

# NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 02/24/2010

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 07/09/2009

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 200906-0648-012  
AGENCY ICR TRACKING NUMBER:  
TITLE: Economic Surveys for U.S. Commercial Fisheries  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0369

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: 02/28/2013

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	7,000	7,000	0
New	7,000	7,000	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE: This information collection request is approved, with following conditions:

Each information collection instrument and survey methodology must be submitted for prior OMB review and approval. No additional notice and comment on these subsequent requests is necessary.

Each submission under this approval must include a complete Part B of the regular supporting statement, including a description of the research questions targeted by the survey and any particular circumstances that make the subject matter of the survey different than other surveys. The submission should be tailored to the research questions presented to minimize burden and improve response rates.

This approval does not provide for the use of contingent valuation methodologies.

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	Hrs/\$/Resp
Northeast Fishing Vessel Annual Cost Survey (approved 3-5-09)	NA	Northeast Fishing Vessel Annual Cost Survey		2,274 / 0 / 2,274
West Coast Limited Entry Cost Earnings Survey (appr. 5-7-09)	NA	West Coast Limited Entry Cost Earnings Survey		185 / 0 / 185
Total Hours Actually Used for Information Collections Under Currently Approved ICR:				2,459

# 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.**

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

## 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  
ECONOMIC SURVEYS OF U.S. COMMERCIAL FISHERIES  
OMB CONTROL NO. 0648-0369**

**A. JUSTIFICATION**

This request is for renewal of this generic collection of information.

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

Commercial fisheries economic data collection programs implemented by National Marine Fisheries Service (NMFS) address statutory and regulatory mandates to determine the quantity and distribution of net benefits derived from living marine resources as well as predict the economic impacts from proposed management options on commercial harvesters, shoreside industries, and fishing communities. In particular, these economic data collection programs contribute to legally mandated analyses required under the Magnuson-Stevens Fishery Conservation and Management Act (MFCMA), the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (RFA), Executive Order 12866 (E.O. 12866) as well as a variety of state statutes including Florida Statute 120.54, Hawaii Revised Statute 201M-2, New Jersey Permanent Statutes 52:14B-19, and Oregon Revised Statutes 183.335 and 183.540.

The lack of economic data in the majority of federally-managed fisheries has stymied NMFS' ability to conduct these analyses and has led to lawsuits and regulatory challenges of fisheries policies in the last several years, resulting in overturned rebuilding objectives, biologically unsustainable total allowable catches, and eroded confidence in NMFS' decision making process and social sciences capability. Expanded commercial fisheries economic data collections will improve the scientific foundation of the Agency's policies and help decision makers weigh the economic impacts of their decisions. It is important to note that a key feature of the federal regulatory process is that NMFS cannot simply implement a regulation to achieve a conservation goal but instead must consider a suite of management alternatives. Economic analyses can identify the alternative that minimizes losses to stakeholders while still achieving conservation goals, allowing NMFS to be proactive, rather than reactive, in its resource management strategy.

For these reasons, the collection of economic data in commercial fisheries has received a top priority in the NMFS Social Science Plan, the NMFS Strategic Plan and the National Oceanic and Atmospheric Administration (NOAA) Science Advisory Board.<sup>1</sup> In addition, NMFS regional offices, commissions and councils also recognize the need for commercial fisheries economic data, e.g., see the Pacific Fisheries Management Council's report "*West Coast Research And Data Needs*" as well as the Northeast Fisheries Science Center report "*Data Needs For Economic Analysis Of Fishery Management Regulations.*" The need for commercial fisheries economic data has also been identified by external sources, including the Kammer report, General Accounting Office (GAO) reports and National Research Council (NRC) reports.<sup>2</sup>

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<sup>1</sup> Performance metrics cited within the NOAA Strategic Plan include the number of FMPs with complete economic data (variable cost, annual operating cost and revenue) collected for commercial harvesters and the number of FMPs for which net benefits can be calculated.

<sup>2</sup> See "An Independent Assessment of the Resource Requirements for the National Marine Fisheries Service: A Report to the Deputy Under Secretary, NOAA and the Assistant Administrator, National Marine Fisheries Service," prepared by Ray Kammer, June 2000. In addition, recent National Research Council publications that identify the need for commercial fisheries economic data include "Marine protected areas: tools for

## Background

The MFCMA establishes eight Councils, each of which is charged with the preparation of a fishery management plan and plan amendments with respect to each fishery requiring management within its jurisdiction. Each fishery management plan (FMP) prepared by a Council, or by the Secretary, must contain conservation and management measures that are consistent with the national standards, and any other applicable law [MFCMA Sec. 303(a)(1)(C)], and a description of the fishery including actual and potential revenues from the fishery [MFCMA Sec. 303(a)(2)]. Plans and plan amendments must also include a fishery impact statement that analyzes the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures [MFCMA Sec. 303(a)(9)].

Economic information needed to meet each of the MFCMA national standards identified below (in *Italics*) is presented.

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

Various sections of the MFCMA (e.g. Section 318) make it clear that scientific information includes economic information.

*(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.*

Economic information, including cost and revenue data on participants in the fishery, is required to identify some of the effects of such allocation and is therefore useful in determining whether such allocations are “fair and equitable.” Economic information is also useful in determining what constitutes “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.*

This standard requires appropriate descriptions of the fishery and assessments of the effects of management actions, which are not possible without biological and economic information. For example, cost and revenue information is necessary to evaluate the effects of proposed measures on efficiency. Cost and revenue information is also necessary to anticipate the likely effects of proposed measures on participants in the fishery.

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sustaining ocean ecosystems” (2001); Improving the collection, management, and use of marine fisheries data” (2000); and “Sharing the fish: toward a national policy on individual fishing quotas (1999). Recent GAO publications recognizing the importance of commercial fisheries economic data include “Individual Fishing Quotas: Better Information Could Improve Program Management” (2003); Commercial Fisheries: Entry of Fishermen Limits Benefits of Buyback Programs (GAO/RCED-00-120); and Fishery Management: Problems Remain With National Marine Fisheries Service’s Implementation of the Magnuson-Stevens Act (GAO/RCED-00-69).

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

The “variations among and contingencies in fisheries” can be defined in terms of both biological and economic variables. Therefore, both types of information are required.

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

Economic information, specifically cost information, is required to determine if this national standard is met.

*(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities 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.*

There is an explicit requirement to use “economic and social data” to meet this national standard. Specifically, economic information is required to predict the extent to which conservation and management measures are expected to provide for the “sustained participation” and “minimize adverse economic impacts.”

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

Economic information is required to determine what further improvements in safety are practicable.

Acting under authorities provided in the MFCMA, the Councils and Secretary have implemented 47 FMPs, each of which addresses biological and socio-economic characteristics and issues associated with the fishery. For example, the Pacific Coast groundfish FMP includes a framework for the development and evaluation of management decisions having substantial socio-economic implications (Section 6.2.3 of the Pacific Coast Groundfish Plan) (see Attachment A). Where management is necessary to address socio-economic issues, the Council must prepare a report, which addresses the achievement of goals and objectives of the FMP, economic impacts and how the proposed action will address at least one of 15 items including: maintaining stability in the fishery, increasing economic yield, and increasing fishing efficiency. With respect to allocation actions, the Council must consider such factors as present participation in and dependence on the fishery, including alternative fisheries, historical fishing practices in and historical dependence on the fishery, as well as consistency with MFCMA national standards. FMPs prepared by other Councils address issues comparable to those addressed in the Pacific Coast groundfish FMP.

## NEPA

NEPA requires federal agencies to consider the interactions of natural and human environments, and the impacts on both systems of any changes due to governmental activities or policies. This consideration is to be done through the use of "a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences . . . in planning and in decision-making. . ." (NEPA Section 102(2)(A) and, further, to "identify and develop methods and procedures, . . . , which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations (NEPA Section 102(2)(B). In addition, NOAA's NEPA implementation guidelines require that the environmental impact statement (required under NEPA Section 102(2)(C)(i)) must include both economic and social consequences.<sup>3</sup>

## ***E.O. 12866 (currently under revision)***

E.O. 12866 requires an assessment of all costs and benefits of available regulatory alternatives. Under EO 12866, when choosing among regulatory approaches, agencies should select those approaches that maximize net benefits. (E.O. 12866 Sec. 1(a)). In addition, E.O. 12866 states that "Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic and other information concerning the need for, and consequences of, the intended regulation." (E.O. 12866 Sec. 1(b)(7)).

This executive order, combined with the MFCMA national standard on use of best scientific information available, obligate NMFS to seek clearance for the collection of the information necessary to meet decision standards set out in the national policies outlined above. Regardless of what action the Council and Secretary take with respect to management of federal fisheries for 2003 and beyond (including no action alternatives), economic information is needed to meet the requirements listed above.

## RFA

The RFA requires federal agencies to fully analyze the effects of regulations to determine whether an action will "have a significant economic impact on a substantial number of small entities" [NMFS "Operational Guidelines Fishery Management Plan Process"]. At a minimum, sufficient information is necessary to allow a determination of whether the impacts will be "significant." Determination of the significance of impacts requires cost and revenue information for the specific activity in question (fish harvest and processing) as well as some level of general information on the full range of income producing activities in which firms are engaged.

## **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.**

Information will be collected using a series of surveys of the industry conducted by NMFS, NMFS' contractor(s) or by NMFS in conjunction with the marine fisheries commissions (Pacific States Marine Fisheries Commission, Gulf States Marine Fisheries Commission and the Atlantic States Marine Fisheries Commission). Data collections will focus each year on a different component of the United States (U.S.) commercial fisheries, with only limited data collected in

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<sup>3</sup> For NOAA's NEPA implementation guidelines see, NOAA Administrative Order (NAO) 216-6, "Environmental Review Procedures for Implementing the National Environmental Policy Act," May 20, 1999.

previously surveyed components of these fisheries. These surveys will be administered to different strata of the harvesting and processing industry over the next three years. It is anticipated that one or two surveys will be conducted in each NMFS region each calendar year.

All information collected in the survey will be used to provide information on potential impacts of management decisions on the fishing industry. In general, analysis of cost and revenue information for harvesting and processing and other activities of the vessel or plant will allow analysts to estimate:

- Net economic value to the nation
- Economic health of the fishery
- Effects on business efficiency
- Community economic impacts
- Firms' economic dependence on the fishery
- Economic impacts of proposed regulations, including area closures, gear restrictions, catch restrictions, etc.
- Distribution of economic impacts from proposed regulations and, in particular, the significance of impacts on small businesses
- Likelihood of bankruptcies
- Effects on international competitiveness.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS or a designated marine fisheries commission 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.

Two economic surveys (one focused strictly on operating expenses and characteristics, the other requesting more detailed information on operations) used in past data collection exercises are included as Attachments B and C. Final survey instruments will be provided with each data collection clearance request initiated under this PRA approval.

In addition to the sample surveys, Attachments D through G are lists of potential questions for each of the four industry types, catcher and charter vessels, shoreside processors, motherships and catcher/processors. These lists comprise a source for questions for future surveys. The following is a summary of the need for each type of question.

### **Catcher & Charter Boat Surveys - Attachment D**

**Question 1. Vessel Characteristics:** Information on United States Coast Guard (USCG) identifier, state identifiers, etc., is necessary to help identify specific vessels. While much of the information on physical descriptors such as hull type, tonnages, length, etc. exists in other sources, this data is often outdated, missing or conflicting. Information on such items as engines,

fuel capacity, electronics and the difficulty in switching gears provides analysts data to model the likelihood of harvesters switching fisheries given changes in regulations.

**Question 2. Ownership:** Questions regarding ownership are useful in terms of social interest. However, evaluation of owner participation also plays a role in predicting whether marginal vessels will stay in business. For example, the owner of a vessel with zero or slightly negative net profits may decide to remain in the fishery if the owner is deriving a wage from personally operating a vessel. On the other hand, an owner who hires a skipper may be more likely to choose to exit the fishery under a similar circumstance.

**Question 3. Capital Costs:** This series of questions is designed to estimate market value and replacement costs of major existing assets, including limited entry permits, and the economic life of these major assets. These values are used to calculate economic opportunity costs of capital goods that in turn are used to calculate net economic benefits to the nation of industry participation as well as for conducting financial analyses as required by the Regulatory Flexibility Act.

**Question 4. Annual Operating Costs:** These are expenses that generally do not vary with the level of production. They are fixed over the short-term but some of them may be forgone if a vessel owner decided not to engage in any fishing activity for a period of time. The fixed expenses of participation must be allocated between alternative fishing activities and must be partially deducted from revenues as a step in determining net economic value. The information is also needed for the model that assesses community income impacts.

**Question 5. Operating Costs:** This information is necessary to estimate the net value of participation in the fishery; calculate producer surplus and short-run economic and financial profit measures; assess the change in net benefits caused by proposed management actions; and is used in the Fishery Economic Assessment Model and Illegal, Unreported, and Unregulated (IUU) Impact analysis for PLANning (IMPLAN) Model to estimate economic impacts. The capital costs and operating costs are of value for (1) allocating fixed costs between different activities; (2) estimating the income impacts if a projection is made that a vessel might stop operating entirely or be relocated in the absence of an opportunity to participate in a particular fishery (i.e., if fixed operating expenses are not covered) and (3) assessing, in combination with catch and revenue information, the relative importance and dependence of the vessel on harvesting versus other income producing activities of the vessel.

**Question 6. Effort/Gear Descriptors:** These questions are useful in helping the analyst describe and quantify effort on the fishing grounds in terms of gear deployed. This information could be used in developing models of efficient fleet size to support such activities as fleet reduction programs, as well as provide information on the level of capitalization within the various sectors of a fishery.

**Question 7. Catch/Revenue:** Revenue information, in conjunction with cost information, is necessary to derive net economic value. Additionally, revenue information from all activities is needed in a method used to allocate fixed costs between different activities and as part of the assessment of relative dependence on the fishery.

For deliveries made onshore, questions about revenue are important to capture end-of-year settlements or in-kind payments not reflected in the fish tickets. For vessels delivering to motherships, these questions are particularly important because there are no fish ticket records for at-sea landings. Information on revenue from other fisheries is needed because of similar deficiencies in fish ticket records, and lack of access to confidential information for fisheries in some states.

In addition, if the respondents calculate their net income based on their other answers and the result is out-of-line with their experience, they may stop to consider whether they have answered the preceding questions on costs and revenue correctly and entirely. Further, if respondents provide previously calculated net income without checking for consistency, or analysts compare the reported values with fish ticket revenue information where available, analysts may derive a result different from the survey responses alerting them to some degree of incompleteness in either the survey or the responses to the questions.

**Question 8. Opportunity Cost:** These economic values are used to calculate net economic benefits to the nation of industry participation.

**Question 9. Regional Impact:** One assumption generally made in assessing impacts on coastal communities is that all employees live in the coastal area of the vessels homeport and, consequently, crew share is spent in the vessel homeport. Similarly, current models assume all impacts occur in the port of landing or in a homeport (for vessels delivering to motherships). This information is particularly important in assigning community impacts for vessels delivering to motherships but is also useful when the vessel is active in multiple ports. While this simplifying assumption was useful in the early development of the models used in West Coast fisheries income impact assessments, more recent versions of this model allow analysts to relax this assumption. The information solicited by these questions is necessary to make use of this ability to more accurately estimate the distribution of effects. These questions are intended to address the issue with better quality information that is more evenly distributed across sectors.

**Question 10. Labor/Employee/Family:** This information is of interest in terms of effect on the fishing community and general community employment. Income-related questions will allow a systematic assessment of the degree to which individuals are engaged and dependent on fishing-related activities while questions on age, ethnicity, language and education will give social scientists a better grasp of issues related the socio-cultural background and specifically highlight potential Environmental Justice issues, such as vulnerability and marginalization.

**Question 11. Other:** Business strategy, distribution and marketing questions are needed to assess the bargaining and buying/selling strategies at various levels of the distribution chain. Understanding these factors greatly aids in the interpretation of changes in prices and costs.

## **Shoreside Processor Surveys - Attachment E**

**Question 1. Plant Characteristics:** Little information currently exists on shoreside processing plants such as freezer capacities, processing equipment available, etc. This information is useful in assessing the ability and desire of plants to process fish and to make general decisions about which fish/shellfish to process and to formulate decisions of which fish and shellfish to process in the case of conflicting seasons.

**Question 2. Ownership:** Questions regarding ownership are necessary to provide linkages between seemingly independent plants. Often, individual plants are treated as separate entities when in reality they are part of a larger company. Uncovering these linkages is useful to analysts in modeling the behavior of these companies and plants. In addition, information on the company ownership of harvesting vessels plays a role in assessing the likely decisions of marginal plants to stay in business. Finally, plants with a wider species and product base, or plants that are part of a larger company may be more capable of weathering a fishery downturn than one that produces a smaller suite of products.

**Question 3. Capital Costs and Land Costs:** This series of questions is designed to estimate market values and replacement costs of major existing assets, and economic life of these major assets. These economic values are used to calculate economic opportunity costs of capital goods, which in turn are used to calculate net economic benefits to the nation of industry participation.

**Question 4 Annual Operating Costs:** These are expenses that generally do not vary with the level of production. They are fixed over the short-term but some of them may be forgone if a plant owner decides not to engage in any processing activity for a period of time. The fixed expenses of participation must be allocated between alternative processing activities and must be partially deducted from revenues as a step in determining net economic value. The information is also needed for the model that assesses community income impacts.

**Question 5. Operating Costs:** This information is necessary to estimate the net value of participation in the fishery; assess the change in net benefits caused by proposed management actions; and is used in the Fishery Economic Assessment Model and IMPLAN® economic impact model to estimate income, sales and employment impacts. The capital costs and operating costs are of value for (1) allocating fixed costs between different activities and (2) estimating the income impacts if a projection is made that a plant might stop operating entirely or be relocated in the absence of an opportunity to participate in a particular fishery (i.e., if fixed operating expenses are not covered). This information is useful in allocating annual operating costs across activities in order to assess the marginal net economic value of participation in the fishery over the long term. Questions regarding operating costs are also important to capture end-of-year settlements or in-kind payments not captured by the fish ticket data.

**Question 6. Effort:** These questions are useful in helping the analyst describe and quantify effort in terms of length of activity as well as forecast processing costs and employment.

**Question 7. Revenue:** Revenue information, when combined with cost information, can be used to derive net economic value. Revenue information is also needed from all activities in a method used to allocate fixed costs between different activities and as part of the assessment of relative dependence on the fishery. In addition, if the respondents calculate their net income based on their other answers and the result is out-of-line with their experience, they may stop to consider whether they have answered the preceding questions on costs and revenue correctly and entirely. Further, if respondents provide previously calculated net income without checking for consistency, or analysts compare the reported values with fish ticket revenue information where available, analysts may derive a result different from the survey responses alerting them to some degree of incompleteness in either the survey or the responses to the questions.

**Question 8. Opportunity Cost:** These economic values are used to calculate net economic benefits to the nation of industry participation, to determine alternative uses of capital under the existing regulatory environment and to determine potential new uses of capital in light of regulatory change.

**Question 9. Regional Impact:** One assumption generally made in assessing impacts on coastal communities is that all employees live in the coastal area of the plant and, consequently, all wages are assumed to be spent in there. Similarly, current models assume all economic impacts occur in the plant port. However, given ownership of multiple plants in different ports by a single entity, these simplifying assumptions may be erroneous. The additional information solicited in these questions is necessary to provide the ability to more accurately estimate the distribution of effects. These questions are intended to address the issue with better quality information more evenly distributed across sectors.

**Question 10. Labor/Employee/Family:** This information is of interest in terms of effect on the fishing community and general community employment. Income-related questions will allow a systematic assessment of the degree to which individuals are engaged and dependent on fishing-related activities while questions on age, ethnicity, language and education will give social scientists a better grasp of issues related the socio-cultural background and specifically highlight potential Environmental Justice issues, such as vulnerability and marginalization.

**Question 11. Other:** Business strategy, distribution and marketing questions are needed to assess the bargaining and buying/selling strategies at various levels of the distribution chain. Understanding these factors greatly aids interpretation of changes in prices and costs.

### **Mothership Processor Surveys - Attachment F**

**Question 1. Vessel Characteristics:** Information on USCG identifier, state identifiers, etc., is necessary to help identify specific vessels. While much of the information on physical descriptors such as hull type, tonnages, length, etc. exists in other sources, this data is often outdated, missing or conflicting. Information on such items as engines, fuel capacity, electronics and the difficulty in switching gears provides analysts data to model the likelihood of harvesters switching fisheries given changes in regulations.

Little information currently exists on at-sea processing vessels such as freezer capacities, processing equipment available, etc. This information is useful in assessing the ability and desire of vessels to process fish and to make general decisions about which fish/shellfish to process and to formulate decisions of which fish and shellfish to process in the case of conflicting seasons.

**Question 2. Ownership:** Questions regarding ownership are necessary to provide linkages between seemingly independent operations. Often, individual operations are treated as separate entities when in reality they are part of a larger company. Uncovering these linkages is useful to analysts in modeling the behavior of these companies and vessels. Also, operations with a wider species and product base, or operations that are part of a larger company may be more capable of weathering a fishery downturn than one that produces a smaller suite of products.

**Question 3. Capital Costs:** This series of questions is designed to estimate market value and replacement costs of major existing assets, and the economic life of these major assets. These values are used to calculate economic opportunity costs of capital goods, which in turn are used to calculate net economic benefits to the nation of industry participation.

**Question 4 Annual Operating Costs:** These are expenses that generally do not vary with the level of production. They are fixed over the short-term but some of them may be forgone if a vessel owner decided not to engage in any fishing activity for a period of time. The fixed expenses of participation must be allocated between alternative processing activities and must be partially deducted from revenues as a step in determining net economic value. The information is also needed for the model that assesses community income impacts.

**Question 5 Operating Costs:** This information is necessary to estimate the net value of participation in the fishery; assess the change in net benefits caused by proposed management actions; and is used in the Fishery Economic Assessment Model and IMPLAN Model to estimate income impacts. The capital costs and operating costs are of value for (1) allocating fixed costs between different activities; (2) estimating the income impacts if a projection is made that a vessel might stop operating entirely or be relocated in the absence of an opportunity to participate in a particular fishery (i.e., if fixed operating expenses are not covered). This information is useful in allocating annual operating costs across activities in order to assess the marginal net economic value of participation in the fishery over the long term. Questions regarding operating costs are also important to capture end-of-year settlements or in-kind payments not captured by the fish ticket data when they are available.

**Question 6 Effort/Crew Descriptors:** These questions are useful in helping the analyst describe and quantify effort in terms of length of activity as well as forecast processing costs and employment.

**Question 7 Catch/Revenue:** Revenue information, in conjunction with cost information, is necessary to derive net economic value. Additionally, revenue information from all activities is needed in a method used to allocate fixed costs between different activities and as part of the assessment of relative dependence on the fishery.

In addition, if the respondents calculate their net income based on their other answers and the result is out-of-line with their experience, they may stop to consider whether they have answered the preceding questions on costs and revenue correctly and entirely. Further, if respondents provide previously calculated net income without checking for consistency, or analysts compare the reported values with fish ticket revenue information where available, analysts may derive a result different from the survey responses alerting them to some degree of incompleteness in either the survey or the responses to the questions.

**Question 8 Opportunity Cost:** These economic values are used to calculate net economic benefits to the nation of industry participation, to determine alternative uses of capital under the existing regulatory environment and to determine potential new uses of capital in light of regulatory change.

**Question 9 Regional Impact:** One assumption generally made in assessing impacts on coastal communities is that all employees live in the coastal area of the vessels homeport and,

consequently, crew payment is spent in the vessel homeport. Similarly, current models assume all impacts occur in the port of landing or in a homeport. This information is particularly important in assigning community impacts for vessels active in multiple fisheries, for example, West Coast whiting and Bering Sea pollock. While this simplifying assumption was useful in the early development of the models used in West Coast fisheries income impact assessments, more recent versions of this model allow analysts to relax this assumption. The information solicited by these questions is necessary to make use of this ability to more accurately estimate the distribution of effects. These questions are intended to address the issue with better quality information that is more evenly distributed across sectors.

**Question 10 Labor/Employee/Family:** This information is of interest in terms of effect on the fishing community and general community employment. Income-related questions will allow a systematic assessment of the degree to which individuals are engaged and dependent on fishing-related activities while questions on age, ethnicity, language and education will give social scientists a better grasp of issues related the socio-cultural background and specifically highlight potential Environmental Justice issues, such as vulnerability and marginalization.

**Question 11 Other:** Business strategy, distribution and marketing questions are needed to assess the bargaining and buying/selling strategies at various levels of the distribution chain. Understanding these factors greatly aids in the interpretation of changes in prices and costs.

### **Catcher/Processor Surveys - Attachment G**

**Question 1 Vessel Characteristics:** Information on USCG identifier, state identifiers, etc., is necessary to help identify specific vessels. While much of the information on physical descriptors such as hull type, tonnages, length, etc. exists in other sources, this data is often outdated, missing or conflicting. Information on such items as engines, fuel capacity, electronics, and the difficulty in switching gears provides analysts data to model the likelihood of harvesters switching fisheries given changes in regulations.

Little information currently exists on at-sea processing vessels such as freezer capacities, processing equipment available, etc. This information is useful in assessing the ability and desire of vessels to process fish and to make general decisions about which fish/shellfish to process and to formulate decisions of which fish and shellfish to process in the case of conflicting seasons.

**Question 2 Ownership:** Questions regarding ownership are necessary to provide linkages between seemingly independent operations. Often, individual operations are treated as separate entities when in reality they are part of a larger company. Uncovering these linkages is useful to analysts in modeling the behavior of these companies and vessels. Also, operations with a wider species and product base, or operations that are part of a larger company may be more capable of weathering a fishery downturn than one that produces a smaller suite of products.

**Question 3 Capital Costs:** This series of questions is designed to estimate market value and replacement costs of major existing assets, including limited entry permits, and the economic life of these major assets. These values are used to calculate economic opportunity costs of capital goods, which in turn are used to calculate net economic benefits to the nation of industry participation.

**Question 4 Annual Operating Costs:** These are expenses that generally do not vary with the level of production. They are fixed over the short-term but some of them may be forgone if a vessel owner decided not to engage in any fishing activity for a period of time. The fixed expenses of participation must be allocated between alternative processing activities and must be partially deducted from revenues as a step in determining net economic value. The information is also needed for the model that assesses community income impacts.

**Question 5 Operating Costs:** This information is necessary to estimate the net value of participation in the fishery; assess the change in net benefits caused by proposed management actions; and is used in the Fishery Economic Assessment Model and IMPLAN model to estimate income impacts. The capital costs and operating costs are of value for (1) allocating fixed costs between different activities; (2) estimating the income impacts if a projection is made that a vessel might stop operating entirely or be relocated in the absence of an opportunity to participate in a particular fishery (i.e., if fixed operating expenses are not covered). This information is useful in allocating annual operating costs across activities in order to assess the marginal net economic value of participation in the fishery over the long term. Questions regarding operating costs are also important to capture end-of-year settlements or in-kind payments not captured by the fish ticket data when they are available.

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solicited by these questions is necessary to make use of this ability to more accurately estimate the distribution of effects. These questions are intended to address the issue with better quality information that is more evenly distributed across sectors.

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**Question 11 Other:** Business strategy, distribution and marketing questions are needed to assess the bargaining and buying/selling strategies at various levels of the distribution chain. Understanding these factors greatly aids in the interpretation of changes in prices and costs.

**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.**

To help reduce burden on the public, the surveys will be available on the web for viewing, downloading and, to the extent practicable, completion online. In addition, for mail surveys, respondents will have an option of sending completed surveys via mail or by facsimile machine. Lastly, the appropriate electronic mail addresses or telephone numbers will be supplied with surveys mailed to fishing industry members.

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

In the development of each survey, every attempt will be made to identify whether other surveys are currently collecting similar data from a population that includes some potential respondents for the proposed data collection. Since NMFS economists will develop or oversee the development of the sampling frame for each survey, a cross-check with all other economic survey sample frames will be done prior to finalizing a survey's sample frame can be easily accomplished. A potential respondent already providing comparable information under a similar survey may be excluded from the survey's sample frame.

In addition, in developing the survey instrument, a NMFS economist will either

- a) verify that a question does not duplicate a question on an existing survey instrument; or
- b) certify why the information collected under the existing data collection is inadequate, e.g., confidentiality restrictions.

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

The vast majority of catcher vessels and processors affected by this information request are considered small business. The burden will be the same for all businesses, regardless of size, and has been minimized to collect only that information essential to regulatory analysis and modeling. Respondents should be able to derive the requested information from past income tax records, payroll records and fish management reporting records (including fish tickets and

logbooks). No additional data aggregation by the respondents should be necessary to respond to these surveys.

Another area where the burden on the industry can be reduced is in regards to the vessel or plant characteristics questions. Some of these questions request an update of data that has been collected in the past. Where available, the survey instrument will provide the information as it is currently available and ask the respondent to submit corrections as necessary.

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

The standards for making substantial changes in the management of a fishery require a clear demonstration that benefits will increase as a result of the change in allocation. In the absence of adequate information, failure to demonstrate a substantial improvement in benefits does not necessarily mean that such a change would not generate those benefits; it simply means that the information was not available to demonstrate change. Alternatively, partially specified indicators of benefits, such as reliance on gross revenues rather than net revenues, could lead to a change which would decrease, rather than increase, net benefits to the nation. Therefore, not collecting this information could prevent or misdirect decisions.

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

These information collections are consistent with Office of Management and Budget (OMB) guidelines.

**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 published on February 10, 2009 (74 FR 6576) solicited public comment on this collection.

A comment was received from representatives of the Alaska fishing industry. Their concerns included a) whether information could be included in a Freedom of Information Act (FOIA) request; b) whether the burden hours were underestimated; c) the “rotating” survey schedule across different segments of the industry; and d) the use of automated techniques. The lead economist at the NMFS Alaska Fisheries Science Center, Ron Felthoven, has responded to those concerns, including explaining the measures taken to protect confidentiality; the need to limit the burden hours in a voluntary survey (the industry representatives had suggested a 60-80 burden hour, which clearly exceeds what can reasonably be asked in a voluntary survey), how the surveys would be rotated among different components of the fishing industry in a region, and how automated techniques have been used in other regions. Through this discussion, it became clear that the industry representatives thought the Federal Register Notice was announcing a new

series of surveys in their region and were unaware that it was for a generic clearance (no specific survey was approved) and that this was the fourth renewal of this generic clearance. Nevertheless, an item to address industry's concerns has been added to the next North Pacific Fisheries Management Council agenda.

A number of people, both within agencies and the industry were consulted on the types of data elements necessary and available, recordkeeping disclosures, confidentiality of the data and timing of data collection exercises. Section B, Question Number 5 of this information collection request has a partial list of Agency contacts.

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

There are no plans to provide any payment or gift to respondents.

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

The survey forms will contain the following language:

The data collected will be kept confidential as required by section 402(b) of the Magnuson-Stevens Act as amended in 2007 (16 U.S.C. 1881a, *et seq.*) and NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form without identification as to its source.

**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.**

The only potentially sensitive questions included in the generic list of questions are religion and household income. These questions will be collected directly from each individual -- not via the individual's employer.

Religion is an important variable because it may affect days when fishing is considered appropriate or inappropriate, requirements for using specific living marine resources in festivals, solidarity of social connections and support networks based on religious affiliation or membership in a particular congregation, among other things.

Household income can be an important indicator of household economic resiliency and can be an important factor to consider when evaluating regulatory alternatives. For example, all else equal, a regulation that disproportionately affects low-income households may be less preferred than one that more widely distributes economic impacts. In addition, combining respondents' household income information with home address data can be used to construct an indicator on community economic resilience, which may be useful when analyzing economic impact on communities as required under National Standard 8 of the MFCMA [MFCMA Section 301(a)(8)].

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

The total burden hours are projected to be 7,000 hours per year. An estimate of the annual number of expected responses and burden hours for the economic surveys are shown below.

<b>Fleet</b>	<b>Expected # Responses</b>	<b>Hours per Response</b>	<b>Burden hours</b>
Catcher & For-Hire Operating Costs only	3365	25 minutes	1402
Catcher, For-Hire Operating, Fixed Costs, Limited Demographic & Firm Characteristics	2750	1.5	4125
Fixed Cost, Limited Demographics & Firm Characteristics	685	1	685
West Coast & Alaska Processors	75	8	600
East Coast & Gulf Coast Processors	125	1.5	188
Total	7000		7000

**13. Provide an estimate of the total annual recordkeeping/reporting cost burden to the respondents resulting from the collection (excluding the value of the burden hours in Question 12 above).**

There are no recordkeeping/reporting costs.

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

No additional NMFS staff will be utilized other than those regularly assigned to support this collection of information mandated by law. In addition, no special or new equipment will be procured for the special purpose of conducting this information collection. In the Northeast, Alaska, and Northwest Regions, the annualized cost for NMFS to implement its economic surveys is estimated to be \$150,000 - \$200,000 per region. In the Southeast, Southwest and Pacific Island Regions, the annualized cost for NMFS to implement its economic surveys is estimated to be \$75,000 per region.

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

There are no changes.

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

The results from the proposed data collection are not planned for statistical publication. Data will be used as empirical input in descriptions of current economic performance in the commercial snapper-grouper and mackerel fisheries, and in evaluations of proposed regulations in the fisheries. Descriptive and analytical reports will include summaries of the data (totals and averages only) and will not release or reveal confidential information.

**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.**

NA.

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

NA.

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

**1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local governmental units, households, or persons) in the universe and the corresponding sample are to be provided in tabular form. The tabulation must also include expected response rates for the collection as a whole. If the collection has been conducted before, provide the actual response rate achieved.**

For the U.S. commercial fishing fleet, which includes catcher vessels, catcher-processors and for-hire boats, the potential respondent universe is any boat that holds a federal or state permit or license, although in practice these surveys will primarily focus on boats actively participating in federally-managed fisheries. Based on information from USCG files and federal permit files, it is estimated that there are at least 20,000 federally-permitted fishing boats, and possibly as many as 25,000-30,000 state fishing boats. Each of the economic surveys to be conducted under this OMB authorization will involve a subset of these boats that will vary according to the scope of the particular survey.

The information that will be used to develop the sampling strategy for an economic survey will vary by fishery but will generally come from three types of data collections. The first component of this data is USCG, federal permit and state registration data. This data includes information on vessel characteristics such as vessel length, gross and net tonnages, horsepower and year built. In addition, address information for vessel and processor owners is available.

The second important component of this data is the landings information for individual vessels. In each NMFS region, fish ticket information and dealer data provide additional information on a vessel's fishing trip, including date, port of landing, species, fish condition codes, pounds landed, round pound equivalents and revenue received.

The third component of the data analysts may have available for developing sample strata are logbook programs, which provide detailed trip information on catch (target species, species landed, species discarded, etc.) and effort (gear used, duration or intensity of effort such as hooks used or soak time, crew size, etc.). In addition, because logbook tend to require reporting on all trips, it is possible to distinguish full-time vs. part time operators. Combined, these three information sources provide analysts with a rich data set with which to develop informed sampling plans and ascertain the representativeness of potential respondents.

The NMFS processed product database will be the primary source of data for defining the potential respondent universe and sampling strategy for the processor surveys. This survey

collects contact and location information for processor companies and their plants as well as information on monthly employment and the volume and value of processed products. It is mandatory in the Northeast Region for some federally-managed species and voluntary elsewhere. This processed product database may be supplemented in the Alaska Region by using processor permit and logbook information.

In terms of response rates, sampling strategies developed for recent submissions under this clearance show that obtaining a sample mean within 15% of the population mean at the 95% confidence level requires, on average, a response rate of roughly 50%. Obtaining a sample mean within 10% of the population mean at the 95% confidence level requires, on average, a response rate of roughly 65%.

Under this Clearance, cost earnings surveys were fielded on limited entry trawl vessels during 2005-6 and limited entry fixed gear vessels during 2006. Responses were obtained from 111 of 151 (74%) limited entry vessels and 71 of 122 (58%) limited entry fixed gear vessels. The higher response rate among limited entry trawl vessels was likely due to regulatory events taking place at the time of the surveys, the size of vessel operations, and ownership patterns. When the limited entry trawl survey was fielded in 2005 and 2006, the Pacific Fisheries Management Council was in the early stages of considering an individual transferable quota management regime for the limited entry trawl fishery. Adoption of such management change was generally favored by participants in the fishery, and evaluation of this management change in an Environmental Impact Statement (EIS) depended on having the economic data being collected by the survey. Hence, vessel owners who favored adoption of an individual transferrable quota system had a strong self-interest in responding to the survey. No such management reform was being considered for the limited entry fixed gear fishery.

Based on these results, we anticipate a high response rate for surveys submitted under this clearance, due to lessons learned regarding the use of in-person interviews (see West Coast Limited Entry Trawl and West Coast Fixed Gear Cost Earnings Surveys), telephone follow-up (see West Coast Limited Entry Trawl and West Coast Fixed Gear Cost Earnings Surveys), or, at a minimum, much higher industry involvement and support for the data collection (see California Nearshore Logbook Program). Nevertheless, despite the fact that the expected response rates for each survey submitted under this clearance has exceeded the minimal calculated response rate, each submission also included detailed plans for maximizing response rates and addressing non-response bias, as required in the Supplemental Questions for this generic clearance package.

**2. Describe the procedures for the collection, including: the statistical methodology for stratification and sample selection; the estimation procedure; the degree of accuracy needed for the purpose described in the justification; any unusual problems requiring specialized sampling procedures; and any use of periodic (less frequent than annual) data collection cycles to reduce burden.**

The surveys conducted under this clearance will include those conducted in-person, via telephone interview, and mail. Depending upon the size of the respondent universe, the data collection will be conducted as a census or a stratified random sample. Existing data sources such as landings revenue, logbook catch and effort information, and vessel characteristics obtained from permit data will be used to define the sample frame as well as to calculate the desired degree of accuracy and corresponding response rates.

Survey data will be used in combination with other data sources to (a) to assess the economic status of fisheries, (b) to conduct regulatory analyses that describe the effects of regulations on the fishery, and (c) to estimate behavioral models that provide insights into the nature and extent of management problems (e.g., overcapacity) or predict industry response to changes in regulations.

No unusual problems are anticipated that would require specialized sampling procedures.

Efforts will be made to reduce burden associated with the frequency of data collection as follows:

a. The economic surveys to be conducted under this OMB authorization will typically be rotated among different fisheries from one year to the next, depending on management needs. The expectation is that a fishery will appear in the rotation only once every 2-4 years. If it is deemed necessary to survey a fishery more frequently, the sampling frame will, to the extent practicable, take into account whether a potential respondent had been previously selected to participate in a survey (e.g., sampling with no replacement of previously selected boats may be used, depending upon the statistical validity of this approach in the survey fishery). Overall, this approach will ensure coverage of the different fisheries for which economic data are lacking, while minimizing the burden on participants in any one of those fisheries.

Many vessels participate in multiple fisheries. Therefore, in situations where it is appropriate, surveys will be designed to cover predominant combinations of fisheries rather than single fisheries. Economists and fishery managers will want the data collected in this manner anyway, in order to better understand the economic effect of restrictions in one fishery in terms of the alternative opportunities available to the vessels in other fisheries. Focusing surveys on predominant fishery combinations will also reduce respondent burden, as it will help to avert situations where a vessel is surveyed one year regarding one of its fishery activities and the next year regarding another activity.

### **Example**

This example focuses on the desired degree of accuracy and corresponding required response rate for the West Coast Limited Entry Trawl fishery to illustrate, in a general way, how the economic surveys will be conducted. The potential respondent universe for this survey includes the 218 active commercial fishing vessels that hold a limited entry trawl permit on the west coast. This survey will be performed on a census of the 218 vessels, stratified by those participating in a buyback program (83 vessels) and those not participating in the buyback program (135 vessels).

Desired Degree of Accuracy and Corresponding Response Rates: Important objectives of survey design include data accuracy and data precision (measuring and minimizing non-response bias, an important aspect of assuring accurate data, is addressed under Question 3). The degree of accuracy needed is not established by economic theory or legislative mandates. Data collected through this survey will be used for both statistical inference of population values from sample respondents and for estimation of econometric models used for policy making purposes. While more accurate data is clearly preferred, standards do not exist regarding the accuracy of data required for estimation of an econometric model. Factors such as the minimization of model

specification error also contribute the quality of the empirical results obtained using survey data. It is not possible to state a level of accuracy that is required for all uses and applications of data collected by this survey. As discussed in the response to Question 3, data on vessel characteristics and landings (location, timing, species, weight, and revenue) is available for both survey respondents and non-respondents, and will be used to test the representativeness of survey respondents. This data will also be used to adjust the models and/or data for any response bias that is detected.

The desired degree of precision, and corresponding desired response rate, depends upon the application for which the data is being used. Some applications will use data for the entire limited entry trawl fleet, while others will focus on specific vessel types within a sub-fleet (e.g., large groundfish trawlers). A basic application of the survey data will be the inference of population mean values from the observed sample mean values. The following table shows the number of responses (and corresponding response rate) needed to get a response sample mean within 10%, 15%, and 25% of the population mean at the 95% confidence level. In this calculation, revenues associated with West Coast landings (which are known) are used as a proxy for revenues from other sources and for expenditures (which are not known and are the focus of this survey).

Group	N Population	N 10%	N 15%	N 25%	Response Rate 10%	Response Rate 15%	Response Rate 25%
Non-Buyback	135	79	52	25	58%	38%	18%
Buyback	83	52	36	18	63%	43%	21%

As shown, a sample mean within 15% of the population mean at the 95% confidence level requires a response rate of 38% from non-buyback vessels and 43% from vessels participating in the buyback program.

*There are a number of reasons for why a higher degree of precision may be preferred* including a) the potential need in the future for additional stratification; and b) the potential need to offset any loss of precision from model specification and estimation error. Nevertheless, based on results obtained from the national employment survey, the response rate for this survey should well exceed the minimal requirements for achieving a sample mean within 15% of the population mean at the 95% confidence level.

**3. Describe the methods used to maximize response rates and to deal with nonresponse. The accuracy and reliability of the information collected must be shown to be adequate for the intended uses. For collections based on sampling, a special justification must be provided if they will not yield “reliable” data that can be generalized to the universe studied.**

In order to enhance response rates and ensure data quality, all economic surveys conducted under this OMB authorization will be planned in close consultation with industry representatives. Industry input will be solicited regarding a variety of issues, including the following:

- a. the best way to introduce the survey to potential respondents,
- b. the preferred elicitation method (e.g., mail questionnaires, telephone or in-person interviews),

- c. the best person to provide survey information (e.g., skipper, vessel owner, vessel owner's accountant) and how to facilitate that person's cooperation,
- d. types of data confidentiality assurances needed to make industry comfortable with survey,
- e. the best time of year to conduct survey,
- f. types of data that may be considered proprietary and ways to overcome this sensitivity,
- g. questionnaire formats and data formats that make it easier for respondents to answer survey questions,
- h. the most effective way to follow up with people who do not respond to initial solicitation,
- i. the most effective ways to communicate survey results back to the industry.

In addition, Dillman's Total Design Method (1978) will also be followed to ensure maximum participation and to minimize non-response bias. Overall, past submissions under this clearance indicate that a 50% response rate will achieve an estimated sample mean within 15% of the population mean with a 95% confidence limit. Given that the recently completed national employment survey, a mail survey, achieved a response rate of 50%, the expected response rates for all of these submissions anticipated exceeding a 50% response rate because they all utilize methods widely regarded to achieve higher response rates than a mail survey. Therefore, each of these surveys should achieve a response rate that will ensure estimated sample means will be accurate. Nevertheless, to ensure that the results are representative of the population being studied survey data will be compared with information from existing data sources (landings revenue, logbook catch and effort data, etc.). If the comparison reveals sampling biases, information obtained from the alternative data source may be used to help devise methods (e.g., post-stratification) for correcting for the bias.

**4. Describe any tests of procedures or methods to be undertaken. Tests are encouraged as effective means to refine collections, but if ten or more test respondents are involved OMB must give prior approval.**

All surveys conducted under this OMB authorization will be subject to pretest involving fewer than ten respondents. As part of the pretest, representatives from the fishery being surveyed will be asked to complete a draft version of the questionnaire and to provide feedback regarding the clarity and completeness of the questionnaire and suggestions regarding how the survey can be improved.

**5. Provide the name and telephone number of individuals consulted in the statistical aspects of the design, and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.**

The individuals responsible conducting for designing or conducting data collections for the agency include:

- Northeast NMFS economists: Drew Kitts (508) 495-2231; Barbara Roundtree (508) 495-2240; Eric Thunberg (508) 495-2272;
- Southeast NMFS economists: Jim Waters (252) 728-8710; Larry Perruso (305)-361-4278; Michael Travis (727)-824-5335;
- West Coast NMFS economists: Carl Lian (206) 860-3412; Todd Lee 206-302-2436; Cindy Thomson (831) 420-3911

- Alaska NMFS economists: Ron Felthoven (206) 526-4114, Brian Garber Yonts, (206) 526-6301
- Pacific Islands NMFS economists: Minling Pan (808) 983-5347; Justin Hospital, (808) 983-5347
- Pacific Fishery Management Plan (PFMC) economist: Jim Seger (503) 820-2280.

Analysts include:

- West Coast NMFS economists: Todd Lee (206) 302-2436; Carl Lian (206) 860-3412; Cindy Thomson (831) 420-3911
- Alaska NMFS economists: Ron Felthoven (206) 526-4114, Alan Haynie, (206) 526-4253, Mike Dalton (206) 526-4253
- Southeast NMFS economists: Christopher Liese (305) 365-4109; Jim Waters (252) 728-8710; Larry Perruso (305)-361-4278
- Northeast NMFS economists: Eric Thunberg (508) 495-2272; Scott Steinback: (508) 495-2371
- PFMC economist: Jim Seger (503) 820-2280
- Mid-Atlantic Fishery Management Plan economist: Jose Montanez (302) 674-2331 ext. 12.

## Attachment A

# Referenced Excerpts from the Pacific Fishery Management Council Pacific Coast Groundfish Plan as amended through Amendment 19 [July 2008]

### 6.2.3 Non-biological Issues—The Socioeconomic Framework

From time to time, non-biological issues may arise that require the Council to recommend management actions to address certain social or economic issues in the fishery. Resource allocation, seasons, or landing limits based on market quality and timing, safety measures, and prevention of gear conflicts make up only a few examples of possible management issues with a social or economic basis. In general, there may be any number of situations where the Council determines that management measures are necessary to achieve the stated social and/or economic objectives of the FMP.

Either on its own initiative or by request, the Council may evaluate current information and issues to determine if social or economic factors warrant imposition of management measures to achieve the Council's established management objectives. Actions that are permitted under this framework include all of the categories of actions authorized under the points of concern framework with the addition of direct resource allocation. If the Council concludes that a management action is necessary to address a social or economic issue, it will prepare a report containing the rationale in support of its conclusion. The report will include the proposed management measure, a description of other viable alternatives considered, and an analysis that addresses the following criteria: (a) how the action is expected to promote achievement of the goals and objectives of the FMP; (b) likely impacts on other management measures, other fisheries, and bycatch; (c) biological impacts; (d) economic impacts, particularly the cost to the fishing industry; (e) impacts on fishing communities; and (f) how the action is expected to accomplish at least one of the following, or any other measurable benefit to the fishery:

1. Enable a quota, HG, or allocation to be achieved.
2. Avoid exceeding a quota, HG, or allocation.
3. Extend domestic fishing and marketing opportunities as long as practicable during the fishing year, for those sectors for which the Council has established this policy.
4. Maintain stability in the fishery by continuing management measures for species that previously were managed under the points of concern mechanism.
5. Maintain or improve product volume and flow to the consumer.
6. Increase economic yield.
7. Improve product quality.
8. Reduce anticipated bycatch and bycatch mortality.
9. Reduce gear conflicts, or conflicts between competing user groups.
10. Develop fisheries for underutilized species with minimal impacts on existing domestic fisheries.
11. Increase sustainable landings.
12. Reduce fishing capacity.
13. Maintain data collection and means for verification.
14. Maintain or improve the recreational fishery.

The Council, following review of the report, supporting data, public comment, and other relevant information, may recommend management measures to the NMFS Regional Administrator accompanied by relevant background data, information, and public comment. The recommendation will explain the urgency in implementing the measure(s), if any, and reasons therefore.

The NMFS Regional Administrator will review the Council's recommendation, supporting rationale, public comments, and other relevant information, and, if it is approved, will undertake the appropriate method of implementation. Rejection of the recommendation will be explained in writing.

The procedures specified in this chapter do not affect the authority of the Secretary to take emergency regulatory action as provided for in Section 305(c) of the Magnuson-Stevens Act if an emergency exists involving any groundfish resource, or to take such other regulatory action as may be necessary to discharge the Secretary's responsibilities under Section 305(d) of the Magnuson-Stevens Act.

If conditions warrant, the Council may designate a management measure developed and recommended to address social and economic issues as a routine management measure, provided that the criteria and procedures in Section 6.2.1 are followed.

Quotas, including allocations, implemented through this framework will be set for one-year periods and may be modified inseason only to reflect technical corrections to an ABC. (In contrast, quotas may be imposed at any time of year for resource conservation reasons under the points of concern mechanism.)

# Attachment B

## West Coast Limited Entry Trawl Survey

### CONTACT INFORMATION FOR SURVEY RESPONDENT

1. Name: \_\_\_\_\_ 2. Email: \_\_\_\_\_  
3. Date (Month/Day/Year): \_\_\_\_\_ 4. Telephone: (\_\_\_\_) \_\_\_\_\_  
5. Mailing Address (Street, City, State, and Zip Code): \_\_\_\_\_  
\_\_\_\_\_

### VESSEL OWNERSHIP AND CHARACTERISTICS

6. Please review the following information about the vessel's owner. If the information on record is correct, please place a check mark in the Corrections column. If any item is incorrect, please write the correct information in the Corrections column.

Item	Information on Record	Corrections
a. Owner's Name	<i>Charles Smith</i>	
b. Owner's Address	<i>333 1<sup>st</sup> Street, Waldport, OR 97005</i>	

7. Please verify the following information on record about your vessel. If the information on record is correct, please place a check mark in the Corrections column. If the information on record is incorrect, please provide the correct information in the Corrections column.

Item	Information on Record	Corrections
a. USCG Vessel ID	<i>33221843</i>	
b. State Vessel ID	<i>OR33214</i>	
c. Home Port	<i>Newport, OR</i>	
d. Weight (gross tons)	<i>21</i>	
e. Length (feet)	<i>75</i>	
f. Fuel Capacity	<i>300</i>	
g. Engine Make and Model	<i>No Information on Record</i>	

8. For each of the following activities, please provide this vessel's average fuel consumption and speed. If this vessel does not engage in an activity, please write "NA" in the Fuel Consumption and Speed columns for that activity

Activity	Fuel Consumption (Gallons Per Hour)	Speed (Knots Per Hour)
a. Trawling		
b. Shrimping		
c. Crabbing		
d. Trolling		
e. Steaming (fully loaded with fish)		
f. Steaming (empty)		

## REVENUE AND EXPENDITURES

Questions 9 and 10 collect information about this vessel's revenue sources and expenditures while operating in all fisheries (groundfish, crab, shrimp, salmon, etc.).

9. Information on revenue sources outside of landings in Washington, Oregon, and California is important for understanding the fishing opportunities of the limited entry trawl fleet. We can not obtain this information from existing data sources. For each of the revenue sources listed below, please indicate the revenue earned during calendar year 2003.

Revenue Source	2003 Revenue (\$)
a. Landings in Alaska	
b. Landings in Hawaii	
c. Landings outside of the United States	
d. West Coast at-sea deliveries	
e. Chartering/Tendering	
f. Sale or leasing out of permits associated with this vessel.	
g. Other (please specify) _____ )	

10. For each expense category below, please provide total annual expenditures during calendar year 2003. If you do not have separate data on expenditures for captain (part a) and crew (part b), please put a "NA" for 2003 Captain expenditures in part a and put the combined Captain and Crew expenditures in part b.

Expense Category	2003 Expenditure (\$)
a. Captain (including bonuses and payroll taxes)	
b. Crew (including bonuses and payroll taxes)	
c. Fuel and Lube	
d. Food and crew provisions.	
e. Ice	
f. Bait	
g. Purchase or lease of permits	
h. Repair, maintenance, and improvements for vessel, gear, and equipment. Please include expenditures on maintaining this vessel, expenditures on repairing mechanical and physical problems with the vessel and equipment, expenditures on new equipment, and expenditures on improvements to existing equipment.	

If you reported expenditures of over \$1,000 on repair, maintenance, and improvements for vessel, gear, and equipment in question 10h, please answer question 11. If you reported expenditures of less than \$1,000 in question 10h, please write "NA" in the response for question 11 and proceed to question 12.

11. Please describe the major causes of expenditures on repair, maintenance, and improvements for vessel, gear, and equipment during 2003. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## CREW COMPENSATION

Questions 12 through 15 collect information about crew payments when this vessel is participating in the West Coast (Washington, Oregon, and California) groundfish fishery.

12. Does this vessel use a crew share system to pay its crew when operating in West Coast groundfish fisheries?
- Yes (proceed to question 8).
  - No (proceed to the Survey Conclusion after question 10).

13. Which of the following expenses were deducted from total revenue before calculating the crew share when this vessel operated in West Coast groundfish fisheries?

	Deducted Before Calculating Crew Share?	
a. Fuel and lube.	Yes	No
b. Food and other crew provisions.	Yes	No
c. Landing taxes.	Yes	No
d. Other. Please specify _____.	Yes	No

14. On trips when the vessel owner serves as captain, please indicate the share of net revenue (revenue minus the deductions listed in question 8) going to the vessel/captain and crew. If the vessel owner does not serve as captain on any trips, please mark "NA".

Vessel/captain share \_\_\_\_\_% Crew share \_\_\_\_\_%

15. On trips when the vessel owner does not serve as captain, please indicate the share of net revenue (revenue minus the deductions listed in question 5) going to the vessel, captain, and crew. If the vessel owner always serves as captain, please mark "NA".

Vessel share \_\_\_\_\_% Captain share \_\_\_\_\_% Crew share \_\_\_\_\_%

## SURVEY CONCLUSION

Thank you for participating in this survey. The information you have provided will improve studies of the economic performance and economic impact of the West Coast limited entry trawl fishery.

Public reporting burden for this collection of information is estimated to average 1 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 suggestions for reducing this burden to Carl Lian, NOAA Fisheries, [Carl.Lian@noaa.gov](mailto:Carl.Lian@noaa.gov), 206-302-2414.

Confidential name and address information will be released via a NOAA Fisheries website for informational purposes. All other data submitted will be handled as confidential material in accordance with NOAA Administrative Order 216-100, Protection of Confidential Fishery Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected 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.

**Attachment C**

OMB Control No. 0648-0369; Expiration Date: 07/31/2009

**WEST COAST CATCHER VESSEL IDENTIFICATION SHEET**

**Person completing the survey**

Name: \_\_\_\_\_  
 FAX: \_\_\_\_\_

Date: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 e-mail address: \_\_\_\_\_

Vessel Identification, Ownership and Permit information

1. Please verify the information about the *primary owner* of this vessel.

Item	Information on record	Corrections/Additions
a. Name		
b. Address		
c. City/State/Zip		

**If all of the above information is correct, please check (✓) this box .**

2. Please verify the information about the *primary contact* for operations of this vessel.

Item	Information on record	Corrections/Additions
a. Name	<b>Not available, please provide →</b>	
b. Address		
c. City/State/Zip		

**If all of the above information is correct, please check (✓) this box .**

3. Please verify the following information about this vessel.

Item	Information on record	Corrections/Additions
a. USCG vessel ID		
b. State vessel ID		
c. Vessel name		
d. Home port		
e. Gross registered tons		
f. Length overall		
g. Beam		
h. Shaft horsepower		
i. Fuel capacity (gallons)	<b>Not available, please provide →</b>	
j. Hull type		
k. Year built		
l. Number of berths	<b>Not available, please provide →</b>	

**If all of the above information is correct, please check (✓) this box .**

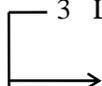
For Office Use Only	Survey #	Rec'd _____	Ent'd _____	OSU _____
---------------------	----------	-------------	-------------	-----------

4. Does the entity that operates this vessel own or lease this vessel? (*Circle one number*)

1 NEITHER OWN NOR LEASE (*Skip to Question Number 4*)

2 OWN (*Skip to Question Number 4*)

3 LEASE



4a. For how many months did it lease this vessel in 1997 and 1998?

\_\_\_\_\_ MONTHS IN 1997          \_\_\_\_\_ MONTHS IN 1998

5. Does a processor to which this vessel delivered catch in 1997 or 1998 own this vessel or partly own this vessel? (*Circle one number for each year*)

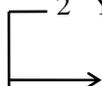
	PROCESSOR <u>OWNS</u>	PROCESSOR PARTLY <u>OWNS</u>	PROCESSOR DOES NOT <u>OWN</u>
a. 1997.....	1	2	3
b. 1998 .....	1	2	3

***If you own all or part of this vessel please go on to question number 6. Otherwise, please skip now to question number 7.***

6. To better protect the confidentiality of cost and revenue information about this vessel we need to collect information about other boats that you may own. Does the entity that owns this vessel, also own other fishing vessels? (*Circle one number*)

1 NO (*Skip to Question 7*)

2 YES



6a. For the other vessels, please give the USCG and state vessel ID and the vessel name.

USCG VESSEL ID    STATE VESSEL ID    VESSEL NAME

a. \_\_\_\_\_ b. \_\_\_\_\_

c. \_\_\_\_\_

d. \_\_\_\_\_ e. \_\_\_\_\_

f. \_\_\_\_\_

g. \_\_\_\_\_ h. \_\_\_\_\_

i. \_\_\_\_\_

7. For each state and federal limited access permit/license the vessel holds, please provide a description of the license and, if transferable, your estimate of its market value at the beginning of 1998. If you don't know the market value, please tell us by circling "Don't Know". For state permits, please indicate the issuing state.

DESCRIPTION	MARKET VALUE	
a. Groundfish limited entry permit	\$ _____	DON'T KNOW
b. State crab permit WA / OR / CA	\$ _____	DON'T KNOW
c. State shrimp permit WA / CA / OR	\$ _____	DON'T KNOW
Other (specify)		
d. _____	\$ _____	DON'T KNOW
e. _____	\$ _____	DON'T KNOW
f. _____	\$ _____	DON'T KNOW
g. _____	\$ _____	DON'T KNOW
h. _____	\$ _____	DON'T KNOW

**(PLEASE GO ON TO MAIN SURVEY)**

WEST COAST CATCHER VESSEL SURVEY

***Vessel Characteristics***

1. What is the maximum pounds of fish and live fish this vessel can safely deliver per trip?  
 a. \_\_\_\_\_ LBS. OF FISH                      b. \_\_\_\_\_ LBS. OF LIVE FISH

2. Please indicate whether or not the vessel has each of the following storage facilities:  
 (Circle one number for each)

	YES	NO
a. Freezer Hold .....	1	2
b. Live Fish/Crab Hold .....	1	2
c. Ice Hold .....	1	2
d. RSW .....	1	2

3. For each of the following activities, please give the average fuel consumption of the vessel per hour during 1998. If not applicable, please write "NA".

ACTIVITY	GALLONS PER HOUR
a. Trawling	
b. Crabbing	
c. Shrimping	
d. Steaming – fully loaded with fish	
e. Steaming – empty	

4. What was the starting date of this vessel's 1998 fiscal year?  
 (\_\_\_\_/\_\_\_\_/\_\_\_\_) (mm/dd/yy) STARTING DATE OF 1998 FISCAL YEAR

5. If the vessel's fiscal year changed in 1997, 1998 or 1999, please check this box .

6. What was the most recent survey value (fair market value) of this vessel, rounded to the nearest 100 dollars, and survey date?

6a. US \$ \_\_\_\_\_ SURVEY VALUE                      6b. (\_\_\_\_/\_\_\_\_/\_\_\_\_) (mm/dd/yy) DATE OF SURVEY

7. Does the survey value shown above reflect the value of permits and moratorium qualifications associated with the vessel at the time of the survey? (Circle one number)

- 1 YES
- 2 NO

8. What was the insured value, rounded to the nearest 100 dollars, of this vessel and all on-board equipment in fiscal year 1998, excluding permits and licenses?

US \$ \_\_\_\_\_ 1998 INSURED VALUE

(PLEASE TURN THE PAGE)

## ***Expenditures***

9. For each of the expense categories below, first provide the total annual expenditures for fiscal year 1997 and then the amount attributable to each month. Then provide this information for 1998. Please record the information in the month that the cost was incurred. If you were ***not active*** during a month, please circle that month. If you do not maintain an expenditure category by month please provide those expenditures that are tracked monthly. Round all answers to the nearest 100 dollars.

<b>FISCAL YEAR 1997 EXPENSE CATEGORY</b>	<b>TOTAL</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>
a. Fishery permit leasing and catch quota purchases					
b. Payments to skipper (including bonuses and payroll taxes but excluding benefits and insurance)					
c. Crew wages/crew shares (including bonuses and payroll taxes but excluding benefits and insurance)					
d. Fuel and lube					
e. Landing taxes paid					
f. Ice					
g. Food and provisions					
h. Bait					

<b>FISCAL YEAR 1998 EXPENSE CATEGORY</b>	<b>TOTAL</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>
a. Fishery permit leasing and catch quota purchases					
b. Payments to skipper (including bonuses and payroll taxes but excluding benefits and insurance)					
c. Crew wages/crew shares (including bonuses and payroll taxes but excluding benefits and insurance)					
d. Fuel and lube					
e. Landing taxes paid					
f. Ice					
g. Food and provisions					
h. Bait					

**(GO ON TO NEXT PAGE)**

Question 9 - continued.

1997 continued								
MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	

1998 continued								
MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	

10. Please provide the total **capitalized expenditures** associated with each of the following categories for this vessel for fiscal years 1997 and 1998. Round all answers to the nearest 100 dollars.

CAPITALIZED EXPENDITURE	1997 (US\$)	1998 (US\$)
a. Purchases of fishery permits and licenses (capitalized)		
b. Fishing gear (nets, net electronics, doors, cables, etc.)		
c. Expenditures on vessel and on-board equipment (other than fishing gear)		
d. Other capital expenditures related to vessel operations		

11. In the table below, please provide the total expenses associated with the following categories for fiscal years 1997 and 1998. **Do not include expenditures that were expenses listed in question 9 (pages 2 and 3) or capitalized above in question 10.** Round all answers to the nearest 100 dollars.

EXPENSE CATEGORY	1997 FISCAL YEAR EXPENSES (US\$)	1998 FISCAL YEAR EXPENSES (US \$)
a. Lease expenses for this vessel and all on-board equipment		
b. Repair and maintenance expenses for vessel and equipment (including shipyard accrual and purchases of parts and equipment that were expensed in each fiscal year)		
c. Fishing gear leases, repairs and purchases fully expensed in each fiscal year (e.g., nets, net electronics, doors, cables, etc.)		
d. Insurance (vessel insurance, P&I, and other insurance associated with operation of the vessel)		
e. Recruitment, travel, benefits and other employee related costs (excluding food and provisions and other employee expenses included in question 9)		
f. General and Administrative (including professional services and management fees)		
g. CCF contributions		
h. Income taxes associated with this vessel		
i. Interest payments associated with this vessel		
j. Depreciation and amortization		
k. All other expenses associated with this vessel not included in questions 9 or 10 above		

(GO ON TO NEXT PAGE)

## ***Fishery Participation and Revenues***

12. During either 1997 or 1998, did this vessel participate in fisheries that were not West Coast fisheries? (*Circle one number*)

1 NO (*Skip to Question number 13*)

YES

→ 12a. Please tell us the location of these non-West Coast fisheries and give the beginning and ending dates (mm/yy) in which you were active in these fisheries. Also provide revenue estimates (rounded to the nearest 100 dollars) and typical crew size (including skipper).

Fishery Name/Location	Start date (mm/yy)	End date (mm/yy)	Landings Revenue (US\$)	Typical crew
a.	/	/		
b.	/	/		
c.	/	/		
d.	/	/		

13. For each fishery in which this vessel participated in 1998, please provide the typical trip length in days and the typical crew size (including skipper).

1998	Typical Trip days	Typical Crew Size
a. Whiting shoreside		
b. Whiting at-sea		
c. DTS		
d. Slope Rockfish		
e. Shelf Rockfish		
f. Near shore flatfish		

1998	Typical Trip days	Typical Crew Size
g. Crab		
h. Shrimp		
Other (specify)		
i.		
j.		
k.		

14. Excluding revenues for which there is a West Coast fish ticket and revenues reported in question 12, please give the total amount of revenue received in fiscal years 1997 and 1998 (rounded to the nearest 100 dollars) for each of the following categories for this vessel:

Revenue Category	1997 (\$)	1998 (\$)
a. Income derived from leasing of permits or catch rights normally associated with this vessel (exc. fish tickets)		
b. All other income derived from other vessel operation (e.g., tendering, charters)		

(PLEASE TURN THE PAGE)

**Other**

15. Please give the total dollar amount of gear lost in 1997 by gear type and then the dollar amount lost in each month. Record lost gear value in the month of loss, not the month of replacement. Give this same information for 1998.

<b>1997</b>	<b>Value of Gear Lost</b>					
<b>Gear Type</b>	<b>TOTAL</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>
a. Trawl						
b. Pot						
c. Net						
d. Line						
e. Other						

<b>1997 continued</b>		<b>Value of Gear Lost</b>				
<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>

**Question 15 continued.**

<b>1998</b>	<b>Value of Gear Lost</b>					
<b>Gear Type</b>	<b>TOTAL</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>
a. Trawl						
b. Pot						
c. Net						
d. Line						
e. Other						

<b>1998 continued</b>		<b>Value of Gear Lost</b>				
<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>

(GO ON TO NEXT PAGE)

16. In the table below, please estimate your average monthly per gallon fuel prices in 1998 for this vessel.

1998	Estimated price per gallon of fuel					
	JAN	FEB	MAR	APR	MAY	JUN
Price/gallon of Fuel						

1998 continued	Estimated price per gallon of fuel					
	JUL	AUG	SEP	OCT	NOV	DEC
Price/gallon of Fuel						

17. Does this vessel use a crew share system to pay its crew? (*Circle one number*)

1 NO (*Please turn the page*)

2 YES



17a. In the West Coast groundfish fisheries, which of the following expenses were subtracted from your total revenues (gross stock) before calculating the crew share? (*Circle one number for each*)

	NOT <u>DEDUCTED</u> <u>DEDUCTED</u>	
a. Fuel and Lube .....	1	2
b. Food .....	1	2
c. Fish landings taxes .....	1	2
d. Other (specify) _____	1	2
e. Other (specify) _____	1	2

17b. In the West Coast groundfish fisheries, what percentage of the net share (gross stock minus the expenses indicated above in 17a) goes to:

- a. Boat share ..... \_\_\_\_\_%
- b. Crew share (including skipper) ..... \_\_\_\_\_%

**(PLEASE TURN THE PAGE)**

Thank you for your time and cooperation. Please feel free to provide comments about the survey below. To help us understand problems you may have had with the questions and to help us collect this information in the future more easily and efficiently, let us know which questions were particularly troublesome.

Alternatively, if you have questions about the survey and would like to talk to me directly please feel free to call me at (206) 526-4251 or toll-free at (888) 421-4251. I can also be reached via e-mail at [dave\\_colpo@psmfc.org](mailto:dave_colpo@psmfc.org).

In the event that the return envelope has been lost or misplaced, the completed survey and comments can be returned to me at:

Dave Colpo  
7600 Sand Point Way NE. - Building 4  
Seattle, WA 98115-0070

It is very important that you understand that this is a voluntary survey. Notwithstanding any other provision of the 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.

The OMB Control Number for this survey is OMB Control No. 0648-0369 and Expiration Date is 07/31/2009.

While this is a voluntary survey, this information is needed to respond to requirements of the Magnuson-Stevens Fishery Conservation and Management Act. In accordance with Section 402(b), the Regulatory Flexibility Act and NOAA Administrative Order 216-100, "Confidentiality of Fishery Statistics", any information submitted to NMFS by any person in response to this survey shall be considered confidential and shall not be disclosed except to: (1) federal employees and council employees who are responsible for fishery management plan development and monitoring; (2) state employees pursuant to an agreement with the Secretary of Commerce that prevents public disclosure of this information; or (3) when required by court order.

Public burden for this collection of information is estimated at 2 hours per survey, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the survey. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestion for reducing the burden, to: Dave Colpo, Pacific States Marine Fisheries Commission, 7600 Sand Point Way NE, Bldg. 4, Seattle, WA 98115-0070.

**(THANK YOU FOR YOUR COOPERATION)**

## **Instructions for West Coast Catcher Vessel Survey**

These surveys are designed to collect information on individual vessels even if this vessel is part of a larger company. While the first year of the surveys is focussing on the groundfish limited entry trawlers, information on all aspects of your operation, not just trawling for groundfish, is being requested. For example, if, besides trawling for groundfish, you also fished for crab in 1997 or 1998, information about this harvest is essential and should be reported. The intent is to enable analysts to evaluate all activities of a vessel as a stand-alone entity. If this vessel is part of a larger company with multiple vessels or other operations we request that you report in the survey only costs and revenues that are clearly allocable to this vessel. If this vessel is part of a larger company, surveys have also been sent to the other vessels.

This survey is divided into 5 separate components: Vessel Identification, Ownership and Permit Information section, a Vessel Characteristics section, an Expenditures section, a Fishery Participation and Revenues section and finally an 'Other' section. These sections are described below.

### **Vessel Identification, Ownership and Permit Information Section**

The first component is on the loose double-sided sheet. This single sheet identifies you and the vessel about which you are providing information. As noted in the cover letter, this sheet should be returned with the survey booklet and will be retained by my office. This section includes questions about the physical attributes of the vessel, the company that operated it in 1997 and 1998, permits held as well as contacts information in case we have questions about your responses.

Question 3 on page 1 sometimes has more than one value for an entry. For instance, we may have 2 different gross registered ton values for this vessel. This usually comes from having a conflicting numbers in the Coast Guard and Washington, Oregon and California registration files. When this happens, we provide all values. Please circle the correct value listed or if both values are incorrect please provide the correct value.

### **Vessel Characteristics Section**

This section starts on the first page of the survey booklet. This section has questions on some of the operating characteristics of the vessel as well as information about the value of the vessel in 1998.

### **Expenditures Section**

The Expenditures section of the survey starts on page 2 of the booklet. The first table is a 2-page table on pages 2 and 3. This table asks for annual and monthly information on 7 different expenditure categories. It is important that this cost information be provided in the month that the cost was incurred, which may not necessarily be the month in which the cost was actually paid. Providing a monthly breakdown of these costs allows analysts to more closely track the expenditures you incurred with the activity for that month as shown on your fishtickets. Finally, if you were not active in a month, please indicate this by circling the appropriate month.

Page 4 has a table for capital expenses and one for other expenses. We ask that you separate out capital expenditures from other expenses in the same way that you do for accounting purposes so that the total expenses listed in the survey will be in accord with your own financial records. For both capital expenditures and expenses we request the total expenditures for the fiscal year. These 3 expenditure tables were written such that there should be no overlap between the data in these tables.

The Fishery Participation and Revenues section starts on page 5 of the booklet. This section asks for information in which fisheries, West Coast and other, you were active. In addition, questions about average crew size, day of trip length and revenues from non-West Coast fisheries are asked.

### **Other section**

This last section starts on page 6. There are 2 tables and a question in this section. The first table asks about information on the value of lost gear. This question pertains to all fishing gear lost by this vessel in 1997 or 1998, not just trawl related losses. As with the cost questions above, please report gear losses in the month that they occurred not the month you replaced the gear. The second table of this section asks about fuel prices in 1998. This information will allow analysts to track trends in fuel prices over time. The Commission is currently collecting this information, but that effort did not start until this year. The final question of this section pertains to crew shares and the formula used to calculate them.

It is very important that you understand that this is a voluntary survey. Notwithstanding any other provision of the 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.

The OMB Control Number for this survey is OMB Control No. 0648-0369; Expiration Date: 07/31/2009. While this is a voluntary survey, this information is needed to respond to requirements of the Magnuson-Stevens Fishery Conservation and Management Act. In accordance with Section 402(b), the Regulatory Flexibility Act and NOAA Administrative Order 216-100, "Confidentiality of Fishery Statistics", any information submitted to NMFS by any person in response to this survey shall be considered confidential and shall not be disclosed except to: (1) federal employees and council employees who are responsible for fishery management plan development and monitoring; (2) state employees pursuant to an agreement with the Secretary of Commerce that prevents public disclosure of this information; or (3) when required by court order.

Public burden for this collection of information is estimated at 2 hours per survey, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the survey. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestion for reducing the burden, to: Dave Colpo, Pacific States Marine Fisheries Commission, 7600 Sand Point Way NE, Bldg. 4, Seattle, WA 98115-0070.

August 30, 1999

{Name}  
{Company Name}  
{Address}  
{City, State, Zip}

{Dear:}

Within the next week you will receive a request to complete a questionnaire we are conducting of West Coast limited entry groundfish trawlers. This survey will be used to collect cost, earnings and employment information about your vessel. This information will help us gain a better understanding of how various factors can affect the value of the fishery and will provide valuable input into the management decision making process.

The Pacific States Marine Fisheries Commission is administering this survey under a cooperative agreement with the National Marine Fisheries Service. This work is being done in accordance to the West Coast Economic Data Collection Plan adopted jointly by the Pacific Fishery Management Council and the Commission. In addition, the people and organizations whose names and logos appear below support this effort.

I am writing to let you know ahead of time that you will be contacted to participate in the study. I would greatly appreciate your taking the time to complete and return the questionnaire.

Thanks in advance for your help.

Sincerely,

Dave Colpo  
Program Manager



Washington  
Department of  
**FISH and  
WILDLIFE**



Ralph Brown,  
PFMC

August 30, 1999

{Name}  
{Company Name}  
{Address}  
{City, State, Zip}

{Dear:}

As a participant of the West Coast groundfish fisheries, you know the economic importance of these fisheries. However, the ability to conduct economic analyses for management purposes is limited by a lack of data. For this reason, the Pacific States Marine Fisheries Commission, under a cooperative agreement with the National Marine Fisheries Service, is developing an economic program to gather this data. The purpose of this survey is to gather information needed to assess the economic effects of fisheries management decisions on the industry and for assessments of community income impacts and regulatory burden.

As a limited entry groundfish trawler, we are asking that you please provide needed cost, earnings and employment information about your operation. While this is a voluntary survey, these analyses are needed to respond to the requirements of the Magnuson Fishery Conservation and Management Act, the Regulatory Flexibility Act, the National Environmental Policy Act, and Executive Order 12866 on Regulatory Planning and Review. This survey is being conducted pursuant to the West Coast Economic Data Collection Plan adopted jointly by the Pacific Fishery Management Council and the Commission.

You may be assured of complete confidentiality of the data you provide. The attached letter, written by NOAA/NMFS explains their confidentiality policies. In addition, your questionnaire has an identification number for mailing purposes only. This is so that we may check your name off the mailing list when your questionnaire is returned. Your name will never be placed on the questionnaire itself. In addition, the information that identifies you and your vessel is collected on a single sheet, separate from the survey booklet. When you return your questionnaire this sheet will be removed and retained by my office. The surveys will be delivered to Oregon State University Survey Research Center for data entry.

I have included 2 pamphlets that provide more information about this program as well as the survey itself. If you have any questions about this program please feel free to contact me at (206) 526-4251 or toll-free at (888) 425-4251.

Thank you very much for your assistance.  
Sincerely,

Dave Colpo  
Program manager

August 30, 1999

{Name}  
{Company Name}  
{Address}  
{City, State, Zip}

{Dear:}

This letter was prepared to explain National Marine Fisheries Service (NMFS) and National Oceanic and Atmospheric Administration (NOAA) policies regarding the protection of confidential data. This includes data submitted in response to the voluntary Cost, Earnings and Employment Survey being undertaken by the Pacific States Marine Fisheries Commission in cooperation with NMFS Northwest Region.

Protecting the confidentiality of proprietary data provided to the NMFS is not only required by Federal statute and regulation, it is critical to NMFS efforts to obtain the data required to meet its fishery conservation and management responsibilities. NMFS collects and maintains a wide variety of confidential data and has been successful both in preventing unauthorized access to data and in protecting confidential data from release under Freedom of Information Act (FOIA) requests.

It is NOAA's position that the information submitted in the Cost, Earnings and Employment Survey will be treated as confidential and will be protected from FOIA requests by Exemption 4 of FOIA. Under NOAA policy on confidential data, only the results of the survey, aggregated at a level that will not compromise individual confidentiality, will be reported to the public. The basis for this position is presented below.

Exemption 4 states that information which is: 1) commercial or financial; and 2) privileged or confidential is generally exempt from disclosure. Commercial or financial information specifically includes business sales statistics, profit and loss data, overhead and operating costs, and information on financial conditions. Commercial or financial information is considered confidential for purposes of Exemption 4 if the disclosure of the information is likely to: 1) impair the government's ability to obtain necessary information in the future; or 2) cause substantial harm to the competitive position of the person submitting the information. It is NOAA's position that both of these conditions are met by the Cost, Earnings and Employment Survey data.

Additional protection may be provided to the Cost, Earnings and Employment Survey data because it will be submitted voluntarily. In Critical Mass Energy Project v. Nuclear Regulatory Comm'n, 975 F.2d 871 (D.C. Cir 1992) (en banc), the court ruled that Exemption 4 protects any commercial or financial information voluntarily supplied to the government if the information is of a kind that the provider would not customarily release to the public. It is NOAA's position that this conditions is met for the Cost, Earnings and Employment Survey data. NMFS has implemented a series of controls to protect the identity of submitters of confidential data. The control system for a particular region is described in a Regional Data Security Handbook maintained by each region's Data Base Administrator (RDBA). Specifically it:

- (1) Identifies those persons who have access to statistics/data files on a named basis and under what conditions;
- (2) Contains procedures to limit access to confidential data to authorized users on a "need to know basis;" and

- (3) Provides for safeguarding the data through user and password restrictions that govern access to databases. Source data (e.g., paper records) are maintained under lock and key until no longer needed; then they are burned or shredded.

This system requires that all persons who have authorized access to the data be informed of the confidentiality of the data. These persons are required to sign and file with the regional RDBA a statement of non-disclosure that includes statements that they:

- (1) Have been informed that the data are confidential; and
- (2) Have reviewed and are familiar with the procedures to protect confidential statistics
- (3) Are aware of the penalties for violation of the non-disclosure statement

Persons having access to these data are prohibited from unauthorized use or disclosure, and are subject to the civil and criminal penalty provisions of 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NOAA Administrative Order 216-100.

NMFS realizes that the data collected through the Cost, Earnings and Employment Survey is particularly sensitive. Authorized access to this data will be strictly limited and all necessary precautions will be taken to assure that the data is secure from unauthorized access.

With your cooperation, we believe that the Cost, Earnings and Employment Survey will provide information that is critical for improving our ability both to measure the economic importance of the West Coast groundfish fisheries and to determine the economic effects of fishery management decisions. Therefore, we encourage you to participate in the survey.

Please contact one of us if you want additional information about the confidentiality of the survey data.

Sincerely,

Randy Fisher

William W. Stelle, Jr.

Usha S. Varanasi

August 30, 1999

{Name}  
{Company Name}  
{Address}  
{City, State, Zip}

{Dear:}

About 3 weeks ago a questionnaire seeking cost, earnings and employment information for your vessel was mailed to you. If you have already completed and returned the questionnaire to us, please accept our sincere thanks. If not, please do so today. We are especially grateful for your help, as this information is important to West Coast fisheries analysts and managers.

If you did not receive a questionnaire, or if it was misplaced, please call me at (206) 526-4251 or toll-free at (888) 421-4251 and we will send you a new copy.

Sincerely,

Dave Colpo  
Pacific States Marine Fisheries Commission  
7600 Sand Point Way NE, Building 4  
Seattle, WA 98115-0070

August 30, 1999

{Name}  
{Company Name}  
{Address}  
{City, State, Zip}

{Dear:}

About 5 weeks ago we wrote to you asking for information about your fishing operation. As of today, we have not received your completed questionnaire. We realize that you may not have had time to complete it. However, we would genuinely appreciate hearing from you.

This work is being done to help provide the Pacific Fishery Management Council, its analysts and the analysts of the National Marine Fisheries Service with important cost, earning and employment information. In order for the results of the study to be useful, it is essential that each person make every effort to return a completed survey.

In the event that your questionnaire has been misplaced, a replacement is enclosed. I would be happy to answer any questions you may have about this work. Please write or call me at (206) 526-4251 or toll-free at (888) 421-4251.

Sincerely,

Dave Colpo  
Program Manager

**List of Potential Questions Catcher and Charter Vessels**

- Date surveyed completed.
- Name, title (owner, lessee, captain, etc.) of person(s) completing survey.

**Question 1. Vessel Characteristics**

- What is the vessel's US Coast Guard ID?
- What is the vessel's state ID?
- What is the vessel's name?
- What is the vessel's hull type?
- What is the vessel's gross tonnage?
- What is the vessel's net tonnage?
- What is the vessel's length overall?
- What is the vessel's registered length?
- What is the vessel's beam?
- What is the vessel's fuel capacity?
- What type of fuel does the vessel use?
- What type of propulsion does the vessel use?
- For main and auxiliary engines:
  - What is the make/model?
  - What is the horsepower?
  - How old is each piece of equipment?
  - What was the cost of each engine?
  - What is the remaining expected useful life?
  - When was the last complete overhaul?
  - What is the expected replacement cost?
- What type(s) of equipment, e.g., electronics, gear-mounted electronics, deck gear, fishing gear (both on land and in the water (soaking) and including bycatch reduction devices), refrigeration, does this vessel have on board? For each item or category,
  - What was the total or average cost and quantity of equipment purchased this year?
  - What is the value and quantity of existing equipment (purchased in previous years)?
  - What is the remaining expected useful life of this equipment?
  - What is the expected replacement cost of this equipment?
  - Describe usage (hours used per day, percentage of time used, etc.).
- What was the purchase price of this vessel?
- In what year was this vessel built?
- In what year was this vessel purchased?
- What is the remaining expected useful life of this vessel as a fishing vessel?
- What is the homeport for this vessel?
- In which port was the majority of vessel maintenance done?
- In what year was the last major structural modification made to this vessel?
  - What was that modification?
  - Where was this work done?
  - How often do you pull your vessel out of the water (drydock)?
  - How many days was the vessel in drydock?
- Which of the following storage capabilities does the vessel have? What is its capacity?
  - Ice
  - Freezer
  - Live Fish Hold
  - Refrigerated Sea Water
  - Fish Meal
- What types of processing equipment are available on board this vessel?
  - What is the make of each type?
  - What is the model of each type?
  - How many is there of each type?
  - How old is each type?
  - What is the expected remaining useful life of each type?
- Does this vessel use an automatic baiter?
  - If yes, what is the make?
  - If yes, what is the model?
  - If yes, what is the remaining expected useful life of this equipment?

- Without major structural modifications:
  - What type(s) of fishing gear is the vessel readily able to use?
  - How much of each type of fishing gear can the vessel readily use?
- How many berths does this vessel have?
- Does this vessel have an open deck or closed deck?

### Question 2. Ownership

- Type (e.g., Sole Proprietor, Corporation)
- Who is the primary owner of the vessel?
  - Please provide contact information for this individual and percentage of vessel owned
- Who is the primary contact regarding this vessel's operations in the event we need to contact him/her for further information?
  - Please provide contact information for this individual.
- Is this vessel owned or leased by the operator?
  - If owned, indicate percentage owned.
- Does a management company run this vessel?
  - If yes, please provide contact information for this company.
  - If yes, is the management company independent of the vessel-owning company?
- Is this vessel owned by a company that owns other vessels?
  - Identify other vessels owned.
- Is this vessel owned by a company that owns processing plants?
- How much time does the owner(s) spend fishing commercially or participating in commercial fishing activities?
- Does the vessel owner participate in the Capital Construction Fund program using revenues from this vessel?
- Does the vessel owner participate in the Fishing Vessel Obligation Guaranty program with this vessel?

### Question 3. Capital Costs

- The following questions deal with the long-term debt position associated with this vessel in year X:
  - At the beginning of year X, what was the total debt?
  - What new debt was incurred during year X?
  - What were the total amount of principal payments made in year X?
  - What were the total amount of interest payments made in year X?
  - If this vessel is owned, what were the total debt/interest expenses in period x?
  - If this vessel is leased, what were the total lease payments in period x?
  - What were the vessel's depreciation costs in period x including all gear and equipment?
  - What is the book value of the vessel including all gear and equipment?
  - What is the estimated market value of the vessel including all gear and equipment?
  - What is the estimated market value of the electronic equipment on this vessel?
  - What is the estimated market value of the fishing gear for this vessel?
  - What is the estimated market value of the processing equipment on this vessel?
  - Does this vessel have any limited access permits/licenses or quota shares attached to it? Y N
    - ♦ If yes, what is the estimated market value of each type of licenses/shares attached to this vessel?
  - If you lease limited entry permits:
    - ♦ How much was spent to lease permits?
    - ♦ For how long did you lease the permit in year X?
    - ♦ For which particular fisheries are you leasing the permit?
  - If you own limited access permits:
    - ♦ When did you purchase these permits and what was their purchase price?
    - ♦ What is the estimated current market value of each type of permits/licenses/shares attached to this vessel?
    - ♦ How likely are you to sell your limited access permit if a buyback program were offered?  
Very Likely \_\_ Likely \_\_ Not Likely \_\_ Not at all \_\_ Not sure \_\_
    - ♦ If you were interested in selling your permit, what would be a fair price for your permit?
    - ♦ If you were interested in selling your permit, what is the minimum amount you would accept for your permit?
  - What is the maximum percent of your West Coast ex-vessel revenues would you be willing to pay to fund a buyback program?  
0% \_\_ 1% \_\_ 2% \_\_ 3% \_\_ 4% \_\_ 5% \_\_
  - What is the minimum amount you would accept for a 1-year lease of each of type of permits/license/shares?
  - Is there any other capital with a replacement cost greater than \$x owned by or associated with this vessel?
    - ♦ If yes, what is it?
    - ♦ If yes, what is the estimated market value of each type of capital?

#### Question 4. Annual Operating Costs

- Total (fixed and variable) business expenses reported on tax return for this period.
- Does this company use an accounting service?
  - If yes, please provide the contact information.
- Does this company use a bookkeeping service?
  - If yes, please provide contact information.
  - In the future would you be willing to allow your accounting or bookkeeping firms to release cost/earnings data to us as an alternative to completing a survey?
- How much was spent during the year on each of the following cost categories in year X:
  - overhead expense: including association dues, professional fees (legal, financial, accounting, etc.), office expenses
  - permit and license fees
  - taxes: fishery landing/business taxes; federal, state or local income taxes or income tax rates; property tax; payroll tax
  - insurance: hull; protection and indemnity (P&I); health or medical; vehicle; other
  - routine vessel and equipment maintenance (not including fishing gear)
  - non-routine maintenance (i.e., major overhauls, new engine, refittings)
  - management salaries or fees
  - gear loss and maintenance
  - vessel moorage or storage or gear storage associated with this vessel
  - catch storage
  - travel or relocation expenses
  - other shore costs (e.g., vehicle or trailer expense, property leases)
  - other fixed costs (please give only the total amount for other fixed costs but list below the components of that total)
- If this vessel has a west coast homeport and was active in Alaska or has an Alaskan homeport and was active on the west coast, what was the cost of transporting the vessel from homeport to the fishing grounds?

#### Question 5. Operating Costs

- By fishery/region per period/unit of product and associated with this vessel:
  - What were the price, quantity, unit size, and/or cost of:
    - ◆ fuel/lubricant?
    - ◆ bait?
    - ◆ light sticks?
    - ◆ salt?
    - ◆ ice costs and quantities?
    - ◆ water costs?
  - What were the costs of
    - ◆ food?
    - ◆ supplies?
    - ◆ handling, including loading and unloading, transportation, grading, packaging?
    - ◆ transshipment?
    - ◆ settlement fees?
    - ◆ waste disposal?
    - ◆ communication?
    - ◆ onboard processing costs?
  - If observers were carried on board, what were the observer costs?
- In period x, was more than one type of fishing gear used on this vessel?
  - If yes, how much did each gear change cost?
- How was each position paid? (e.g., salaries, hourly, crew share)
  - If a crew share system was used, please describe it.
  - What were the payments to a hired skipper?
  - What were the payments to an owner acting as skipper?
  - What were the payments to crew (not including skipper)?
  - What were other payments to labor?
  - What were the benefit costs to labor?
  - What were the costs of employee transportation?
  - What were labor recruitment costs?

#### Question 6. Effort/Gear Descriptors

- Please indicate the number of days in year X the vessel spent in each of the following activities:
  - at sea and active in fishing
  - at sea in transit

- in port for maintenance, set-up or routine layovers
- in port laid up due to lack of economically viable fishing opportunities
- By fishery/season/zone:
  - Number of trips, days at sea
  - what was the pre-season set-up time?
  - what were the revenues (including post-season settlements)?
- For each of the gear/fishery combinations in which this vessel was active:
  - how many days were spent away from port/at sea in an average period?
  - how many days were spent fishing in an average period?
  - how many days were spent searching in an average period?
- For a typical species/gear combination trip:
  - how long is the typical trip in days?
  - what constitutes a typical crew, by position?
  - what is the break-even revenue for a trip?

**Question 7. Catch/Revenue**

- Did this vessel participate in any {specify region} commercial fisheries in period x?
  - If yes, in which fishery(ies)?
  - If yes, what were the landing amounts by species?
  - If yes, what time of the year were these landings made?
  - If yes, what was the catch quality and condition by species?
  - If yes, what was the quantity discarded?
  - If yes, what was the weighback?
  - If yes, what were the revenues received from these landings by species and grade?
- Did this vessel receive any post-season settlements in period x?
  - If yes, what was the approximate value of the settlement(s) received?
  - If yes, what was the species and weight of fish associated with each settlement(s)?
  - If yes, what time of was year the catch was landed?
- In addition to what was paid for the fish, were goods or services received for deliveries made by this vessel in period x?
  - If yes, what type(s) of goods/services were received?
  - If yes, what was the approximate value of the goods/services received?
- Excluding the fishing income related to the {specified region} landings, was there any other fishing related income in period x associated with this vessel?
  - If yes, from what general area was the fish associated with this revenue caught?
  - If yes, what was the time of year?
  - If yes, approximately how much revenue was received from these sources?
  - If yes, what were the sources of this income?
  - If yes, what was the catch quality and condition by species?
  - If yes, what was the quantity discarded?
  - If yes, what was the weighback?

**Question 8. Opportunity Cost**

- For each fishery and period in which the vessel participated during period x, what would have been the next best possible use of the vessel and how would that have affected profitability?

**Question 9. Regional Impact**

- For each of the following cost categories please specify the vessel's total annual expenditures; the percentage expended locally (in the county of the vessel's homeport); the percentage expended in state but outside the county of the vessel's homeport; the percentage expended in region (e.g., Northeast, Mid Atlantic Southeast, Gulf, West Coast, Alaska); the percentage expended in other US states; and the percentage expended abroad. For crew members, consider the expenditure to be made in the crewmember's county of residence.

**Example for West Coast vessel:**

Total expenditures in:

	<u>Home county/port</u>	<u>AK</u>	<u>WOC</u>	<u>Home state Other US</u>	<u>non-US</u>
Vessel/Engine Repair/Replacement					
Gear Repair/Replacement					
Fuel/lubricant					
Food and Supplies					
Ice and Bait					
Crew Share					
Fishery Business or Landings Taxes					

Dues and Fees  
Insurance  
Interest Expense  
Licenses  
Packaging Materials  
Transportation  
Communication  
Moorage  
Miscellaneous

**Question 10. Labor/Employee/Family**

- For each fishery/season provide the positions employed, the average number of workers employed in each position and how that position was paid.
- For each skipper this vessel employed in period x, provide the name of the skipper and months s/he was employed.
- Employee demographics.
  - Name, birth date (age), and contact information.
  - Respondent's ancestry or ethnic origin: American Indian or Alaskan native (specify tribe); Asian (specify, e.g., Cambodian, Vietnamese, Korean); Native Hawaiian or other Pacific Islander (specify, e.g., Guamese, Native Hawaiian); Black or African American (black racial groups only) (specify country of ancestry, e.g., US, Haitian, South African, Ugandan); White (specify country of ancestry, e.g., Italian, Norwegian, Portuguese, Lebanese).
  - Is the respondent Hispanic or Latino (e.g. Mayan, Mexican, Guatemalan, Salvadoran)?
  - Language respondent speaks at home, i.e., English, Spanish, Portuguese, Vietnamese, Korean, Italian
  - Percentage of respondent's annual income from fishing and related industries, e.g., processing, packing, dealing, gear manufacture, etc.?
  - Household income or percentage of household annual income from fishing/fishing related activities, e.g., fishing, processing, packing, dealing, gear manufacture, etc.?
  - Does the respondent belong to any fishing related organizations?
    - ◆ If so which one (s)?
  - What is the highest degree or level of school the respondent has completed?
  - Marital status
  - Number of persons in household
  - Religion
  - Other types of employment engaged in other than fishing
  - Months usually engaged in other employment
  - Number of years respondent has fished commercially or in survey fishery
  - Crew only: How many captains has the respondent fished with over the last five years?
  - Captain only: Years of experience as captain; how many owners has the respondent fished for over the last five years?

**Question 11. Other**

- By fishery:
  - Over the past x years how have changes in fishing regulations affected utilization rates, product quality, catch per unit effort, percentage of time spent searching, percentage of time laid up, targeting strategies, fixed and variable costs, input configurations, crew compensation and turnover, vessel investments, your catch share?
- By fishery/gear/season if the season were extended by x days, would this vessel take part in the extended season?
  - If yes, in what activities would the vessel have otherwise been engaged if the season were not extended?
  - If yes, what would the expected gross and net revenues be for this additional period of fishing?
  - If yes, how would the ex-vessel price paid by processors be affected?
  - If yes, what would be the maximum number of additional days you would participate in this fishery/season if it were extended?
- By fishery/season, how would harvesting the same quantity of fish over a period x days longer than last season affect catch per unit effort, fish quality, and harvesting cost per metric ton of product?
- By fishery/season, how has harvesting fish over a period x days longer than another past season affected catch per unit effort, targeting strategies, fish quality, and harvesting cost per metric ton of product?
- If the same quantity of fish were landed over a period x days longer than the past season, how would utilization rates, product quality, and harvesting cost per metric ton of product be affected?
- Has this vessel participated in any Community Development Quota (CDQ) fisheries?
  - If yes, was monetary compensation paid to the quota holder?

- If yes, were quota holders given non-monetary compensation or considerations for the use of their quota, and if so in what form?
- If yes, what benefits/advantages did the use of a CDQ provide other than additional catch?
- If yes, did the vessel receive a higher price for fish caught under the CDQ than for fish caught in an open-access fishery?
- If yes, was the vessel obligated to take the entire CDQ contracted for?
- If yes, was the CDQ used to locate fish prior to a season opening?
- What measures do you use to assess the financial performance of the vessel?
  - On the basis of these measures, what has happened to performance over the past x year(s)?
  - If financial performance has changed, what are the primary reasons?
  - What changes in financial performance can be attributed to changes in fishing regulations?
- What measures of economic performance for the fishery, and fleet as a whole, would be useful in assessing relative performance over time?
  - What additional data (if any) not asked for in this survey might they require?
- Please list the fish buyers and processors for which this vessel fished on market orders in period x.
- Describe the types of contractual arrangement by which fish were supplied to each processor.
- Please indicate to which of the following this vessel sold its products in period x: independent processors, processors within the same company that owns the vessel, foreign buyers, restaurants, retailers, and consumers.
- What were the ex-vessel prices by species, grade and season?
- What were the estimated costs for each day spent fishing by season?

## Attachment E

OMB Control No. 0648-0369; Expiration Date: 07/31/2009

### List of Potential Questions for Shoreside Processors

- Date surveyed completed.
- Name of person(s) completing survey.

#### Question 1. Plant Characteristics

- What are the federal and state ID codes for this plant?
- What type(s) of processing equipment are available at the plant?
  - What is the make of each type?
  - What is the model of each type?
  - How many of each type?
  - What is the expected remaining useful life of each type?
- In what year was the plant purchased?
- In what year was this plant built?
- How much storage space for fish meal does the plant have?
- How much non-cold storage floor space does the plant have?
- What is the processing capacity of the plant by product/species in metric tons (or pounds) per period?
- What is the freezing capacity of the plant in metric tons of product per period?
- How many cubic feet of freezer storage does the plant have?
- Fishery participation:
  - What species are processed at this plant?
  - What products are produced in the plant?
- By product type, to which markets are products sold?
- What are the sources of fish product? (e.g., domestic vessel deliveries to the plant from the EEZ off the West Coast; fish landed on the West Coast by domestic fishing vessels and shipped to the plant from other parts of the West Coast area; domestic fish (fish delivered by domestic fishing vessels) shipped to the West Coast from outside the area; fish imported from outside the country; fish shipped in from outside the EEZ or Alaska)
- Does the plant have waterfront access for receiving fish?
- Do you process other products besides fish in these plants?

#### Question 2. Ownership

- Type (e.g., Sole Proprietor, Corporation)
- What is the name and contact information for primary owner of the plant?
- What is the name of the company that owns this plant?
- What is this company's main address?
- Who is the primary contact regarding this plants' operations in the event we need to contact him/her for further information?
- Please provide contact information for this individual.
- Is this plant owned or leased by the operator?
- Does a management company run this plant?
  - If yes, please provide contact information for this company.
- Do the owners of this plant also own catcher vessels?
  - If yes, please provide vessel identification.
- Is this plant owned by a company that owns catcher vessels?
- Is this plant owned by a company that owns other plants?
- How much time does the owner(s) spend processing commercially or participating in commercial processing activities?
- Does the plant employ buyers in other ports?
- Is the plant a processing facility or a buying station?

#### Question 3. Capital and Land Costs

- The following questions deal with the long-term debt position associated with this plant in year X:
  - At the beginning of year X, what was the total debt?
  - What new debt was incurred during year X?
  - What were the total amount of principal payments made in year X?
  - What were the total amount of interest payments made in year X?
  - If this plant is owned, what were the total debt/interest expenses in period x?
  - If this plant is leased, what were the total lease payments in period x?
  - What were the plant's depreciation costs in period x including all gear, equipment and land?
  - What is the book value of the plant including all gear, equipment and land?
  - What is the estimated market value of the plant including all gear, equipment and land?
  - What is the estimated market value of the processing equipment in this plant?

- What is the estimated market value of the land on which this plant sits?
- Does this plant have any limited access permits/licenses or quota shares attached to it?
  - ◆ If yes, what is the estimated market value of each type of licenses/shares?
- If you lease limited entry permits:
  - ◆ How much was spent to lease permits?
  - ◆ For how long did you lease the permit in year X?
  - ◆ For which particular fisheries are you leasing the permit?
- If you own limited access permits:
  - ◆ When did you purchase these permits and what was their purchase price?
  - ◆ What is the estimated current market value of each type of permits/licenses/shares?
  - ◆ How likely are you to sell your limited access permit if a buyback program were offered?  
Very Likely \_\_ Likely \_\_ Not Likely \_\_ Not at all \_\_ Not sure \_\_
  - ◆ If you were interested in selling your permit, what would be a fair price for your permit?
  - ◆ If you were interested in selling your permit, what is the minimum amount you would accept for your permit?
  - ◆ What is the maximum percent of your West Coast ex-vessel revenues would you be willing to pay to fund a buyback program?  
0% \_\_ 1% \_\_ 2% \_\_ 3% \_\_ 4% \_\_ 5% \_\_
  - ◆ What is the minimum amount you would accept for a 1-year lease of each of type of permits/license/shares?
- Is there any other capital with a replacement cost greater than \$x owned by or associated with this plant?
  - ◆ If yes, what is it?
  - ◆ If yes, what is the estimated market value of each type of capital?

#### Question 4. Annual Operating Costs

- Total (fixed and variable) business expenses reported on tax return for this period.
- Does this company use an accounting service?
  - If yes, please provide the contact information.
- Does this company use a bookkeeping service?
  - If yes, please provide contact information.
- In the future would you be willing to allow your accounting or bookkeeping firms to release cost/earnings data to us as an alternative to completing a survey?
- How much was spent during the year on each of the following cost categories in year X:
  - overhead expense including association dues, professional fees (legal, financial, accounting, etc.), office expenses
  - fishery landing/business taxes associated with this plant
  - income taxes
  - other taxes associated with this plant not including income taxes or fishery business taxes based on amount of fish landed (e.g., property taxes)
  - P&I associated with this plant
  - other insurance associated with this plant (not including P&I)
  - routine plant and equipment maintenance
  - non-routine maintenance (i.e., major overhauls, refittings)
  - management salaries or fees
  - other fixed costs (please give only the total amount for other fixed costs but list below the components of that total.
  - finished product storage
  - utilities
  - property taxes
- Did the plant lease licenses?
  - If yes, how much was spent to lease licenses (by fishery/gear/period)?
- Does this plant operate seasonally?
  - If yes, what was cost of opening plant?
  - If yes, how much lead time was required to hire crews, etc.?

#### Question 5. Operating Costs

- By fishery/region per period/unit of product and associated with this plant:
  - What were the payments to processing labor?
  - What were the salary payments to processing management?
  - What were the benefit costs to processing labor?
  - What were other payments to labor?
  - What were the costs of employee transportation?
  - What were labor recruitment costs?

- What were the fuel/lubricant costs and quantities?
- What were the plant's utility costs and quantities?
- What were the ice costs and quantities?
- What were the food costs?
- What were the water costs?
- What were the product additive costs and quantities?
- What were the packaging costs?
- What were the bait costs and quantities for each type of bait used?
- What were other supply costs?
- What were the total loading and unloading costs?
- What were the waste disposal costs?
- What were the communication costs?
- If observers were at the plant, what were the observer costs?
- What were shipping costs?
- What were the ex-vessel fish costs by species?
- In addition to what was paid for fish, did this plant provide any goods or services for deliveries in period x?
  - ◆ If yes, what types of goods/services did the company provide?
  - ◆ If yes, what was the approximate cost of the goods/services provided?
- Did the plant provide any post-season settlement(s) for fish deliveries?
  - ◆ If yes, what was the approximate amount of the settlement(s)?
- How was each position paid? (e.g., salaries, hourly, share system)
- How were processing labor costs calculated?
- Does this plant provide or subsidize room and board for employees?
  - ◆ If yes, what were the costs incurred for this room and board?
- For other labor only:
  - ◆ How much was spent in period x on non-management wages?
- How much was spent in period x on management salaries?
- How much was spent in period x on benefits?
- How much was spent in period x on other labor related costs?
- What were labor recruitment costs in period x?
- What were labor transportation costs in period x?

#### **Question 6. Effort**

- Please indicate the number of days in year X the plant spent in each of the following activities:
  - active in processing
  - shut down for maintenance
  - idle due to lack of <<economically viable>> processing opportunities?
- By fishery/season/zone:
  - what was the pre-season set-up time?
  - how many days were spent processing in an average period?
  - how many processing shifts were there per day?
  - what was the average length of each shift?

#### **Question 7. Revenue**

- What were the ex-processor quantities and prices by species, product form and quality/grade?
- What was the ex-processed value of product FOB {insert state, city, e.g., FOBALaska or FOB Seattle} by species, product form and quality/grade?
- On average what percentage of plant sales were written off as bad debt expense in period x?
- Did this plant have any other processing related revenue sources in period x?
  - If yes, what were they?
  - If yes, approximately how much annual revenue did the plant get from each source?
- In addition to what was paid for the fish, were goods or services provided for deliveries made to this plant in period x?
  - If yes, what type(s) of goods/services were provided?
  - If yes, what was the approximate value of the goods/services provided?

#### **Question 8. Opportunity Cost**

- For each fishery and period in which the plant participated during period x, what would have been the next best possible use of the plant and how would that have affected profitability?

#### **Question 9. Regional Impact**

- For each of the following cost categories please specify the plant's total annual expenditures; the percentage expended locally (in the county of the plant's homeport); the percentage expended in state but outside the

county of the plant's homeport; the percentage expended in region (e.g., Northeast, Mid Atlantic, Southeast, Gulf, West Coast, Alaska); the percentage expended in other US states; and the percentage expended abroad. For labor, consider the expenditure to be made in the laborer's county of residence. (This question will be presented in tabular format.)

**Example for West Coast vessel:**

Total expenditures in:

	Home <u>county/port</u>	<u>AK</u>	<u>WOC</u>	Home state <u>Other US</u>	<u>non-US</u>
Plant/Equipment Repair					
Fuel & Electric					
Food and Supplies					
Ice and Bait					
Processing wages					
Fishery Business or Landings Taxes					
Dues and Fees					
Insurance					
Interest Expense					
Licenses					
Packaging materials					
Transportation					
Communication					
Moorage					
Miscellaneous					

**Question 10. Labor/Employee/Family**

- For each fishery/season provide the positions employed, the average number of workers employed in each position and how that position was paid.
- Employee demographics.
  - Name, birth date (age), and contact information.
  - Respondent's ancestry or ethnic origin: American Indian or Alaskan native (specify tribe); Asian (specify, e.g., Cambodian, Vietnamese, Korean); Native Hawaiian or other Pacific Islander (specify, e.g., Guamese, Native Hawaiian); Black or African American (black racial groups only) (specify country of ancestry, e.g., US, Haitian, South African, Ugandan); White (specify country of ancestry, e.g., Italian, Norwegian, Portuguese, Lebanese).
  - Is the respondent Hispanic or Latino (e.g. Mayan, Mexican, Guatemalan, Salvadoran)?
  - Language respondent speaks at home, i.e., English, Spanish, Portuguese, Vietnamese, Korean, Italian
  - Percentage of respondent's annual income from fishing and related industries, e.g., processing, packing, dealing, gear manufacture, etc.?
  - Household income or percentage of household annual income from fishing/fishing related activities, e.g., fishing, processing, packing, dealing, gear manufacture, etc.?
  - Does the respondent belong to any fishing related organizations?
    - ◆ If so which one (s)?
  - What is the highest degree of level of school the respondent has completed?
  - Marital status
  - Number of persons in household
  - Religion
  - Other types of employment engaged in other than fishing
  - Months usually engaged in other employment

**Question 11. Other**

- By fishery:
  - Over the past x years how have changes in fishing regulations affected utilization rates, percentage of time laid up, product recovery rates, product quality and grades, product forms, fixed and variable costs, input configurations, crew compensation and turnover, plant investments, your processing share?
- By fishery/season:
  - If the season were extended by x days, would this plant take part in the extended season?
    - ◆ If yes, what activities would the plant be engaged in if the season was not extended?
    - ◆ If yes, what would the expected gross and net revenues be for this additional period of fishing?
  - If the season were extended by x days, how would the ex-vessel price paid to catcher boats be affected?
    - ◆ If yes, what would be the maximum number of additional days you would participate in this fishery/season if it were extended?

- If the same quantity of fish were landed and processed over a period x days longer than the past season, how would utilization rates, product quality, and processing cost per metric ton of product be affected?
- By fishery/season, how would processing the same quantity of fish over a period x days longer than last season affect product recovery rates, product quality, and processing cost per metric ton of product?
- By fishery/season, how has processing fish over a period x days longer than another past season affected product recovery rates, product quality, and processing cost per metric ton of product?
- Has this plant participated in any Community Development Quota (CDQ) fisheries?
  - ◆ If yes, was monetary compensation paid to the quota holder?
  - ◆ If yes, were quota holders given non-monetary compensation or considerations for the use of their quota, and if so in what form?
  - ◆ If yes, what benefits/advantages did the use of a CDQ provide other than additional catch?
  - ◆ If yes, was the plant obligated to take the entire CDQ contracted for?
  - ◆ If yes, did the plant pay a higher price for fish caught under the CDQ than fish caught in the open-access fishery?
  - ◆ If yes, did the plant receive a higher price for products produced from CDQ fish?
  - ◆ If yes, were products produced from CDQ fish of a different quality than those produce from non-CDQ fish of the same species?
  - ◆ If yes, was the recovery rate different for products processed from CDQ fisheries?
- What measures do you use to assess the financial performance of the plant?
  - ◆ On the basis of these measures, what has happened to performance over the past x year(s)?
  - ◆ If financial performance has changed, what are the primary reasons?
- What changes in financial performance can be attributed to changes in fishing regulations?
- What measures of economic performance for the fishery, and fleet as a whole, would be useful in assessing relative performance over time?
  - ◆ What additional data (if any) not asked for in this survey might they require?
- Please list the catcher boats that fished on contractual arrangements/market orders for this plant in period x.
  - ◆ Describe the types of contractual arrangement by which fish were supplied by each catcher boat.
- Please indicate to which of the following the plant sold its products in year X: independent wholesalers, other processors, marketing branch within the same company that owns the plant, foreign buyers, restaurants, retailers, consumers.
- What were the estimated recovery rates for each product by species and season?
- What were the estimated costs for each day spent processing by season?

## Attachment F

### List of Potential Questions Motherships

OMB Control No. 0648-0369; Expiration Date: 07/31/2009

- Date surveyed completed.
- Name of person(s) completing survey.

#### Question 1. Vessel Characteristics

- What is the vessel's US Coast Guard ID?
- What is the vessel's state ID?
- What is the vessel's name?
- What is the vessel's hull type?
- What is the vessel's gross tonnage?
- What is the vessel's net tonnage?
- What is the vessel's length overall?
- What is the vessel's registered length?
- What is the vessel's beam?
- What is the vessel's fuel capacity?
- What type of fuel does the vessel use?
- What type of propulsion does the vessel use?
- For main and auxiliary engines:
  - What is the make?
  - What is the model?
  - What is the horsepower?
  - How old is each engine?
  - What is the remaining expected useful life of each engine?
  - When was the last complete engine overhaul?
- What type(s) of electronic equipment does this vessel have on board?
  - What is the remaining expected useful life of this equipment?
- What is the vessel's hold capacity (in pounds of fish)?
- What is the remaining expected useful life of this vessel (as a fish processing vessel)?
- What was the purchase price of this vessel?
- In what year was this vessel built?
- In what year was this vessel purchased?
- What is the homeport for this vessel?
- In which port is the majority of vessel maintenance done?
- In what year was the last structural modification made to this vessel?
  - What was that modification?
  - Where was this work done?
- Which of the following storage capabilities does the vessel have?
  - Ice
  - Freezer
  - Live Fish Hold
  - RSW
  - Fish Meal
- What types of processing equipment are available on board this vessel?
  - What is the make of each type?
  - What is the model of each type?
  - How many is there of each type?
  - How old is each type?
  - What is the expected remaining useful life of each type?
- What is the total area and volume of the vessel's cold storage facilities?
- How much frozen product can the vessel hold?
- How much freezer storage space does the vessel have?
- How much non-cold storage volume does the vessel have?
- How much storage space does the vessel have for fish meal?
- What is the vessel's processing capacity by species/product per period (in metric tons or pounds)?
- For each product the vessel freezes, what is the freezing capacity of the vessel per period?
- What species are processed on board this vessel?
- What products are processed on board this vessel?
- To which markets are products sold?

## Question 2. Ownership

- Type (e.g., Sole Proprietor, Corporation)
- Who is the primary owner of the vessel?
  - Please provide contact information for this individual.
- Who is the primary contact regarding this vessel's operations in the event we need to contact him/her for further information?
  - Please provide contact information for this individual.
- Is this vessel owned or leased by the operator?
- Does a management company run this vessel?
  - If yes, please provide the contact information for this company.
  - If yes, is the management company independent of the vessel-owning company?
- Do the owners of this vessel also own catcher vessels?
  - If yes, please provide vessel identification.
- Is this vessel owned by a company that owns other vessels?
- Is this vessel owned by a company that owns processing plants?
- How much time does the owner(s) spend processing commercially or participating in commercial processing activities?
- Does the vessel owner participate in the Capital Construction Fund program using revenues from this vessel?
- Does the vessel owner participate in the Fishing Vessel Obligation Guaranty program with this vessel?

## Question 3. Capital Costs

- The following questions deal with the long-term debt position associated with this vessel in year X:
  - At the beginning of year X, what was the total debt?
  - What new debt was incurred during year X?
  - What were the total amount of principal payments made in year X?
  - What were the total amount of interest payments made in year X?
  - If this vessel is owned, what were the total debt/interest expenses in period x?
  - If this vessel is leased, what were the total lease payments in period x?
  - What were the vessel's depreciation costs in period x including all gear and equipment?
  - What is the book value of the vessel including all gear and equipment?
  - What is the estimated market value of the vessel including all gear and equipment?
  - What is the estimated market value of the electronic equipment on this vessel?
  - What is the estimated market value of the fishing gear for this vessel?
  - What is the estimated market value of the processing equipment on this vessel?
  - Does this vessel have any limited access permits/licenses or quota shares attached to it? Y N
    - ♦ If yes, what is the estimated market value of each type of licenses/shares attached to this vessel?
  - If you lease limited entry permits:
    - ♦ How much was spent to lease permits?
    - ♦ For how long did you lease the permit in year X?
    - ♦ For which particular fisheries are you leasing the permit?
  - If you own limited access permits:
    - ♦ When did you purchase these permits and what was their purchase price?
    - ♦ What is the estimated current market value of each type of permits/licenses/shares attached to this vessel?
    - ♦ How likely are you to sell your limited access permit if a buyback program were offered?  
Very Likely \_\_ Likely \_\_ Not Likely \_\_ Not at all \_\_ Not sure \_\_
    - ♦ If you were interested in selling your permit, what would be a fair price for your permit?
    - ♦ If you were interested in selling your permit, what is the minimum amount you would accept for your permit?
  - What is the maximum percent of your West Coast ex-vessel revenues would you be willing to pay to fund a buyback program?  
0% \_\_ 1% \_\_ 2% \_\_ 3% \_\_ 4% \_\_ 5% \_\_
  - What is the minimum amount you would accept for a 1-year lease of each of type of permits/license/shares?
  - Is there any other capital with a replacement cost greater than \$x owned by or associated with this vessel?
    - ♦ If yes, what is it?
    - ♦ If yes, what is the estimated market value of each type of capital?

#### Question 4. Annual Operating Costs

- Total (fixed and variable) business expenses reported on tax return for this period.
- Does this company use an accounting service?
  - If yes, please provide the contact information.
- Does this company use a bookkeeping service?
  - If yes, please provide contact information.
- In the future would you be willing to allow your accounting or bookkeeping firms to release cost/earnings data to us as an alternative to completing a survey?
- How much was spent during the year on each of the following cost categories in year X:
  - overhead expense including association dues, professional fees (legal, financial, accounting, etc.), office expenses
  - fishery landing/business taxes associated with this vessel
  - income taxes
  - other taxes associated with this vessel not including income taxes or fishery business taxes based on amount of fish landed (e.g., property taxes)
  - P&I associated with this vessel
  - other insurance associated with this vessel (not including P&I)
  - routine vessel and equipment maintenance (not including fishing gear)
  - non-routine maintenance (i.e., major overhauls, new engine, refittings)
  - management salaries or fees
  - gear loss
  - vessel moorage or storage or gear storage associated with this vessel?
  - other shore costs
  - other fixed costs (please give only the total amount for other fixed costs but list below the components of that total.
- Did the vessel lease licenses?
  - If yes, how much was spent to lease licenses (by fishery/gear/period)?
- If this vessel has a west coast homeport and was active in Alaska or has an Alaskan homeport and was active on the west coast, what was the cost of transporting the vessel from homeport the fishing grounds?

#### Question 5. Operating Costs

- By fishery/region per period/unit of product and associated with this vessel:
  - What were the payments to a hired skipper?
  - What were the payments to an owner acting as skipper?
  - What were the payments to crew (not including skipper)?
  - What were the benefit costs to crew?
  - What were the payments to processing labor?
  - What were the salary payments to processing management?
  - What were the benefit costs to processing labor?
  - What were other payments to labor?
  - What were the costs of employee transportation?
  - What were labor recruitment costs?
  - What were the fuel/lubricant costs and quantities?
  - What were the ice costs and quantities?
  - What were the food costs?
  - What were the water costs?
  - What were the product additive costs and quantities?
  - What were the packaging costs?
  - What were the bait costs and quantities for each type of bait used?
  - What were other supply costs?
  - What were the total loading and unloading costs?
  - What were the waste disposal costs?
  - What were the communication costs?
  - If observers were carried on board, what were the observer costs?
  - What were the ex-vessel fish costs by species?
  - In addition to what was paid for fish, did this vessel provide any goods or services for deliveries in period x?
    - ♦ If yes, what types of goods/services did the company provide?
    - ♦ If yes, what was the approximate cost of the goods/services provided?
  - Did the vessel provide any post-season settlement(s) for fish deliveries?
    - ♦ If yes, what was the approximate amount of the settlement(s)?
  - What were shipping costs?
  - In year X, was more than one type of fishing gear used on this vessel?

- ◊ If yes, how much did each gear change cost?
- How was each position paid? (e.g., salaries, hourly, crew share)
- How were processing labor costs calculated?
- If a crew share system was used, please describe it.
- For other labor only:
  - ◊ How much was spent in period x on non-management wages?
  - ◊ How much was spent in period x on management salaries?
  - ◊ How much was spent in period x on benefits?
  - ◊ How much was spent in period x on other labor related costs?
  - ◊ What were labor recruitment costs in period x?
  - ◊ What were labor transportation costs in period x?

#### **Question 6. Effort/Crew Descriptors**

- Please indicate the number of days in year X the vessel spent in each of the following activities:
  - at sea active in processing
  - at sea in transit
  - in port for maintenance, set-up or routine layovers
  - in port laid up due to lack of economically viable fishing opportunities
- By fishery/season/zone:
  - what was the pre-season set-up time?
  - how many days were spent away from port in an average period?
  - what is/was the minimum number of days the vessel would be expected to spend in port between fishing trips?
  - how many days were spent processing in an average period?
  - what constitutes a typical crew, by position?
  - how many processing shifts were there per day?
  - what was the average length of each shift?

#### **Question 7. Catch/Revenue**

- Did this vessel participate in any West Coast or Alaska fisheries in period x?
  - If yes, in which fishery(ies)?
  - If yes, what were the landing amounts by species?
  - If yes, what time of the year were these landings made?
  - If yes, what was the catch quality and condition by species?
  - If yes, what was the quantity discarded?
  - If yes, what was the weighback?
  - If yes, what were the quantities of product by species, product form and quality/grade for each period?
  - If yes, what were the revenues associated with this production by species, product form and quality/grade for each period?
  - If yes, were any of these product sales transactions within the company or between subsidiaries of a larger company and if so which?
- What were the ex-processor quantities and prices by species, product form and quality/grade?
- What was the ex-processed value of product FOB Alaska or FOB Seattle by species, product form and quality/grade?
- On average what percentage of plant sales were written off as bad debt expense in period x?
- What were the estimated recovery rates for each product by species?
- Did this plant have any other processing related revenue sources in period x?
  - If yes, what were they?
  - If yes, approximately how much annual revenue did the plant get from each source?
- Excluding the fishing income related to the Alaska landings described above and landings for which West Coast fish tickets were filled out, was there any other fishing related income in period x associated with this vessel?
  - If yes, from what general area was the fish associated with this revenue caught?
  - If yes, what was the time of year?
  - If yes, approximately how much revenue was received from these sources?
  - If yes, what were the sources of this income?
  - If yes, what was the catch quality and condition by species?
  - If yes, what was the quantity discarded?
  - If yes, what was the weighback?

#### **Question 8. Opportunity Cost**

- For each fishery and period in which the vessel participated during year X, what would have been the next best possible use of the vessel and how would that have affect profitability?

**Question 9. Regional Impact**

- For each of the following cost categories please specify the vessel's total annual expenditures; the percentage spent in Alaska; the percentage spent in Washington; the percentage spent in Oregon; the percentage spent in California; the percentage spent in other states and the percentage spent abroad. For crewmembers, consider the expenditure to be made in the crewmembers county of residence. (This will be in tabular form)

Total expenditures in:

	<u>Home county/port</u>	<u>AK</u>	<u>WOC</u>	<u>Home state Other US</u>	<u>non-US</u>
Vessel/Engine repair/replacement					
Gear repair/replacement					
Fuel/lubricant					
Food and Supplies					
Ice and Bait					
Processing wages					
Fishery Business or Landings Taxes					
Dues and Fees					
Insurance					
Interest Expense					
Licenses					
Packaging materials					
Transportation					
Communication					
Moorage					
Miscellaneous					

**Question 10. Labor/Employee/Family**

- For each fishery/season provide the positions employed, the average number of workers employed in each position and how that position was paid.
- For each skipper this vessel employed in period x, provide the name of the skipper and months s/he was employed.
- Employee demographics.
  - Name, birth date (age), and contact information.
  - Respondent's ancestry or ethnic origin: American Indian or Alaskan native (specify tribe); Asian (specify, e.g., Cambodian, Vietnamese, Korean); Native Hawaiian or other Pacific Islander (specify, e.g., Guamese, Native Hawaiian); Black or African American (black racial groups only) (specify country of ancestry, e.g., US, Haitian, South African, Ugandan); White (specify country of ancestry, e.g., Italian, Norwegian, Portuguese, Lebanese).
  - Is the respondent Hispanic or Latino (e.g. Mayan, Mexican, Guatemalan, Salvadoran)?
  - Language respondent speaks at home, i.e., English, Spanish, Portuguese, Vietnamese, Korean, Italian
  - Percentage of respondent's annual income from fishing and related industries, e.g., processing, packing, dealing, gear manufacture, etc.?
  - Household income or percentage of household annual income from fishing/fishing related activities, e.g., fishing, processing, packing, dealing, gear manufacture, etc.?
  - Does the respondent belong to any fishing related organizations?
    - If so which one (s)?
  - What is the highest degree of level of school the respondent has completed?
  - Marital status
  - Number of persons in household
  - Religion
  - Other types of employment engaged in other than fishing
  - Months usually engaged in other employment
  - Number of years respondent has fished commercially or in survey fishery
  - Crew only: How many captains has the respondent fished with over the last five years?
  - Captain only: Years of experience as captain; how many owners has the respondent fished for over the last five years?

### Question 11. Other

- By fishery:
  - Over the past x years how have changes in fishing regulations affected utilization rates, percentage of time laid up, product recovery rates, product quality and grades, product forms, fixed and variable costs, input configurations, crew compensation and turnover, plant investments, your processing share??
- By fishery/season:
  - If the season were extended by x days, would this vessel take part in the extended season?
    - If yes, what activities would the vessel be engaged in if the season were not extended?
    - If yes, what would the expected gross and net revenues be for this additional period of fishing?
  - If the season were extended by x days, how would the ex-vessel price paid to catcher boats be affected?
    - If yes, what would be the maximum number of additional days you would participate in this fishery/season if it were extended?
  - If the same quantity of fish were landed and processed over a period x days longer than the past season, how would utilization rates, product quality, and processing cost per metric ton of product be affected?
- By fishery/season, how would processing the same quantity of fish over a period x days longer than last season affect product recovery rates, product quality, and processing cost per metric ton of product?
- By fishery/season, how has processing fish over a period x days longer than another past season affected product recovery rates, product quality, and processing cost per metric ton of product?
- Has this vessel participated in any Community Development Quota (CDQ) fisheries?
  - If yes, was monetary compensation paid to the quota holder?
  - If yes, were quota holders given non-monetary compensation or considerations for the use of their quota, and if so in what form?
  - If yes, what benefits/advantages did the use of a CDQ provide other than additional catch?
  - If yes, was the vessel obligated to take the entire CDQ contracted for?
  - If yes, did the vessel pay a higher price for fish caught under the CDQ than fish caught in the open-access fishery?
  - If yes, did the vessel receive a higher price for products produced from CDQ fish?
  - If yes, were products produced from CDQ fish of a different quality than those produce from non-CDQ fish of the same species?
  - If yes, was the recovery rate different for products processed from CDQ fisheries?
- What measures do you use to assess the financial performance of the vessel?
  - On the basis of these measures, what has happened to performance over the past x year(s)?
  - If financial performance has changed, what are the primary reasons?
  - What changes in financial performance can be attributed to changes in fishing regulations?
  - What measures of economic performance for the fishery, and fleet as a whole, would be useful in assessing relative performance over time?
  - What additional data (if any) not asked for in this survey might they require?
- Please list the catcher boats that fished on contractual arrangements/market orders for this vessel in period x.
  - Describe the types of contractual arrangement by which fish were supplied by each catcher boat.
- Please indicate to which of the following the vessel sold its products in year X: independent wholesaler, other processors, marketing branch within the same company as that which owns the vessel, foreign buyers, restaurants, retailers, consumers.
- What were the estimated recovery rates for each product by species and season?
- What were the estimated costs for each day spent processing by season?

## Attachment G

### List of Potential Questions Catcher-Processors

OMB Control No. 0648-0369; Expiration Date: 07/31/2009

- Date surveyed completed.
- Name of person(s) completing survey.

#### Question 1. Vessel Characteristics

- What is the vessel's US Coast Guard ID?
- What is the vessel's state ID?
- What is the vessel's name?
- What is the vessel's hull type?
- What is the vessel's gross tonnage?
- What is the vessel's net tonnage?
- What is the vessel's length overall?
- What is the vessel's registered length?
- What is the vessel's beam?
- What is the vessel's fuel capacity?
- What type of fuel does the vessel use?
- What type of propulsion does the vessel use?
- For main and auxiliary engines:
  - What is the make?
  - What is the model?
  - What is the horsepower?
  - How old is each engine?
  - What is the remaining expected useful life of each engine?
  - When was the last complete engine overhaul?
- What type(s) of electronic equipment does this vessel have on board?
- What is the remaining expected useful life of this equipment?
- What is the vessel's hold capacity (in pounds of fish)?
- What is the remaining expected useful life of this vessel as a fishing vessel?
- What was the purchase price of this vessel?
- In what year was this vessel built?
- In what year was this vessel purchased?
- What was the homeport of this vessel?
- In which port was the majority of vessel maintenance done?
- In what year was the last major structural modification made to this vessel?
- What was that modification?
- Where was this work done?
- Which of the following storage capabilities does the vessel have?
  - Ice
  - Freezer
  - Live Fish Hold
  - RSW
  - Fish Meal
- What types of processing equipment are available on board this vessel?
  - What is the make of each type?
  - What is the model of each type?
  - How much is there of each type?
  - How old is each type?
  - What is the expected remaining useful life of each type?
- What is the total area and volume of the vessel's cold storage facilities?
- How much frozen product can the vessel hold?
- How much freezer storage space does the vessel have?
- How much non-cold storage volume does the vessel have?
- How much storage space does the vessel have for fish meal?
- What is the vessel's processing capacity by species/product per period (in metric tons or pounds)?
- For each product the vessel freezes, what is the freezing capacity of the vessel per period?
- What species are processed on board this vessel?
- What products are processed on board this vessel?
- To which markets are the products sold?
- Does the vessel use an automatic baiter?
  - If yes, what is the make?

- If yes, what is the model?
- If yes, what is the remaining expected useful life of this equipment?
- Without major structural modifications:
  - What type(s) of fishing gear is the vessel readily able to use?
  - How much of each type of fishing gear can the vessel readily use?

### **Question 2. Ownership**

- Type (e.g., Sole Proprietor, Corporation)
- Who is the primary owner of the vessel?
  - Please provide contact information for this individual.
- Who is the primary contact regarding this vessel's operations in the event we need to contact him/her for further information?
  - Please provide contact information for this individual.
- Is this vessel owned or leased by the operator?
- Does a management company run this vessel?
  - If yes, please provide contact information for this company.
  - If yes, is the management company independent of the vessel-owning company?
- Do the owners of this vessel also own catcher vessels?
  - If yes, please provide vessel identification.
- Is this vessel owned by a company that owns other vessels?
- Is this vessel owned by a company that owns processing plants?
- How much time does the owner(s) spend fishing commercially or participating in commercial fishing activities?
- Does the vessel owner participate in the Capital Construction Fund program using revenues from this vessel?
- Does the vessel owner participate in the Fishing Vessel Obligation Guaranty program with this vessel?

### **Question 3. Capital Costs**

- The following questions deal with the long-term debt position associated with this vessel in year X:
  - At the beginning of year X, what was the total debt?
  - What new debt was incurred during year X?
  - What were the total amount of principal payments made in year X?
  - What were the total amount of interest payments made in year X?
  - If this vessel is owned, what were the total debt/interest expenses in period x?
  - If this vessel is leased, what were the total lease payments in period x?
  - What were the vessel's depreciation costs in period x including all gear and equipment?
  - What is the book value of the vessel including all gear and equipment?
  - What is the estimated market value of the vessel including all gear and equipment?
  - What is the estimated market value of the electronic equipment on this vessel?
  - What is the estimated market value of the fishing gear for this vessel?
  - What is the estimated market value of the processing equipment on this vessel?
  - Does this vessel have any limited access permits/licenses or quota shares attached to it?    Y            N
    - ◆ If yes, what is the estimated market value of each type of licenses/shares attached to this vessel?
  - If you lease limited entry permits:
    - ◆ How much was spent to lease permits?
    - ◆ For how long did you lease the permit in year X?
    - ◆ For which particular fisheries are you leasing the permit?
  - If you own limited access permits:
    - ◆ When did you purchase these permits and what was their purchase price?
    - ◆ What is the estimated current market value of each type of permits/licenses/shares attached to this vessel?
    - ◆ How likely are you to sell your limited access permit if a buyback program were offered?  
Very Likely \_\_ Likely \_\_ Not Likely \_\_ Not at all \_\_ Not sure \_\_
    - ◆ If you were interested in selling your permit, what would be a fair price for your permit?
    - ◆ If you were interested in selling your permit, what is the minimum amount you would accept for your permit?
  - What is the maximum percent of your West Coast ex-vessel revenues would you be willing to pay to fund a buyback program?  
0% \_\_ 1% \_\_ 2% \_\_ 3% \_\_ 4% \_\_ 5% \_\_
  - What is the minimum amount you would accept for a 1-year lease of each of type of permits/license/shares?
  - Is there any other capital with a replacement cost greater than \$x owned by or associated with this vessel?
    - ◆ If yes, what is it?
    - ◆ If yes, what is the estimated market value of each type of capital?

#### **Question 4. Annual Operating Costs**

- Total (fixed and variable) business expenses reported on tax return for this period.
- Does this company use an accounting service?
  - If yes, please provide the contact information.
- Does this company use a bookkeeping service?
  - If yes, please provide contact information.
- In the future would you be willing to allow your accounting or bookkeeping firms to release cost/earnings data to us as an alternative to completing a survey?
- How much was spent during the year on each of the following cost categories in year X:
  - overhead expense including association dues, professional fees (legal, financial, accounting, etc.), office expenses
  - fishery landing/business taxes associated with this vessel
  - income taxes
  - other taxes associated with this vessel not including income taxes or fishery business taxes based on amount of fish landed (e.g., property taxes)
  - P&I associated with this vessel
  - other insurance associated with this vessel (not including P&I)
  - routine vessel and equipment maintenance (not including fishing gear)
  - non-routine maintenance (i.e., major overhauls, new engine, refittings)
  - management salaries or fees
  - gear loss
  - vessel moorage or storage or gear storage associated with this vessel?
  - other shore costs
  - other fixed costs (please give only the total amount for other fixed costs but list below the components of that total.
- Did the vessel lease licenses?
  - If yes, how much was spent to lease licenses (by fishery/gear/period)?
- If this vessel has a west coast homeport and was active in Alaska or has an Alaskan homeport and was active on the west coast, what was the cost of transporting the vessel from homeport the fishing grounds?

#### **Question 5. Operating Costs**

- By fishery/region per period/unit of product and associated with this vessel:
  - What were the payments to a hired skipper?
  - What were the payments to an owner acting as skipper?
  - What were the payments to crew (not including skipper)?
  - What were the benefit costs to crew?
  - What were the payments to processing labor?
  - What were the salary payments to processing management?
  - What were the benefit costs to processing labor?
  - What were other payments to labor?
  - What were the costs of employee transportation?
  - What were labor recruitment costs?
  - What were the fuel/lubricant costs and quantities?
  - What were the ice costs and quantities?
  - What were the food costs?
  - What were the water costs?
  - What were the product additive costs and quantities?
  - What were the packaging costs?
  - What were the bait costs and quantities for each type of bait used?
  - What were other supply costs?
  - What were the total loading and unloading costs?
  - What were the waste disposal costs?
  - What were the communication costs?
  - If observers were carried on board, what were the observer costs?
  - If the vessel purchased fish from catcher vessels, what were the ex-vessel fish costs by species?
  - In addition to what was paid for fish, did this vessel provide any goods or services for deliveries in period x?
    - ◆ If yes, what types of goods/services did the company provide?
    - ◆ If yes, what was the approximate cost of the goods/services provided?
  - Did the vessel provide any post-season settlement(s) for fish deliveries?
    - ◆ If yes, what was the approximate amount of the settlement(s)?
  - What were shipping costs?
  - In year X, was more than one type of fishing gear used on this vessel?

- ♦ If yes, how much did each gear change cost?
- How was each position paid? (e.g., salaries, hourly, crew share)
- How were processing labor costs calculated?
- If a crew share system was used, please describe it.
- For other labor only:
  - ♦ How much was spent in period x on non-management wages?
  - ♦ How much was spent in period x on management salaries?
  - ♦ How much was spent in period x on benefits?
  - ♦ How much was spent in period x on other labor related costs?
  - ♦ What were labor recruitment costs in period x?
  - ♦ What were labor transportation costs in period x?

### **Question 6. Effort**

- Please indicate the number of days in year X the vessel spent in each of the following activities:
  - at sea and active in fishing and processing
  - at sea but processing only
  - at sea in transit
  - in port for maintenance, set-up or routine layovers
  - in port laid up due to lack of economically viable fishing opportunities
- By fishery/season/zone:
  - what was the pre-season set-up time?
  - how many days were spent away from port in an average period?
  - what is/was the minimum number of days the vessel would be expected to spend in port between fishing trips?
  - how many days were spent processing in an average period?
  - what constitutes a typical crew, by position?
  - how many processing shifts were there per day?
  - what was the average length of each shift?

### **Question 7. Catch/Revenue**

- Did this vessel participate in any West Coast or Alaska fisheries in period x?
  - If yes, in which fishery(ies)?
  - If yes, what were the landing amounts by species?
  - If yes, what time of the year were these landings made?
  - If yes, what was the catch quality and condition by species?
  - If yes, what was the quantity discarded?
  - If yes, what was the weighback?
  - If yes, what were the quantities of product by species, product form and quality/grade for each period?
  - If yes, what were the revenues associated with this production by species, product form and quality/grade for each period?
  - If yes, were any of these product sales transactions within the company or between subsidiaries of a larger company and if so which?
- What were the ex-processor quantities and prices by species, product form and quality/grade?
- What was the ex-processed value of product FOB Alaska or FOB Seattle by species, product form and quality/grade?
- On average what percentage of vessel sales were written off as a bad debt expense in period x?
- Did this vessel have any other processing related revenue sources in period x?
  - If yes, what were they?
  - If yes, approximately how much annual revenue did the vessel get from each source?
- Excluding the fishing income related to the Alaska and West Coast landings, was there any other fishing related income in period x associated with this vessel?
  - If yes, from what general area was the fish associated with this revenue caught?
  - If yes, what was the time of year?
  - If yes, approximately how much revenue was received from these sources?
  - If yes, what were the sources of this income?
  - If yes, what was the catch quality and condition by species?
  - If yes, what was the quantity discarded?
  - If yes, what was the weighback?

### **Question 8. Opportunity Cost**

- For each fishery and period in which the vessel participated during period x, what would have been the next best possible use of the vessel and how would that have affected profitability?

### **Question 9. Regional Impact**

- For each of the following cost categories please specify the vessel's total annual expenditures; the percentage expended locally (in the county of the vessel's homeport); the percentage expended in state but outside the county of the vessel's homeport; the percentage expended in Washington, Oregon and California; the percentage expended in AK; the percentage expended in other US states; and the percentage expended abroad. For crewmembers, consider the expenditure to be made in the crewmember's county of residence.

Total expenditures in:

	<u>Home</u> <u>county/port</u>	<u>AK</u>	<u>WOC</u>	<u>Home state</u> <u>Other US</u>	<u>non-US</u>
Vessel/Engine/Gear Repair/Replacement					
Fuel/lubricant					
Food and Supplies					
Ice and Bait					
Crew Share					
Processing wages					
Fishery Business or Landings Taxes					
Dues and Fees					
Insurance					
Interest Expense					
Licenses					
Packaging materials					
Transportation					
Communication					
Moorage					
Miscellaneous					

### **Question 10. Labor/Employee/Family**

- For each fishery/season provide the positions employed, the average number of workers employed in each position and how that position was paid.
- For each skipper this vessel employed in period x, provide the name of the skipper and months s/he was employed.
- Employee demographics.
  - Name, birth date (age), and contact information.
  - Respondent's ancestry or ethnic origin: American Indian or Alaskan native (specify tribe); Asian (specify, e.g., Cambodian, Vietnamese, Korean); Native Hawaiian or other Pacific Islander (specify, e.g., Guamese, Native Hawaiian); Black or African American (black racial groups only) (specify country of ancestry, e.g., US, Haitian, South African, Ugandan); White (specify country of ancestry, e.g., Italian, Norwegian, Portuguese, Lebanese).
  - Is the respondent Hispanic or Latino (e.g. Mayan, Mexican, Guatemalan, Salvadoran)?
  - Language respondent speaks at home, i.e., English, Spanish, Portuguese, Vietnamese, Korean, Italian
  - Percentage of respondent's annual income from fishing and related industries, e.g., processing, packing, dealing, gear manufacture, etc.?
  - Household income or percentage of household annual income from fishing/fishing related activities, e.g., fishing, processing, packing, dealing, gear manufacture, etc.?
  - Does the respondent belong to any fishing related organizations?
    - ◆ If so which one (s)?
  - What is the highest degree of level of school the respondent has completed?
  - Marital status
  - Number of persons in household
  - Religion
  - Other types of employment engaged in other than fishing
  - Months usually engaged in other employment
  - Number of years respondent has fished commercially or in survey fishery
  - Crew only: How many captains has the respondent fished with over the last five years?
  - Captain only: Years of experience as captain; how many owners has the respondent fished for over the last five years?

### **Question 11. Other**

- By fishery:
  - Over the past x years how have changes in fishing regulations affected product recovery rates, product quality and grades, product forms, utilization rates, catch per unit effort, percentage of time spent searching, percentage of time laid up, targeting strategies, fixed and variable costs, input configurations, crew compensation and turnover, vessel investments, your catch share?
- By fishery/gear/season if the season were extended by x days, would this vessel take part in the extended season?
  - If yes, in what activities would the vessel be engaged if the season were not extended?
  - If yes, what would the expected revenues be for this additional period of fishing?
  - If yes, what would be the maximum number of additional days you would participate in this fishery/season if it were extended?
  - If the same quantity of fish were landed and processed over a period x days longer than the past season, how would utilization rates, product quality, and processing cost per metric ton of product be affected?
- By fishery/season, how would harvesting the same quantity of fish over a period x days longer than last season affect catch per unit effort, fish quality, and harvesting cost per metric ton of product?
- By fishery/season, how would processing the same quantity of fish over a period x days longer than last season affect product recovery rates, product quality, and processing cost per metric ton of product?
- By fishery/season, how has harvesting fish over a period x days longer than another past season affected catch per unit effort, targeting strategies, fish quality, and harvesting cost per metric ton of product?
- By fishery/season, how has processing fish over a period x days longer than another past season affected product recovery rates, product quality, and processing cost per metric ton of product?
- Has this vessel participated in any Community Development Quota (CDQ) fisheries?
  - If yes, was monetary compensation paid to the quota holder?
  - If yes, were quota holders given non-monetary compensation or considerations for the use of their quota, and if so in what form?
  - If yes, what benefits/advantages did the use of a CDQ provide other than additional catch?
  - If yes, was the vessel obligated to take the entire CDQ contracted for?
  - If yes, did the vessel receive a higher price for products produced from CDQ fish?
  - If yes, were products produced from CDQ fish of a different quality than those produce from non-CDQ fish of the same species?
  - If yes, was the recovery rate different for products processed from CDQ fisheries?
- What measures do you use to assess the financial performance of the vessel?
  - On the basis of these measures, what has happened to performance over the past x year(s)?
  - If financial performance has changed, what are the primary reasons?
  - What changes in financial performance can be attributed to changes in fishing regulations?
  - What measures of economic performance for the fishery, and fleet as a whole, would be useful in assessing relative performance over time?
- What additional data (if any) not asked for in this survey might they require?
- Please list the catcher boats that fished on contractual arrangements/market orders for this vessel in period x.
  - Describe the types of contractual arrangement by which fish were supplied by each catcher boat.
- Please list the fish buyers and processors (excluding this vessel) for which this vessel fished on contractual arrangements in period x.
  - Describe the types of contractual arrangement by which fish were supplied to each processor.
- Please indicate to which of the following the vessel sold its products in period x: independent wholesaler, other processors, marketing branch within the same company that owns the vessel, foreign buyers, restaurants, retailers, and consumers.
- What were the estimated recovery rates for each product by species and season?
- What were the estimated daily costs for harvesting and processing by season?

**TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM**

**SEC. 301. NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT** **16 U.S.C. 1851**

(a) IN GENERAL.—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

**98-623**

(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.

**104-297**

(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.

**104-297, 109-479**

(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities 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.

**104-297**

(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.

**104-297**

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

**97-453**

(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.

**SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS**

**16 U.S.C. 1852**

**97-453, 101-627, 104-297**

(a) ESTABLISHMENT.—

(1) There shall be established, within 120 days after the date of the enactment of this Act, 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 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (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) (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) (at least one of whom shall be appointed from each such State).

**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;

**16 U.S.C. 1853**  
**MSA § 303**

(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;

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(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;

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(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;

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(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;

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(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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**MSA § 303**

(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).

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**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.

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**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.

(d) REPORT.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources that—

- (1) describes funding provided to implement this section;
- (2) describes developments in gear technology achieved under this section; and
- (3) describes improvements and reduction in bycatch and seabird interactions associated with implementing this section, as well as proposals to address remaining bycatch or seabird interaction problems.

**109-479**

**SEC. 317. SHARK FEEDING.**

**16 U.S.C. 1866**

Except to the extent determined by the Secretary, or under State law, as presenting no public health hazard or safety risk, or when conducted as part of a research program funded in whole or in part by appropriated funds, it is unlawful to introduce, or attempt to introduce, food or any other substance into the water to attract sharks for any purpose other than to harvest sharks within the Exclusive Economic Zone seaward of the State of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean Area.

**109-479**

**SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM. 16 U.S.C. 1867**

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and educational institutions.

(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.

(c) FUNDING.—In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

**16 U.S.C. 1867-1868**  
**MSA §§ 318-319**

- (1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.
- (2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.
- (3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.
- (4) Projects for the identification of habitat areas of particular concern and for habitat conservation.
- (5) Projects designed to collect and compile economic and social data.

(d) **EXPERIMENTAL PERMITTING PROCESS.**—Not later than 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits.

(e) **GUIDELINES.**—The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant's catch history or unexpended days-at-sea as part of a limited entry system.

(f) **EXEMPTED PROJECTS.**—The procedures of this section shall not apply to research funded by quota set-asides in a fishery.

**109-479**  
**SEC. 319. HERRING STUDY.**

**16 U.S.C. 1868**

(a) **IN GENERAL.**—The Secretary may conduct a cooperative research program to study the issues of abundance, distribution and the role of herring as forage fish for other commercially important fish stocks in the Northwest Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.

(b) **REPORT.**—The Secretary shall present the final results of this study to Congress within 3 months following the completion of the study, and an interim report at the end of fiscal year 2008.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.

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**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.

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(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.

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**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.

# **The National Environmental Policy Act of 1969**, as amended

(Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982)

An Act to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Environmental Policy Act of 1969."

## **Purpose**

### **Sec. 2 [42 USC § 4321].**

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

## **TITLE I**

### **CONGRESSIONAL DECLARATION OF NATIONAL ENVIRONMENTAL POLICY**

#### **Sec. 101 [42 USC § 4331].**

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may --

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

#### **Sec. 102 [42 USC § 4332].**

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall --

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

- (i) the State agency or official has statewide jurisdiction and has the responsibility for such action,
- (ii) the responsible Federal official furnishes guidance and participates in such preparation,
- (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
- (iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

**Sec. 103 [42 USC § 4333].**

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

**Sec. 104 [42 USC § 4334].**

Nothing in section 102 [42 USC § 4332] or 103 [42 USC § 4333] shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

**Sec. 105 [42 USC § 4335].**

The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

**TITLE II**

**COUNCIL ON ENVIRONMENTAL QUALITY**

**Sec. 201 [42 USC § 4341].**

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

**Sec. 202 [42 USC § 4342].**

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

**Sec. 203 [42 USC § 4343].**

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of Title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

**Sec. 204 [42 USC § 4344].**

It shall be the duty and function of the Council --

1. to assist and advise the President in the preparation of the Environmental Quality Report required by section 201 [42 USC § 4341] of this title;
2. to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;
3. to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;
4. to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;
5. to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;
6. to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;
7. to report at least once each year to the President on the state and condition of the environment; and
8. to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

**Sec. 205 [42 USC § 4345].**

In exercising its powers, functions, and duties under this Act, the Council shall --

1. consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order No. 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and
2. utilize, to the fullest extent possible, the services, facilities and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

**Sec. 206 [42 USC § 4346].**

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates [5 USC § 5313]. The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates [5 USC § 5315].

**Sec. 207 [42 USC § 4346a].**

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

**Sec. 208 [42 USC § 4346b].**

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

**Sec. 209 [42 USC § 4347].**

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

**The Environmental Quality Improvement Act**, as amended (Pub. L. No. 91- 224, Title II, April 3, 1970; Pub. L. No. 97-258, September 13, 1982; and Pub. L. No. 98-581, October 30, 1984.

**42 USC § 4372.**

(a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91-190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this chapter and Public Law 91-190, except that he may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of Title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by --

1. providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91- 190;
2. assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;
3. reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;
4. promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encouraging the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;
5. assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;
6. assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established throughout the Federal Government;
7. collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 3324(a) and (b) of Title 31 and section 5 of Title 41 in carrying out his functions.

**42 USC § 4373.** Each Environmental Quality Report required by Public Law 91-190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

**42 USC § 4374.** There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91- 190:

- (a) \$2,126,000 for the fiscal year ending September 30, 1979.
- (b) \$3,000,000 for the fiscal years ending September 30, 1980, and September 30, 1981.
- (c) \$44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.
- (d) \$480,000 for each of the fiscal years ending September 30, 1985 and 1986.

**42 USC § 4375.**

(a) There is established an Office of Environmental Quality Management Fund (hereinafter referred to as the "Fund") to receive advance payments from other agencies or accounts that may be used solely to finance --

1. study contracts that are jointly sponsored by the Office and one or more other Federal agencies; and
2. Federal interagency environmental projects (including task forces) in which the Office participates.

(b) Any study contract or project that is to be financed under subsection (a) of this section may be initiated only with the approval of the Director.

(c) The Director shall promulgate regulations setting forth policies and procedures for operation of the Fund.

**Regulatory Flexibility Act**  
**as amended by**  
**Small Business Regulatory Enforcement Fairness Act**

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**SECTIONS**

- 601. Definitions
- 602. Regulatory agenda
- 603. Initial regulatory flexibility analysis
- 604. Final regulatory flexibility analysis
- 605. Avoidance of duplicative or unnecessary analyses
- 606. Effect on other law
- 607. Preparation of analyses
- 608. Procedure for waiver or delay of completion
- 609. Procedures for gathering comments
- 610. Periodic review of rules
- 611. Judicial review
- 612. Reports and intervention rights

**SEC. 601. DEFINITIONS** [CITE: 5 USC 601]

For purposes of this chapter—

- (1) the term “agency” means an agency as defined in section 551(1) of this title;
- (2) the term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term “rule” does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances;

- (3) the term “small business” has the same meaning as the term “small business concern” under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;
- (4) the term “small organization” means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;
- (5) the term “small governmental jurisdiction” means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the Federal Register;
- (6) the term “small entity” shall have the same meaning as the terms “small business”, “small organization” and “small governmental jurisdiction” defined in paragraphs (3), (4) and (5) of this section; and
- (7) the term “collection of information”--
  - (A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either--
    - (i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or
    - (ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and
  - (B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

- (8) recordkeeping requirement.--The term “recordkeeping requirement” means a requirement imposed by an agency on persons to maintain specified records.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1165; amended Pub. L. 104-121, title II, Sec. 241(a)(2), Mar. 29, 1996, 110 Stat. 864.)

**SEC. 602. REGULATORY AGENDA** [CITE: 5 USC 602]

- (a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain--
- (1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;
  - (2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and
  - (3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).
- (b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.
- (c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.
- (d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1166.)

**SEC. 603. INITIAL REGULATORY FLEXIBILITY ANALYSIS** [CITE: 5 USC 603]

- (a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities. The initial regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration. In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.
- (b) Each initial regulatory flexibility analysis required under this section shall contain--
- (1) a description of the reasons why action by the agency is being considered;
  - (2) a succinct statement of the objectives of, and legal basis for, the proposed rule;
  - (3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
  - (4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
  - (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.
- (c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as--
- (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

- (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
- (c) the use of performance rather than design standards; and
- (d) an exemption from coverage of the rule, or any part thereof, for such small entities.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1166; amended Pub. L. 104-121, title II, Sec. 241(a)(1), Mar. 29, 1996, 110 Stat. 864.)

**SEC. 604. FINAL REGULATORY FLEXIBILITY ANALYSIS** [CITE: 5 USC 604]

- (a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain--
  - (1) a succinct statement of the need for, and objectives of, the rule;
  - (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
  - (3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;
  - (4) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
  - (5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

- (b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public and shall publish in the Federal Register such analysis or a summary thereof.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1167; amended Pub. L. 104-121, title II, Sec. 241(b), Mar. 29, 1996, 110 Stat. 864.)

**SEC. 605. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES** [CITE: 5 USC 605]

- (a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.
- (b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.
- (c) In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, 604 and 610 of this title.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1167; amended Pub. L. 104-121, title II, Sec. 243(a), Mar. 29, 1996, 110 Stat. 866.)

**SEC. 606. EFFECT ON OTHER LAW** [CITE: 5 USC 606]

The requirements of sections 603 and 604 of this title do not alter in any manner standards otherwise applicable by law to agency action.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168.)

**SEC. 607. PREPARATION OF ANALYSES** [CITE: 5 USC 607]

In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168.)

**SEC. 608. PROCEDURE FOR WAIVER OR DELAY OF COMPLETION** [CITE: 5 USC 608]

- (a) An agency head may waive or delay the completion of some or all of the requirements of section 603 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 603 of this title impracticable.
- (b) Except as provided in section 605(b), an agency head may not waive the requirements of section 604 of this title. An agency head may delay the completion of the requirements of section 604 of this title for a period of not more than one hundred and eighty days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168.)

**SEC. 609. PROCEDURES FOR GATHERING COMMENTS** [CITE: 5 USC 609]

- (a) When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through the reasonable use of techniques such as—

- (1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;
  - (2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;
  - (3) the direct notification of interested small entities;
  - (4) the conduct of open conferences or public hearings concerning the rule for small entities including soliciting and receiving comments over computer networks; and
  - (5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.
- (b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter–
- (1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;
  - (2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;
  - (3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;
  - (4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

- (5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and
  - (6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.
- (c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.
  - (d) For purposes of this section, the term “covered agency” means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.
  - (e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:
    - (1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.
    - (2) Special circumstances requiring prompt issuance of the rule.
    - (3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168; amended Pub. L. 104-121, title II, Sec. 244(a), Mar. 29, 1996, 110 Stat. 867.)

**SEC. 610. PERIODIC REVIEW OF RULES** [CITE: 5 USC 610]

- (a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date and for the review of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.
- (b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors--
- (1) the continued need for the rule;
  - (2) the nature of complaints or comments received concerning the rule from the public;
  - (3) the complexity of the rule;
  - (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and
  - (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.
- (c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1169.)

**SEC. 611. JUDICIAL REVIEW** [CITE: 5 USC 611]

- (a) (1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.
- (2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.
- (3) (A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.
- (B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than--
  - (i) one year after the date the analysis is made available to the public, or
  - (ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.
- (4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to--
  - (1) remanding the rule to the agency, and
  - (2) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

- (5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.
- (b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.
- (c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.
- (d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1169; amended Pub. L. 104-121, title II, Sec. 242, Mar. 29, 1996, 110 Stat. 865.)

**SEC. 612. REPORTS AND INTERVENTION RIGHTS** [CITE: 5 USC 612]

- (a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary and Small Business of the Senate and House of Representatives.
- (b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the effect of the rule on small entities.
- (e) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1170; amended Pub. L. 104-121, title II, Sec. 243(b), Mar. 29, 1996, 110 Stat. 866.)

# Presidential Documents

## Title 3—

## Executive Order 12866 of September 30, 1993

### The President

### Regulatory Planning and Review

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

With this Executive order, the Federal Government begins a program to reform and make more efficient the regulatory process. The objectives of this Executive order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. In pursuing these objectives, the regulatory process shall be conducted so as to meet applicable statutory requirements and with due regard to the discretion that has been entrusted to the Federal agencies.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

#### **Section 1. *Statement of Regulatory Philosophy and Principles.***

(a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) *The Principles of Regulation.* To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable:

- (1) Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.
- (2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation is

intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(4) In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

(5) When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

(7) Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(9) Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.

(10) Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.

(11) Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

**Sec. 2. Organization.** An efficient regulatory planning and review process is vital to ensure that the Federal Government's regulatory system best serves the American people.

(a) *The Agencies.* Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and assuring that the regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order.

(b) *The Office of Management and Budget.* Coordinated review of agency rulemaking is necessary to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. The Office of Management and Budget (OMB) shall carry out that review function. Within OMB, the Office of Information and Regulatory Affairs (OIRA) is the repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency, this Executive order, and the President's regulatory policies. To the extent permitted by law, OMB shall provide guidance to agencies and assist the President, the Vice President, and other regulatory policy advisors to the President in regulatory planning and shall be the entity that reviews individual regulations, as provided by this Executive order.

(c) *The Vice President.* The Vice President is the principal advisor to the President on, and shall coordinate the development and presentation of recommendations concerning, regulatory policy, planning, and review, as set forth in this Executive order. In fulfilling their responsibilities under this Executive order, the President and the Vice President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President and the Vice President may, from time to time, consult.

**Sec. 3. Definitions.** For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President and Vice President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Assistant to the President for Science and Technology; (7) the Assistant to the President for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Deputy Assistant to the President and Director of the White House Office on Environmental Policy; and (12) the Administrator of OIRA, who also shall coordinate communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

(b) "Agency," unless otherwise indicated, means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(c) "Director" means the Director of OMB.

(d) "Regulation" or "rule" means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

(1) Regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(2) Regulations or rules that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(3) Regulations or rules that are limited to agency organization, management, or personnel matters; or

(4) Any other category of regulations exempted by the Administrator of OIRA.

(e) "Regulatory action" means any substantive action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices

of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) "Significant regulatory action" means any regulatory action that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

**Sec. 4. *Planning Mechanism.*** In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law:

(a) *Agencies' Policy Meeting.* Early in each year's planning cycle, the Vice President shall convene a meeting of the Advisors and the heads of agencies to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

(b) *Unified Regulatory Agenda.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). Each agency shall prepare an agenda of all regulations under development or review, at a time and in a manner specified by the Administrator of OIRA. The description of each regulatory action shall contain, at a minimum, a regulation identifier number, a brief summary of the action, the legal authority for the action, any legal deadline for the action, and the name and telephone number of a knowledgeable agency official. Agencies may incorporate the information required under 5 U.S.C. 602 and 41 U.S.C. 402 into these agendas.

(c) *The Regulatory Plan.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. The Plan shall be approved personally by the agency head and shall contain at a minimum:

- (A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;
- (B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits;
- (C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order;
- (D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;
- (E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

(F) The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

(2) Each agency shall forward its Plan to OIRA by June 1st of each year.

(3) Within 10 calendar days after OIRA has received an agency's Plan, OIRA shall circulate it to other affected agencies, the Advisors, and the Vice President.

(4) An agency head who believes that a planned regulatory action of another agency may conflict with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency, the Advisors, and the Vice President.

(5) If the Administrator of OIRA believes that a planned regulatory action of an agency may be inconsistent with the President's priorities or the principles set forth in this Executive order or may be in conflict with any policy or action taken or planned by another agency, the Administrator of OIRA shall promptly notify, in writing, the affected agencies, the Advisors, and the Vice President.

(6) The Vice President, with the Advisors' assistance, may consult with the heads of agencies with respect to their Plans and, in appropriate instances, request further consideration or inter-agency coordination.

(7) The Plans developed by the issuing agency shall be published annually in the October publication of the Unified Regulatory Agenda. This publication shall be made available to the Congress; State, local, and tribal governments; and the public. Any views on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the public, or confer any unclaimed benefits on the public, should be directed to the issuing agency, with a copy to OIRA.

(d) Regulatory Working Group. Within 30 days of the date of this Executive order, the Administrator of OIRA shall convene a Regulatory Working Group ("Working Group"), which shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility, the Advisors, and the Vice President. The Administrator of OIRA shall chair the Working Group and shall periodically advise the Vice President on the activities of the Working Group. The Working Group shall serve as a forum to assist agencies in identifying and analyzing important regulatory issues (including, among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities). The Working Group shall meet at least quarterly and may meet as a whole or in subgroups of agencies with an interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA, the Administrative Conference of the United States, or any other agency.

(e) Conferences. The Administrator of OIRA shall meet quarterly with representatives of State, local, and tribal governments to identify both existing and proposed regulations that may uniquely or significantly affect those governmental entities. The Administrator of OIRA shall also convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern.

**Sec. 5. Existing Regulations.** In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regulations promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not

duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

(b) The Administrator of OIRA shall work with the Regulatory Working Group and other interested entities to pursue the objectives of this section. State, local, and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.

(c) The Vice President, in consultation with the Advisors, may identify for review by the appropriate agency or agencies other existing regulations of an agency or groups of regulations of more than one agency that affect a particular group, industry, or sector of the economy, or may identify legislative mandates that may be appropriate for reconsideration by the Congress.

**Sec. 6. Centralized Review of Regulations.** The guidelines set forth below shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those agencies specifically exempted by the Administrator of OIRA:

(a) **Agency Responsibilities.** (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

(3) In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and other applicable law, each agency shall develop its regulatory actions in a timely fashion and adhere to the following procedures with respect to a regulatory action:

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt

of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

(B) For each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA:

- (i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and
- (ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(C) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

- (i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;
- (ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and
- (iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(D) In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with subsections (a)(3)(B) and (C) of this section. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall, to the extent practicable, schedule rule-making proceedings so as to permit sufficient time for OIRA to conduct its review, as set forth below in subsection (b)(2) through (4) of this section.

(E) After the regulatory action has been published in the **Federal Register** or otherwise issued to the public, the agency shall:

- (i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);
- (ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

(iii) Identify for the public those changes in the regulatory action that were made at the suggestion or recommendation of OIRA.

(F) All information provided to the public by the agency shall be in plain, understandable language.

(b) OIRA Responsibilities. The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency's regulatory actions are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

(1) OIRA may review only actions identified by the agency or by OIRA as significant regulatory actions under subsection (a)(3)(A) of this section.

(2) OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

(A) For any notices of inquiry, advance notices of proposed rulemaking, or other preliminary regulatory actions prior to a Notice of Proposed Rulemaking, within 10 working days after the date of submission of the draft action to OIRA;

(B) For all other regulatory actions, within 90 calendar days after the date of submission of the information set forth in subsections (a)(3)(B) and (C) of this section, unless OIRA has previously reviewed this information and, since that review, there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case, OIRA shall complete its review within 45 days; and

(C) The review process may be extended (1) once by no more than 30 calendar days upon the written approval of the Director and (2) at the request of the agency head.

(3) For each regulatory action that the Administrator of OIRA returns to an agency for further consideration of some or all of its provisions, the Administrator of OIRA shall provide the issuing agency a written explanation for such return, setting forth the pertinent provision of this Executive order on which OIRA is relying. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the Administrator of OIRA in writing.

(4) Except as otherwise provided by law or required by a Court, in order to ensure greater openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

(A) Only the Administrator of OIRA (or a particular designee) shall receive oral communications initiated by persons not employed by the executive branch of the Federal Government regarding the substance of a regulatory action under OIRA review;

(B) All substantive communications between OIRA personnel and persons not employed by the executive branch of the Federal Government regarding a regulatory action under review shall be governed by the following guidelines: (i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within 10 working days of receipt of the communication(s), all written communications, regardless of format, between OIRA personnel and any person who is not employed by the executive branch of the Federal Government, and the dates and names of individuals involved in all substantive oral communications (including meetings to which an agency representative was invited, but did not attend, and telephone conversations between OIRA personnel and any such persons); and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in subsection (b)(4)(C) of this section.

(C) OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information pertinent to regulatory actions under review:

- (i) The status of all regulatory actions, including if (and if so, when and by whom) Vice Presidential and Presidential consideration was requested;
- (ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and
- (iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

(D) After the regulatory action has been published in the **Federal Register** or otherwise issued to the public, or after the agency has announced its decision not to publish or issue the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA under this section.

(5) All information provided to the public by OIRA shall be in plain, understandable language.

**Sec. 7. Resolution of Conflicts.** To the extent permitted by law, disagreements or conflicts between or among agency heads or between OMB and any agency that cannot be resolved by the Administrator of OIRA shall be resolved by the President, or by the Vice President acting at the request of the President, with the relevant agency head (and, as appropriate, other interested government officials). Vice Presidential and Presidential consideration of such disagreements may be initiated only by the Director, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review will not be undertaken at the request of other persons, entities, or their agents.

Resolution of such conflicts shall be informed by recommendations developed by the Vice President, after consultation with the Advisors (and other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). The development of these recommendations shall be concluded within 60 days after review has been requested.

During the Vice Presidential and Presidential review period, communications with any person not employed by the Federal Government relating to the substance of the regulatory action under review and directed to the Advisors or their staffs or to the staff of the Vice President shall be in writing and shall be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket(s). When the communication is not in writing, such Advisors or staff members shall inform the outside party that the matter is under review and that any comments should be submitted in writing.

At the end of this review process, the President, or the Vice President acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President's decision with respect to the matter.

**Sec. 8. Publication.** Except to the extent required by law, an agency shall not publish in the **Federal Register** or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a

regulatory action, the head of that agency may request Presidential consideration through the Vice President, as provided under section 7 of this order. Upon receipt of this request, the Vice President shall notify OIRA and the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

**Sec. 9. Agency Authority.** Nothing in this order shall be construed as displacing the agencies' authority or responsibilities, as authorized by law.

**Sec. 10. Judicial Review.** Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

**Sec. 11. Revocations.** Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.

A handwritten signature in black ink, reading "William J. Clinton". The signature is written in a cursive style with a large, prominent "W" and "C".

THE WHITE HOUSE,  
September 30, 1993.

Dated: February 4, 2009.

**Patrick Gallagher,**

*Deputy Director.*

[FR Doc. E9-2759 Filed 2-9-09; 8:45 am]

BILLING CODE 3510-13-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Economic Surveys for U.S. Commercial Fisheries

**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 13, 2009.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 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 Rita Curtis, (301) 713-2328 or [Rita.Curtis@noaa.gov](mailto:Rita.Curtis@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

*Economic data for selected United States (U.S.) commercial fisheries will be collected for each of the following groups of operations:* (1) Processors, including onshore plants, floating processing plants, mothership vessels, and catcher/processor vessels; (2) catcher vessels; and (3) for-hire vessels. The companies associated with these groups will be surveyed for expenditure, earnings, effort, ownership, and employment data; and basic demographic data on fishing and processing crews. These economic data collection programs contribute to legally-mandated analyses required under the Magnuson-Stevens Fishery Conservation and Management Act (MFCMA), the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (RFA), Executive Order 12866 (EO 12866) as well as a variety of

state statutes including Florida Statute 120.54, Hawaii Revised Statute 201M-2, New Jersey Permanent Statutes 52:14B-19 and Oregon Revised Statutes 183.335 and 183.540.

In general, questions will be asked concerning ex-vessel and wholesale prices and revenue, variable and fixed costs, expenditures, effort, ownership, dependence on the fisheries, and fishery employment. The data collection efforts will be coordinated to reduce the additional burden for those who participate in multiple fisheries. Participation in these data collections will be voluntary.

*The data will be used for the following three purposes:* (1) To monitor the economic performance of these fisheries through primary processing; (2) to analyze the economic performance effects of current management measures; and (3) to analyze the economic performance effects of alternative management measures. The measures of economic performance to be supported by this data collection program include the following: (1) Contribution to net national benefit; (2) contribution to income of groups of participants in the fisheries (*i.e.*, fishermen, vessel owners, processing plant employees, and processing plant owners); (3) employment; (4) regional economic impacts (income and employment); and (5) factor utilizations rates. As required by law, the confidentiality of the data will be protected.

Data collections will focus each year on a different component of the U.S. commercial fisheries, with only limited data collected in previously surveyed components of these fisheries. The latter will be done to update the models that will be used to track economic performance and to evaluate the economic effects of alternative management actions. This cycle of data collection will facilitate economic performance data being available and updated for all the components of the U.S. commercial fisheries identified above.

##### II. Method of Collection

The surveys will be conducted via mail, telephone and in-person interview. The fisherman will be mailed a copy of the survey instrument in advance of a telephone or in-person interview.

##### III. Data

*OMB Control Number:* 0648-0369.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 7,000.

*Estimated Time per Response:* 1-2 hours for a response from a catcher vessel or for-hire vessel for operating cost, annual cost, revenue, effort, employment, ownership, and limited demographic data; 20-30 minutes per response from a catcher vessel or for-hire vessel for operating cost data; 30 minutes to 1 hour and 30 minutes per response from a catcher vessel or for-hire vessel for annual expenditure and demographic data; 8 hours for a response from a West Coast or Alaska processor, including catcher/processor vessels, mothership vessels, floating processing plants, and onshore plants; 1-2 hours for a response from an East Coast or Gulf processor.

*Estimated Total Annual Burden Hours:* 7,000.

*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 5, 2009.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

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BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XN07

#### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and