked or limited in any way, including through the revocation or limitation of a fishery endorsement or any federal permit or license;

(2) to create any right, title, or interest in or to any fish in any fishery, or

(3) to waive any provision of law otherwise applicable to such catcher vessel, catcher/processor, mothership, or shoreside processor.

## **SEC. 209. LIST OF INELIGIBLE VESSELS.**

Effective December 31, 1998, the following vessels shall be permanently ineligible for fishery endorsements, and any claims (including relating to catch history) associated with any such vessels that could qualify any owners of such vessels for any present or future limited access system permit in any fishery within the exclusive economic zone of the United States (including a vessel moratorium permit or license

limitation program permit in fisheries under the authority of the North Pacific Council) are hereby extinguished:

- (1) AMERICAN EMPRESS (United States official number 942347);
- (2) PACIFIC SCOUT (United States official number 934772);
- (3) PACIFIC EXPLORER (United States official number 942592);
- (4) PACIFIC NAVIGATOR (United States official number 592204);
- (5) VICTORIA ANN (United States official number 592207);
- (6) ELIZABETH ANN (United States official number 534621);
- (7) CHRISTINA ANN (United States official number 653045);
- (8) REBECCA ANN (United States official number 592205);
- (9) BROWNS POINT (United States official number 587440);

## **SEC. 210. FISHERY COOPERATIVE LIMITATIONS.**

(a) **Public Notice.** (1) Any contract implementing a fishery cooperative under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) in the directed pollock fishery and any material modifications to any such contract shall be filed not less than 30 days prior to the start of fishing under the contract with the North Pacific Council and with the Secretary, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a) or any other provision of law, but taking into account the interest of parties to any such contract in protecting the confidentiality of proprietary information, the North Pacific Council and Secretary shall—

(A) make available to the public such information about the contract, contract modifications, or fishery cooperative the North Pacific Council and Secretary deem appropriate, which at a minimum shall include a list of the parties to the contract, a list of the vessels involved, and the amount of pollock and other fish to be harvested by each party to such contract; and

(B) make available to the public in such manner as the North Pacific Council and Secretary deem appropriate information about the harvest by vessels under a fishery cooperative of all species (including bycatch) in the directed pollock fishery on a vessel-by-vessel basis.

### **(b) Catcher Vessels Onshore—**

(1) *Catcher Vessel Cooperatives.* Effective January 1, 2000, upon the filing of a contract implementing a fishery cooperative under subsection (a) which—

(A) is signed by the owners of 80 percent or more of the qualified catcher vessels that delivered pollock for processing by a shoreside processor in the directed pollock fishery in the year prior to the year in which the fishery cooperative will be in effect; and

(B) specifies, except as provided in paragraph (6), that such catcher vessels will deliver pollock in the directed pollock fishery only to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock, the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent

to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners voluntarily participate pursuant to paragraph(2)) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.

(2) *Voluntary Participation.* Any contract implementing a fishery cooperative under paragraph (1) must allow the owners of other qualified catcher vessels to enter into such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the qualified catcher vessels who entered into such contract upon filing.

(3) *Qualified Catcher Vessel.* For the purposes of this subsection, a catcher vessel shall be considered a “qualified catcher vessel” if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.

(4) *Consideration of Certain Vessels.* Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel.

(5) *Open Access.* A catcher vessel eligible under section 208(a) the catch history of history which has not been attributed to a fishery cooperative under paragraph (1) may be used to deliver pollock harvested by such vessel from the directed fishing allowance under section 206(b)(1) (other than pollock reserved under paragraph (1) for a fishery cooperative) to any of the shoreside processors eligible under section 208(a) the catch history of which has been attributed to a fishery cooperative under paragraph (1) during any calendar year may not harvest any pollock apportioned under section 206(b)(1) in such calendar year other than the pollock reserved under paragraph (1) for such fishery cooperative.

(6) *Transfer of Cooperative Harvest.* A contract implementing a fishery cooperative under paragraph (1) may, notwithstanding the other provisions of this subsection, provide for up to 10 percent of the pollock harvested under such cooperative to be processed by a shoreside processor eligible under section 208(f) other than the shoreside processor to which pollock will be delivered under paragraph (1).

(c) **Catcher Vessels to Catcher/Processors.** Effective January 1, 1999, not less than 8.5 percent of the directed fishing allowance under section 206(b)(2) shall be available for harvest only by the catcher vessels eligible under section 208(b). The owners of such catcher vessels may participate in a fishery cooperative with the owners of the catcher/processors eligible under paragraphs (1) through (20) of section 208(e). The owners of such catcher vessels may participate in a fishery cooperative that will be in effect during 1999 only if the contract implementing such cooperative establishes

penalties to prevent such vessels from exceeding in 1999 the traditional levels harvested by such vessels in all other fisheries in the exclusive economic zone of the United States.

**(d) Catcher Vessels to Motherships—**

(1) *Processing.* Effective January 1, 2000, the authority in section 1 of the Act of June 25, 1934 (46 STAT. 1213 and 1214; 15 U.S.C. 521 et seq.) shall extend to processing by motherships eligible under section 208(d) solely for the purposes of forming or participating in a fishery cooperative in the directed pollock fishery upon the filing of a contract to implement a fishery cooperative under subsection (a) which has been entered into by the owners of 80 percent or more of the catcher vessels eligible under section 208(c) for the duration of such contract, provided that such owners agree to the terms of the fishery cooperative involving processing by the motherships.

(2) *Voluntary Participation.* Any contract implementing a fishery cooperative described in paragraph (1) must allow the owners of any other catcher vessels eligible under section 208(c) to enter such contract after it is filed and before the calendar year in which the fishing will begin under the same terms and conditions as the owners of the catcher vessels who entered into such contract upon filing.

**(e) Excessive Shares.**

(1) *Harvesting.* No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

(2) *Processing.* Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive share of the pollock available to be harvested in the directed pollock fishery. In the event the North Pacific Council recommends and the Secretary approves an excessive processing share that is lower than 17.5 percent, any individual or entity that previously processed a percentage greater than such share shall be allowed to continue to process such percentage, except that their percentage may not exceed 17.5 percent (excluding pollock processed by catcher/processors that was harvested in the directed pollock fishery by catcher vessels eligible under section 208(b)) and shall be reduced if their percentage decreases, until their percentages is below such share. In recommending the excessive processing share, the Northern Pacific Council shall consider the need of catcher vessels in the directed Pollock fishery to have competitive buyers for the pollock harvested by such vessels.

(3) *Review by Maritime Administration.* At the request of the North Pacific Council or the Secretary, any individual or entity believed by such Council or the Secretary to have exceeded the percentage in either paragraph (1) or (2) shall submit such information to the Administrator of the Maritime Administration as the Administrator deems appropriate to allow the Administrator to determine whether such individual or entity has exceeded either such percentage. The Administrator shall make a finding as soon as practicable upon such request and shall submit such finding to the North Pacific Council and the Secretary. For the purposes of this subsection, any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

(f) **Landing Tax Jurisdiction.** Any contract filed under subsection (a) shall include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in amounts which would otherwise accrue had pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid shall result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 et seq.).

(g) **Penalties.** The violation of any of the requirements of this subtitle or any regulation or permit issued pursuant to this subtitle shall be considered the commission of an act prohibited by section 307 of the Magnuson-Stevens Act (16 U.S.C. 1857), and sections 308, 309, 310, and 311 of such Act (16 U.S.C. 1858, 1859, 1860, and 1861) shall apply to any such violation in the same manner as to the commission of an act prohibited by section 307 of such Act (16 U.S.C. 1857). In addition to the civil penalties and permit sanctions applicable to prohibited acts under section 308 of such Act (16 U.S.C. 1858), any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated a requirement of this section shall be subject to the forfeiture to the Secretary of Commerce of any fish harvested or processed during the commission of such act.

## **SEC. 211. PROTECTIONS FOR OTHER FISHERIES; CONSERVATION MEASURES.**

(a) **General.** The North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery.

### **(b) Catcher/Processor Restrictions.**

(1) *General.* The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except that they may be superseded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act by the North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.

(2) *Bering Sea Fishing.* The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—

(A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;

(B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the

pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997.

(C) fishing for Atak mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands mackerel fishery—

- (i) 11.5 percent in the central area; and
- (ii) 20 percent in the western area.

(3) *Bering Sea Processing*. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

(A) processing any of the directed fishing allowances under paragraphs (1) or (3) of section 206(b); and

(B) processing any species of crab harvested in the Bering Sea and Aleutian Islands Management Area.

(4) *Gulf of Alaska*. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

(A) harvesting any fish in the Gulf of Alaska.

(B) processing any groundfish harvested from the portion of the exclusive economic zone off Alaska known as area 630 under the fishery management plan for Gulf of Alaska groundfish; or

(C) processing any pollock in the Gulf of Alaska (other than as bycatch in non-pollock groundfish fisheries) or processing, in the aggregate, a total of more than 10 percent of the cod harvested from areas 610, 620, and 640 of the Gulf of Alaska under the fishery management plan for Gulf of Alaska groundfish.

(5) *Fisheries Other than North Pacific*. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) and motherships eligible under section 208(d) are hereby prohibited from harvesting fish in any fishery under the authority of any regional fishery management council established under section 302(a) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)) other than the North Pacific Council, except for the Pacific whiting fishery, and from processing fish in any fishery under the authority of any such regional fishery management council other than North Pacific Council, except in the Pacific whiting fishery, unless the catcher/processor or mothership is authorized to harvest or process fish under a fishery management plan recommended by the regional fishery management council of jurisdiction and approved by the Secretary.

(6) *Observers and Scales*. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) shall—

(A) have two observers onboard at all times while groundfish is being harvested, processed, or received from another vessel in any fishery under the authority of the North Pacific Council; and

(B) weight its catch on a scale onboard approved by the National Marine Fisheries Services while harvesting groundfish in fisheries under the authority of the North Pacific Council

This paragraph shall take effect on January 1, 1999 for catcher/processors eligible under paragraphs (1) through (2) of section 208(e) that will harvest pollock allocated

under section 206(a) in 1999, and shall take effect on January 1, 2000 for all other catcher/processors eligible under such paragraphs of section 208(e).

**(c) Catcher Vessel and Shoreside Processor Restrictions.**

(1) *Required Council Recommendations.* By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—

(A) prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fisheries; and

(B) protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery.

If the North Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the North Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation restrict or change the authority in section 210(b) to the extent the Secretary deems appropriate, including by preventing fishery cooperatives from being formed pursuant to such section and by providing greater flexibility with respect to the shoreside processor or shoreside processors to which catcher vessel in a fishery cooperative under section 210(b) may deliver pollock.

(2) *Bering Sea Crab and Groundfish.*

(A) Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, and 1997. For the purposes of this subparagraph the term “facilities” means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.

(B) Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from harvesting an excessive share of crab or of groundfish in fisheries in the Bering Sea and Aleutian Islands Management Area.

(C) The catcher vessels eligible under section 208(b) are hereby prohibited from participating in a directed fishery for any species of crab in the Bering Sea and Aleutian Islands Management Area unless the catcher vessel harvested crab in the directed fishery for that species of crab in such Area during 1997 and is eligible to harvest such crab in such directed fishery under the license limitation program recommended by the North

Pacific Council and approved by the Secretary. The north Pacific Council is directed to recommend measures for approval by the Secretary to eliminate latent licenses under such program, and nothing in this subparagraph shall preclude the Council from recommending measures more restrictive than under this paragraph.

(3) *Fisheries Other than North Pacific.*

(A) By not later than July 1, 2000, the Pacific Fishery Management Council established under section 302(a)(1)(F) of the Magnuson-Stevens Act (16 U.S.C. 1852 (a)(1)(F)) shall recommend for approval by the Secretary conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by this Act or by any fishery cooperatives in the directed pollock fishery.

(B) If the Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may be regulation implement adequate measures including, but not limited to, restrictions on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restrictions on the number of processors eligible to process Pacific groundfish.

(d) **Bycatch Information.** Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a), the North Pacific Council may recommend and the Secretary may approve, under such terms and conditions as the North Pacific Council and Secretary deem appropriate, the public disclosure of any information from the groundfish fisheries under the authority of such Council that would be beneficial in the implementation of section 301(a)(9) or section 303(a)(11) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(9) and 1853(a)(11)).

(c) **Community Development Loan Program.** Under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), and subject to the availability of appropriations, the Secretary is authorized to provide direct loan obligations to communities eligible to participate in the western Alaska community development quota program established under section 304(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)) for the purposes of purchasing all or part of an ownership interest in vessels and shoreside processors eligible under subsections (a), (b), (c), (d), (e), or (f) of section 208. Notwithstanding the eligibility criteria in section 208(a) and 208(c), the LISA MARIE (United States official number 1038717) shall be eligible under such sections in the same manner as other vessels eligible under such sections.

**SEC. 212. RESTRICTION ON FEDERA LOANS.** Section 302(b) of the Fisheries Financing Act (46 U.S.C. 1274 note) is amended—

(1) by inserting “(1)” before “Until October 1, 2001”; and

(2) by inserting at the end the following new paragraph: “(2) No loans may be provided or guaranteed by the Federal Government for the construction or rebuilding of a vessel intended for use as a fishing vessel (as defined in section 2101 of title 46, United States Code), if such vessel will be greater than 165 feet in registered length, of more

than 750 gross registered tons, or have an engine or engines capable of producing a total of more than 3,000 shaft horsepower, after such construction or rebuilding is completed. This prohibition shall not apply to vessels to be used in the menhaden fishery or in tuna purse seine fisheries outside the exclusive economic zone of the United States or the area of the South Pacific Regional fisheries Treaty.”

### **SEC. 213. DURATION.**

(a) **General.** Except as otherwise provided in this title, the provisions of this title shall take effect upon the date of the enactment of this Act. Section 206, 208, and 210 shall remain in effect until December 31, 2004, and shall be repealed on such date, except that the North Pacific Council may recommend and the Secretary may approve conservation and management measures as part of a fishery management plan under the Magnuson-Stevens Act to give effect to the measures in such sections thereafter.

(b) **Existing Authority.** Except for the measures required by this subtitle, nothing in this subtitle shall be construed to limit the authority of the North Pacific Council or the Secretary under the Magnuson-Stevens Act.

(c) **Changes to Fishery Cooperative Limitations and Pollock CDQ Allocation.** The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—

(1) that supersede the provisions of this subtitle, except for section 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitable to the extent practicable among and within the sectors in the directed pollock fishery;

(2) that supersede the allocation in section 206(a) for any of the years 2002, 2003, and 2004, upon finding by such Council that the western Alaska community development quota program for pollock has been adversely affected by the amendments in this subtitle; or

(3) that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

(d) **Report to Congress.** Not later than October 1, 2000, the North Pacific Council shall submit a report to the Secretary and to Congress on the implementation and effects of this Act, including the effects on fishery conservation and management, on bycatch levels, on fishing communities, on business and employment practices of participants in any fishery cooperatives, on the western Alaska community development quota program, on any fisheries outside of the authority of the North Pacific Council, and such other matters as the North Pacific Council deems appropriate.

(e) **Report on Fillet Production.** Not later than June 1, 2000, the General Accounting Office shall submit a report to the North Pacific Council, the Secretary, and

the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including through the reduction in supply of such fillets and fillet blocks. If the report determines that such market has been negatively affected, the North Pacific Council shall recommend measures for the Secretary's approval to mitigate any negative effects.

(f) **Severability.** If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(g) **International Agreements.** In the event that any provision of section 12102(c) or section 31322(a) of title 46, United States Code, as amended by this Act, is determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party with respect to the owner or mortgagee on October 1, 2001 of a vessel with a fishery endorsement, such provision shall not apply to that owner or mortgagee with respect to such vessel to the extent of any inconsistency. The provisions of section 12102(c) section 31322(a) of title 46, United States Code, as amended by this Act, shall apply to all subsequent owners and mortgagees of such vessel, and shall apply, notwithstanding the preceding sentence, to the owner on October 1, 2001 of such vessel if any ownership interest in that owner is transferred or otherwise acquired by a foreign individual or entity after such date.

	Department contact
<b>Suspended Investigations</b>	
Hot-Rolled Carbon Steel Flat Products from Russia (A-821-809) (2nd Review) .....	Sally Gannon (202) 482-0162

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 22, 2010.

**John M. Andersen,**

*Acting Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010-4179 Filed 2-26-10; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Alaska Region Scale and Catch Weighing Requirements

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before April 30, 2010.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, at (907) 586-7008 or [patsy.bearden@noaa.gov](mailto:patsy.bearden@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The scale and catch weighing requirements address performance standards designed to ensure that all catch delivered to the processor is accurately weighed and accounted for. Scale and catch-weighing monitoring is required for Western Alaska Community Development Quota Program (CDQ) catcher/processors, American Fisheries Act (AFA) catcher/processors, AFA motherships, AFA shoreside processors and stationary floating processors, non-AFA trawl catcher/processors regulated under the annual Groundfish Retention Standard, and Crab Rationalization crab catcher/processors and Registered Crab Receivers.

National Marine Fisheries Service (NMFS) has identified three primary objectives for monitoring catch. First, monitoring must ensure independent verification of catch weight, species composition, and location data for every delivery by a catcher vessel or every pot by a catcher/processor. Second, all catch must be weighed accurately using NMFS-approved scales to determine the weight of total catch. Third, the system must provide a verifiable record of the weight of each delivery. In addition, operators of these vessels must ensure that each haul is observed by a NMFS-

approved observer for verification that all fish are weighed. To effectively manage fisheries, NMFS must have data that will provide reliable independent estimates of the total catch.

The catch weighing and monitoring system developed by NMFS for catcher/processors and motherships is based on the vessel meeting a series of design criteria. Because of the wide variations in factory layout for inshore processors, NMFS requires a performance-based catch monitoring system for inshore processors.

#### II. Method of Collection

For those items not connected with a scale, respondents have a choice of either electronic or paper forms. Methods of submittal include e-mail of electronic forms, and mail and facsimile transmission of paper forms.

#### III. Data

*OMB Control Number:* 0648-0330.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households and business or other for-profit

*Estimated Number of Respondents:* 113.

*Estimated Time per Response:* 21 hours for scale type evaluation; 45 minutes for records for daily flow scale tests; 45 minutes for records for daily automatic hopper scale tests; 1 minute for printed output, at-sea scales; 6 minutes for at-sea inspection request; 2 hours for at-sea scale approval report/sticker; 2 hours for observer sampling station inspection request; 1 hour for video monitoring system; 2 hours for bin monitoring inspection request; 2 minutes to notify observer of scale tests; 5 minutes to notify observer of offload schedule for BSAI pollock; 16 hours for crab catch monitoring plan; 40 hours for inshore catch monitoring and control plan (CMCP); 5 minutes for inshore CMCP inspection request; 1 minute for Alaska State scale printed output; and 8 hours for inshore CMCP addendum.

*Estimated Total Annual Burden Hours:* 5,209.

*Estimated Total Annual Cost to Public:* \$628,504.

#### IV. Request for Comments

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance

of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 24, 2010.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2010-4108 Filed 2-26-10; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**Proposed Information Collection; Comment Request; Identification of Northeast Regional Ocean Council Information Network Using Social Network Analysis**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before April 30, 2010.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Chris Ellis, (843) 740-1195; [Chris.Ellis@noaa.gov](mailto:Chris.Ellis@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Northeast Regional Ocean Council (NROC) is a State and Federal partnership with the goal of engaging in regional protection and balanced use of ocean and coastal resources. NROC's coordinated approach reaches across State boundaries to find and implement solutions to the region's most pressing ocean and coastal issues. NROC's membership includes New England coastal State agencies and Federal agencies.

The work of the Council focuses primarily on coastal hazards resilience and ocean energy planning and management. NROC's members come from varied expertise and work on these issues in many capacities. A social network analysis will serve to identify the network of people working on NROC's key issues, both within and outside of the organization.

NROC members will be queried regarding their communications on NROC issues and value derived from membership. The resulting information can be used to evaluate the efficiency of the network, where gaps may exist, and additional partnerships that would benefit the Council's work.

**II. Method of Collection**

Respondents will be surveyed electronically. Submission results will be online.

**III. Data**

*OMB Control Number:* None.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* State, local, or Tribal government; Federal government.

*Estimated Number of Respondents:* 45.

*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 11 hours, 25 minutes.

*Estimated Total Annual Cost to Public:* \$0.

**IV. Request for Comments**

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 24, 2010.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2010-4101 Filed 2-26-10; 8:45 am]

**BILLING CODE 3510-JE-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XU54**

**Atlantic Coastal Fisheries Cooperative Management Act Provisions; Coastal Sharks Fishery**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of non-compliance referral.

**SUMMARY:** NMFS announces that on February 4, 2010, the Atlantic States Marine Fisheries Commission (Commission) found the State of New Jersey out of compliance with the Commission's Interstate Fishery Management Plan (ISFMP) for Coastal Sharks. Subsequently, the Commission referred the matter to NMFS, under delegation of authority from the Secretary of Commerce, for federal non-compliance review under the provisions of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). The Atlantic Coastal Act mandates that NMFS must review the Commission's non-compliance referral and make specific findings within 30 days after receiving the referral. If NMFS determines that New Jersey failed to carry out its responsibilities under the Coastal Sharks ISFMP, and if the measures it failed to implement are necessary for conservation, then, according to the Atlantic Coastal Act, NMFS must declare a moratorium on fishing for coastal sharks in New Jersey waters.

**DATES:** NMFS intends to make a determination on this matter by March 10, 2010, and will publish its findings in the **Federal Register** immediately thereafter.

**ADDRESSES:** Written comments should be sent to Alan Risenhoover, Director,