

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 07/18/2010

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 05/13/2010

ACTION REQUESTED: New collection (Request for a new OMB Control Number)
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201004-0648-008
AGENCY ICR TRACKING NUMBER:
TITLE: Pacific Coast Groundfish Fishery Rationalization Social Study
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0606
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: 07/31/2013 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	0	0	0
New	1,125	1,104	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	1,125	1,104	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE: In accordance with 5 CFR 1320, the information collection is approved for 3 years.

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
Baseline and first-year post implementation surveys, interviews and meetings	na, NA, NA	Pacific Coast Groundfish Trawl Social Survey - Informed consent form, Pacific Groundfish Trawl Fishery Social Survey, Pacific Coast Groundfish Trawl Fishery Social Survey - post cash shares supplemental questions	

PAPERWORK REDUCTION ACT SUBMISSION

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

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

19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

SUPPORTING STATEMENT
PACIFIC COAST GROUND FISH FISHERY RATIONALIZATION SOCIAL STUDY
OMB CONTROL NO. 0648-xxxx

INTRODUCTION

The Northwest Fisheries Science Center (NWFSC) is requesting approval for a new collection of information on social and cultural impacts to members of the fishing industry to be involved in a new rationalization program for the Pacific trawl groundfish and whiting fisheries.

Please note: there is a time constraint to commence this data collection prior to the management change scheduled per regulatory guidance for January 2011. The inability to collect this data and the lack of sufficient time to collect the full breadth of this data will severely limit the ability to complete the full objectives of the research. It will negatively impact the full utility of the results for management purposes. Sufficient time is required to allow for access to fishermen when they are in port between fishing seasons that co-occur with the time available to conduct this research. **As a result of these limitations, and to allow sufficient time to collect all data for full analysis, completion of OMB review is requested prior to or by July 23, 2010.** This will provide the opportunity to utilize of all the remaining time prior to the management change to travel to collect data. It will also provide multiple opportunities for the researchers to contact participants to collect the data sought.

A. JUSTIFICATION

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

The Pacific Fisheries Management Council (PFMC) is on track per [the Magnuson Stevens Fisheries Conservation and Management Act](#) (MSA), 16 USC 1801 *et seq.*, to implement a new rationalization program for the Pacific trawl groundfish and whiting fisheries. The target date for implementation is January 2011. Changes in how fisheries are managed not only result in changes in stock assessments, stock abundance, and species recovery, but also result in changes to the people within the fishery.

Scientific literature extensively discusses the impacts rationalization programs have on fishing communities and fishermen (Ecotrust 2004, Lowe and Carothers 2008, McCay 1995, NRC 1999, Palsson and Petursdottir 2006). Social and cultural changes to fishermen, processors, and other industry members, such as net suppliers, are probable. Rationalization results such as consolidation and increased efficiency have benefits to the catch, but may have consequences on the people involved in the fishery. The extent of the social and cultural changes is correlated to the specific characteristics of the fishery being rationalized. This research aims to both generate a baseline description of the fishery and to collect sufficient data pre- and post-rationalization to identify and possibly measure changes that are related to the rationalization of the fishery.

In addition to understanding impacts within this fishery, the potential to gain more information for other fisheries managed by the PFMC is high. It is known that many fishermen diversify their fishing activity across more than one fishery. This research effort will collect data to show the movement of individuals between different fisheries. Where appropriate, data obtained can then be applied to other fisheries, contributing further to the utility of this research. In the event

future fisheries are considered for rationalization, this research effort may inform future management.

The ability to collect data prior to the management change is critical to the ability to show how the fishery changes. Without the collection of baseline data, additional studies in the future will be useful, but will not provide the ability to show explicit data depicting social changes in the system. This research will be most complete, and will provide the greatest amount of information about social and cultural characteristics of this fishery, if conducted before and after the management change.

To achieve these goals, the baseline data collection will be collected in the year prior to the implementation of the management scheduled for January 1, 2011. This baseline data would need to be collected in the summer and fall of 2010. A second research effort would collect data in the second year post-implementation. This would be the first effort to collect data post-management change. This request for three-year approval would cover both the baseline data collection and only the first of multiple post-management change data collection efforts.

This research will also support several legal requirements (see below for description), not only for this specific management change, but possibly for other fisheries that have similar legal requirements. Results will support legal requirements by illustrating the importance of the fishery to fishing communities, by taking the first step to identifying the social characteristics of the fishery, as well as initiating an understanding of the relationships between individuals in the industry. All these results will support various sections of the MSA, which requires an understanding of social data along with other laws and regulations.

MSA

The following sections of the MSA pertain specifically to the requirements needing social and cultural data. Data collected in this effort will support current and future requirements.

1) National Standard 8 Sec 301 (a)(8) states:

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.

2) Requirements for Limited Access Privileges Sec.303A. (c) (1) (C) states:

... any limited access privilege program (LAPP) to harvest fish submitted by a Council or approved by the Secretary under this section shall promote:
... (iii) Social and economic benefits.

3) Sec. 303A (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;

...(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;

4) Sec. 404(a) refers to:

.....acquire knowledge and information including statistics, on fishery conservation and management and on the economic and social characteristics of the fishery.

The act clarifies this in Sec 404(c) (3) indicating

Research on fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

NEPA

[The National Environmental Protection Act](#) (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 that will insure the integrated use of the natural and social sciences...in planning and decision-making which may have an impact on man’s environment;’ (NEPA Section 102 (2) (A)). Under NEPA, an Environmental Impact Statement (EIS) or Environmental Assessment (EA) is required to assess the impacts on the human environment of any federal activity. NEPA specifies that the term ‘human environment’ shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment’ [NEPA Section 102 (C)].

Executive Order 12898

The [Executive Order 12898](#) of February 11, 1994 on Environmental Justice requires federal agencies to consider the impacts of any action on disadvantaged, at risk and minority populations. To evaluate these impacts, information about the vulnerability of certain stakeholders must be better understood. Indicators of vulnerability can include but are not limited to income, race/ethnicity, household structure, education levels and age. Although some general information related to this issue is available through census and other quantitative data, these sources do not disaggregate those individuals or groups that are affected by changes in marine resource management or the quality of the resource itself. Therefore, other types of data collection tools must be utilized to gather information related to this executive order.

Regulatory Flexibility Act

The [Regulatory Flexibility \(RegFlex\) Act](#) requires federal agencies to prepare an initial and final regulatory flexibility analysis which ‘...shall describe the impact of the proposed rule on small entities...’... The 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. [RegFlex Section 603 (b) (5) (c)]. In addition, each final regulatory flexibility analysis shall contain ‘...a description of the steps the agency has taken to minimize the significant economic impact on small entities....’ [RegFlex Section 604 (a) (5)].

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 sought will be of practical use as National Marine Fisheries Service (NMFS) social scientists will utilize the information for descriptive and analytical purposes. In addition, for current regulatory action and in the event of future regulatory action, the information may be utilized by NMFS to meet the requirements of the regulations described above in Question 1. The results of the research will also be available for use by the Pacific Fisheries Management Council, in their role in fisheries management. In addition to direct fisheries management utility, this research and the resultant data may be utilized in increased and future ecosystem management efforts. These efforts include the development of various ecosystem models which incorporate various social indicators and other social information. The results of this research will increase the availability of social data to the extent that it may significantly benefit new research efforts in ecosystem modeling. Reports will also be available for public use to support other research concepts and future research design. The frequency of the use of the data is unknown at this time and is dependent in the regulatory actions required in the future as well as public use. With that said, as this type of data has been historically unavailable, it is expected that the availability of this type of information will have high utility

The information collection tool is organized to ease the collection of the data and clearly identify the types of data being collected. The primary data collection tool is a survey instrument supplemented by interviews and short meetings with industry organizations as needed. The survey instrument is organized into various sections, which are pertinent to some or all of the intended respondents. The survey includes the following sections: Demographic Information, Individual Participation, Connections, Catch-Shares Perspectives, Fishermen, and Processors (at-sea and Shoreside) and buyers/first receivers. These sections are further described as follows.

Demographic Information: This data aims to obtain a better description of the unique population of this fishery. It will provide a more accurate description of the people within that population. Information collected in this section is comparable to United States (U.S.) Census information, but on a finer scale. The U.S. Census does not collect or provide the information at a level to be able to identify a specific population of fishermen, or fishermen as a separate industry. Information about fishermen in the census is aggregated with other types of information representing the agriculture and forestry fields. As a result, it is impossible to describe the demographics of any specific fishing community through the use of U.S. Census

data. The collection of this data in this section serves the role to describe this specific population of the people connected to this specific fishery.

Individual Participation: Data from this section increases our knowledge of the unique characteristics of the people in the industry beyond demographic information. Data gathered includes individual historical participation in the fishery, an understanding of family participation in the fishery, the roles individuals play in the fishery, characteristics of their jobs such as work schedules, and a better understanding of where they live versus where they work. Many of these areas may be affected by the management change. Work schedules, standard of living, etc., all may result in social impacts to individuals. The collection of this data will contribute to the identification of these impacts on a person-by-person basis.

Connections: Data in this section will provide information on the connections, and insight into the relationships, between individuals in the fishery. Questions aim to identify clear components of the fishery such as important business suppliers and organizations that may be critical to the functioning of the fishery. Changes in the characteristics of the fishery as a result of the management change may alter the connections and relationships in the fishery. Scientific literature speaks to these changes (McCay 1995). Data in this section will serve multiple purposes, including insight into relationships as well as the ability to measure social change in the system.

Catch Shares Perspectives: Questions in this section aim to gauge the opinions and perspectives of the individuals in the fishery about the upcoming management change. This section is intended to clearly capture respondents' concerns and expectations of the system, and their level of knowledge of the system. This information will serve multiple purposes. It will clearly identify industry members' perspectives, allow for the clear measurement of the change of these perspectives over time, as well as provide a gauge of how well-informed individuals are about the management change – contributing to NMFS' and PFMC' efforts to improve communication to the public.

Fishermen: This section is designed specifically for those members of the fishery who are either directly or indirectly involved in, and have knowledge of, any aspect of the harvest of commercial catch. For example, vessel owners whom are not on board, and permit owners, who are not on board as well as fishermen on board. Questions in this section aim to gather more information about fishermen and how they work in the industry. Information collected will help us understand the different fisheries individuals participate in; for example, the groundfish and the crab fisheries. Other information sought includes the common gears and gear combinations utilized, what factors contribute to their participation in a single fishery or multiple fisheries, where they fish in relation to where they live, how are they related to, and what are the relationships between, individuals with whom they fish, and how they are connected to processors and why. Data in this section will greatly contribute to our ability to understand where fishing communities are located and why, the characteristics of the fishery, the relationships between fishermen and processors, and a better understanding of the working system of the fishery.

Processors (At-sea and Shoreside) and Buyers/Receivers: This section is specifically designed for those members of the fishery who receive and process the commercial harvest. Individuals targeted for this section of the survey include shoreside processors, at-sea processors, motherships, and buyers/first receivers. Questions in this section aim to gather information

about a sector for which there is very little data. Data gathered will help understand the distribution of processors on the west coast, how they obtain catch, their relationships with harvesters, the flow of commercial catch from the fisherman to the consumer, and how and where they market and distribute their product. Information obtained will allow for the understanding of various species that are processed, and the importance of each to the processing businesses. The measure of these characteristics both pre- and post-rationalization will create the opportunity to better understand the impact the catch shares program has on the processing sector.

Together these survey sections, supplemental interview data, and information from meetings with industry organizations will generate a very extensive description of the fishery. The description will include the perspectives of various aspects of the industry from fishermen to processor and other related entities. This research will not only inform the current management process, but will overarch into other management issues, as well as support legal requirements to fishing communities, social impact assessments, and areas of research. This research will also increase the utility and quality of other secondary research, completed and ongoing, by providing more accurate primary data to support secondary data collection efforts.

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. National Oceanic and Atmospheric Administration's (NOAA) NWFSC Human Dimensions Program 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 pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

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

Data collection will be available in all forms possible. Accessibility of the research tools to study participants is critical to the success of the research. As a result, a wide range of options will be available to distribute the survey and capture the data. The primary data collection tool is a survey. The secondary mode of data collection is unstructured and semi-structured interviews. Hard copy surveys will primarily be provided to research participants in-person. The survey can then be completed in the presence of the researcher to facilitate the answering of any questions, the clarification of data being collected, and support any concerns of the research participant. In addition to administering the survey in-person, the researcher can then conduct a brief unstructured or semi-structured interview to collect any other pertinent data from the survey participant.

The survey tool will also be available in hard copy to be mailed or otherwise distributed to research participants. The survey will be available in a universal electronic format to either be electronically transmitted via email or downloaded from the internet by research participants. In the event of the dissemination of the survey other than in person, directions to access the survey and all support required to return the survey to the researchers will be provided. For example,

postage-paid pre-addressed envelopes will be provided to those research participants who request a hard copy of the survey.

4. Describe efforts to identify duplication.

NMFS social scientists and contractors work closely with regional academia, community based organizations, industry groups and other parties interested in this type of information. Reviews of existing information are common practice when initiating social science studies. A thorough literature review has identified where similar studies have been initiated and will ensure that efforts are not duplicated. The principal investigator has briefed and discussed this research to relevant NMFS personnel in both science centers, and regional offices on the west coast, as well as social science colleagues in Oregon Sea Grant Programs, California Sea Grant Programs, academia, and the PFMC. The efforts of communication have served multiple functions to include making sure there will be no duplication of effort, to communicate plans for the research effort, and to establish collaborations to complete the research in the most effective manner possible.

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

This request includes the collection of data on individuals and those who may be linked to or represent small businesses. Prior to contacting these respondents, researchers have gathered any publicly available answers to the questions. Only those questions that can not be reliably answered through this manner and may change with perspective of the respondent will be asked. In addition, participation in data collection will be voluntary. This data collection will not require any reporting or equipment cost burdens. The burden will be limited to the time required to complete the survey. Arrangements to collect data from all research participants will be at the convenience of the participant, and as flexible as possible to minimize burden on all parties.

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

In the absence of current information on the human dimensions of marine resource use and marine ecosystems, NMFS and Regional Fisheries Councils will be unable to adequately understand and predict the potential impacts of policy decisions on fishing communities and people, particularly those people who do not regularly attend public meetings, but are nonetheless affected by the decisions.

The federal mandates and executive orders, described in Question 1 and related appendices of this document, require the analysis of the impacts that government actions have on the individuals and communities involved in fishing and marine resource related activities. Social impact assessments, analysis of the affected human environment, cumulative impacts as well as the distribution of impacts with a special emphasis on vulnerable or at risk communities are all examples of these requirements. The ability of NOAA social scientists to adequately respond to this charge rests on access to timely and relevant information about the pertinent stakeholders.

A significant concern related to the quality of these analyses is the risk of being vulnerable to litigation due to the lack of fulfilling these mandates and executive orders. Therefore not collecting this information may lead to incomplete representation of the science and information.

Delays and costs due to litigation compound the issues both in the management context, and the funding context. This could impact the decision making process and negatively impact the communities subject to the decisions.

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

Information collections are consistent with 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 5, 2010 (Vol. 75 No 24, Page 5945) solicited public comments.

One comment was received requesting a copy of the survey instrument, any instructions, and supplemental materials. A copy of the draft survey tool, inclusive of instructions, and a copy of the Fishing Community Profiles of the West Coast were mailed to the requester per the instructions provided in the comment.

In regards to consultation with persons outside the agency, various phone conferences, and in-person meetings included a discussion of the research and the option to review the draft survey document. Consultations were sought with California Sea Grant personnel, Oregon Sea Grant/Oregon State University personnel, Pacific Fisheries Management Council staff, as well as members of the fishing industry whom serve roles specific to the trawl groundfish and whiting fisheries. The intent to conduct this research as well as the opportunity to discuss it further with the principal investigator of the research, was communicated at the March 6-12, 2010 Pacific Fisheries Management Council meeting in Sacramento, CA to both the full Council panel and various subcommittees in the Council system. All comments were taken into consideration when finalizing the survey document as well as designing the research collection efforts. Communication and collaboration with all interested parties is currently and will continue to be maintained throughout and beyond the data collection and release of the final reporting documents for this research.

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.

As stated on the survey instruments, the information provided will be kept confidential to the extent possible per MSA Sec. 402(b) and the [NOAA Administrative Order NAO 216-100](#), Protection of Confidential Fisheries Statistics. In addition, in the event of a Freedom of Information Act (FOIA) request, we will protect the confidentiality to the extent possible under the Exemption 4 of the FOIA.

To support the confidentiality of this research, no participant names will be included on the survey document. Participant names will be tracked in a separate document in order to 1) code participants for protection during data analysis, 2) confirm receipt of a survey from each individual, 3) avoid duplication of responses, 4) ensure the distribution of final reports back to research participants, and 5) track the individuals in the future for the post-rationalization impacts portion of the research.

Documents containing names will be kept in locked container such as a lock box in the field or a locked file cabinet in the office setting. All electronic versions will be kept under password protected systems, accessible only by study researchers.

When writing final reports and publishing the findings of this research, individual responses will be combined with responses from other participants so that no single individual may be identified. This aggregation of the data will follow the rule of 3, where any less than three responses will not be reported to protect confidentiality. All personal names provided will be coded by the researchers with a descriptor such as 'X Community Fisherman' or assigned a code such as 'A1' as an identifier. The type of code that will be applied to each data set may vary based on the question or the analysis required of that question. Every method to protect the confidentiality of all responses will be applied in any and all contexts of this research.

In addition to the confidentiality protection measures, survey participants are provided the option to skip questions of concern and stop their participation in the survey at any time with no consequences.

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.

There are a few different areas where issues of a potentially sensitive nature will be explored. These are listed and discussed below:

- 1. Relationship Information:** Survey questions inquire about the relationships between individuals in the fishery and the quality of those relationships. Scientific literature suggests that under a rationalized fishery the relationships between people change (McCay 1995). In addition the MSA requires knowledge of these relationships. Questions have been designed to access this information in a manner to protect the responses of the participants. In addition, questions of this nature have all been provided with options not to answer the question, in the event a survey participant is uncomfortable. This data is important to show social changes in the fishery driven directly by the characteristics of the new management system.

2. **Connectivity/Network Information:** Survey questions inquire about the connections between industry members. Who gets information from whom, who works with whom for what purposes. Scientific literature confirms rationalization of fisheries results in consolidation and the removal of some fishermen and related industries from the fishery. The collection of data on connectivity and networks will utilize the Social Network Analysis methodology to identify those networks and visually represent them. The ability to do so will provide the opportunity to study how a system may change when people within the system are removed or changed. The flow of information about management may change, the flow of product in the industry, etc. may change. The ability to map these changes pre- and post-rationalization will provide the ability to show how the fishery has changed and what impacts may result from those changes. Questions of this nature will be coded as described in the confidentiality question No. 10 of this document. In addition, questions of this nature have all been provided with options not to answer the question, in the event a survey participant is uncomfortable. This data is important to show social changes in the fishery driven directly by the characteristics of the new management system.

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

Requirement	No. of Respondents Annualized	Responses per Respondent	Total No. Responses Annualized	Response time	Total Burden/Annualized	Labor Cost in \$25 to Public Per Burden Hour, Annualized
Survey/Interview Respondents Baseline 1 st Study year	542.3	1	542.3	1 hour	542 hr, 18 min	13,557.5
Survey/Interview Respondents 1st Post-Rationalization Study year	542.3	1	542.3	1 hour	542 hr, 18 min	13,557.5
Interviews Only – Baseline Yr	16.7	1	16.7	30 min	8 hr, 21 min	208.75
Interviews Only – Post Yr	16.7	1	16.7	30 min	8 hr, 21 min	208.75
Meetings – Baseline Yr	3.3	1	3.3	1 hour	1 hr, 18min	32.5
Meetings – Post Yr	3.3	1	3.3	1 hour	1 hr, 18 min	32.5
Total Requested Per OMB 83-i	1,125		1,125		1,103 hr, 54 min (1,104hr)	27597.5

*Respondents for both the Baseline 1st Study year and the 1st Post-Rationalization year are the same respondents. As a result the number of respondents was not duplicated in the total sum.

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

No cost other than labor cost is expected.

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

Total estimated annual cost to the federal government is \$139,550 for year 1 and \$108,850 for year 2, totaling \$248,400 (annualized to \$82,800). The study is designed to be conducted in the base year prior to the fisheries management change and repeated the second year post-fisheries management change. The survey will be conducted by NMFS federal staff, contractors, and students. In addition to contractor and student costs, travel costs will be incurred to various field sites, as well as printing and mailing of surveys. Survey design, data collection and processing, and report development will be conducted by NMFS federal staff, contractor(s), and students. These estimated costs for the contractor(s) and students have been included below. Please see table below for itemized costs.

Description	FY2010 Budget	FY2012 Budget Projections
Contractor/student salary/wages	\$130,000.00	\$100,000.00
Travel		
Washington, Oregon, and California	\$ 8,000.00	\$ 8,000.00
Printing	\$ 500.00	\$ 300.00
Postage	\$ 50.00	\$ 50.00
Supplies	\$ 1,000.00	\$ 500.00
Total	\$139,550.00	\$108,850.00

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

This is a new program.

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

Several publications are expected for this research. The most complete publication will be several NMFS technical memoranda, which will have the most complete results. The first memorandum will be the baseline description of the industry from the results of the first survey. Other memoranda will be more extensive, to include an update of the baseline, and a pre- and post-management measure analysis to show any changes that have occurred in the system due to the management change. These technical memoranda will be available in hard copy and Compact Disc (CD) formats, and will be posted on the Human Dimensions website, under publications. In addition, several journal publications are expected. The exact number of publications and the journals where the results will be published are to be determined. The goal is to make sure the information is widely available for all those interested in the research.

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

Not applicable.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

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.

The respondent universe for this study includes those individuals, partners, businesses, etc., that have any connection to the Pacific Coast Groundfish and Whiting Fisheries. These are the fisheries that are being rationalized or managed under a limited entry program. Types of respondents expected include fishermen, vessel owners, vessel operators, groundfish limited entry permit owners, groundfish limited entry permit owners/holders, quota allocation recipients, crew aboard groundfish/whiting vessels, mothership operations, catcher-processor operations, shoreside processors, any other at-sea processors, first receivers/buyers, and other individuals who are stakeholders in the fishery such as partners or spouses. In addition, the survey/interview pool will include any businesses that are directly tied to the groundfish/whiting communities through the supply of commercial items to include, but are not limited to net suppliers, fuel suppliers, equipment suppliers, etc.

The survey will be a census of the groundfish trawl/fixed gear fishery as described; that is, all individuals who meet the descriptions above. The only known numbers are the vessel owners and permit owners, because the current Limited Entry Permit program requires this information. All other counts of the number of respondents are estimates. Calculations have been developed to estimate the number of respondents. Values for these calculations come from a combination of published data and information from personal communications. Published data including the number and size of fishing vessels is available from the Northwest Regional Office Limited Entry Permit database. Additionally, published materials provide information on the shoreside processors. Information such as the estimates of how many crew are on vessels came from personal communications during the pilot/study review process with NMFS employees and industry members. The combination of this data is utilized to estimate the number of crew on participating vessels that will be part of the survey respondent group. This is believed to be the most accurate process to estimate the field of respondents.

Another sector of the study population, shoreside processors, is not as clear as the vessel owners and permit holders, but does have a little more information based in the literature; those for both the trawl groundfish species and whiting species have been described in the Pacific Fishery Management Council documents (PFMC and NMFS 2009). The data provided identified a list

of possible processors on the west coast. For this research, the processors will be confirmed and it is assumed that each processor has at least one owner, if not multiple owners. An approach to contact the owner(s) of each processor and conduct a census of the processor owner population will be taken.

Description				No. Companies	No. People	No. of Estimated Respondents	Estimated Response Rate 60%
Vessel Owners					177	200*	128
Permit Owners Only					13	20*	13
Crew Estimate							
Vessel Length	No. of Vessels	x Est. Crew Per Vessel	= No. Est. Crew				
33' -80'	124	3	372		372	372	238
80' -150'	41	4	164		164	164	105
Over 150'	12	100	1200		1200	1200	768
Shoreside Processors Owners (CA, OR, & WA) [†]				71	107	107	68
Shoreside Processors Employees (CA,OR &WA) ^{††}				71	710	710	284 ⁺
Industry Supply Company Owners and Employees				15	15	15	10
Misc. Fishermen/Processors – Interviews ONLY					78	78	50
Fishery Related Organizations – Meetings				15	15	15	10
Misc Others					20	20	13
Total (actual number contacted, not annualized)						2808	1687

*Some vessels and permits are co-owned, but both owner names are not listed in the permit data, so additional respondents were added to account for vessels with more than one boat owner.

[†] Personal communications alluded to some processors being owned by more than one individual. An exact number of these circumstances were not able to be obtained. As a result, to account for more than one owner, a multiplier of 1.5 was applied to the number of companies to derive an estimate number of owners to include in the calculation.

^{††} Personal communications alluded to various numbers of employees for processors. An exact number of these circumstances were not able to be obtained. As a result, to account for an average number of employees, a multiplier of 10 was applied to the number of companies to derive an estimate number of employees to include in the calculation.

⁺ An average response rate was calculated as 60%. For a majority of the estimated respondents (1300) a 64% response rate is estimated. For the remainder of the estimated respondents (284) a 40% response rate is estimated. Personal communications suggest access to shoreside processor employees will be extremely difficult. As a result, a lower response rate is projected from this pool of respondents

Two sub-populations of the study where no list of individuals exists are that of vessel crew and processor employees. Access to these individuals will be sought through various means. Initially, vessel owners, permit owners, and processor owners will be asked for lists of employees and/or for permission to contact their employees. We will work closely with the NMFS Observer and Survey programs as key informants to reach crew aboard vessels. There are various community organizations related to this fishery; for example, the Newport Fishermen's Wives, Inc. We will work closely with these organizations to reach members who are fishermen and processor employees. Key informants and members of the groups listed above will handle initial introductions with respondents, providing the outreach letter and informed consent form explaining the survey. All individuals who complete the survey/interview process will be shown the compiled lists and asked if there are other crew/staff not listed.

We will be taking the more traditional, direct method of outreach – sending initial letters – to all permit holders, vessel owners and processor owners for whom we have addresses.

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.

As previously mentioned in Question B.1, the approach to this study is to conduct a census of the study population. Individuals who meet the study criteria will be provided an opportunity to participate in the research. The sample selection will therefore not contain a random sample or other statistical representation of the study population and their associated statistical analysis. Sample selection will be based solely on the criteria of the individuals' participation and having an active role in the Pacific Coast Groundfish Trawl Fishery, where those expected roles have been previously addressed in Question B.1.

Data collection will occur primarily through in-person survey administration and semi-structured to unstructured interviews. Researchers will discuss the research with study participants, administer the surveys, be available to answer any questions, code the surveys for anonymity and confidentiality, and collect all the surveys upon completion. In the event individuals are unavailable to meet in person, various options will be available. Hard copy surveys can be provided either in person or via the mail, electronic versions will be available either for distribution via email or accessible over the internet. In the event of any mailing costs to return the survey, postage paid envelopes will be provided as appropriate.

It is expected that a 60% response rate will be sufficient to properly represent the study population. This response rate is based on a similar study conducted by the principal investigator with the same collection methodologies (Russell and Schneider 2009). Analysis of the results will be conducted to include the response rate for each question. This is an important aspect of the research as the option to skip questions is being provided as an additional layer of confidentiality. The strength and accuracy each piece of data will therefore be represented through the response rate of the question, in addition to the overall response rates.

Data collection is not planned to be conducted on an annual basis. The first projected study year is 2010; a supplemental analysis will take place in 2012, and another full analysis, in 2015-2016. As the focus of this research is to measure changes in the communities over time due to a management change, it is not expected that there will be a great advantage to conducting the research in annual increments. The design of the program by fishery managers has elements built in that are expected to trigger events in the communities that may be measured in increments other than annually. For example, the quota shares are not authorized to be traded until after the second year the program is in effect. However, quota pounds are expected to be traded immediately. The purpose of the second year supplemental survey is to measure the initial effect of the quota pound trading. Discussions with various NMFS personnel and personal communications with industry members suggest that after the 5th year, the system will be more stabilized and settled. Trading activities should be well settled and this would be a good time to measure the overall change. In addition, the MSA Sec. 303A (1)(G) requires a five-year review of the quota management system, and the data provided from this research can inform the five-year review process. In addition, this approach, as opposed to an annual approach, will reduce the burden on the research participants significantly.

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.

Various steps have been, and will continue to be, taken to maximize response rates. As a reminder, no statistical sampling methodology is intended for this study population, there is no specific sampling frame applied in this case.

The first step to increase response rates has been taken in the form of working with industry members in a pilot study and providing the opportunity for them to review and contribute to the development of the survey tool. Industry members selected are all key participants in various aspects of the industry, to include geographically diverse locations within the fishery, diverse roles within the industry, as well as diverse knowledge of the fishery. Each industry member has been invited to continue to work with the study principal investigator to discuss the best approach to reach study participants. Several of the industry members have already committed to serving as key informants, gate keepers, and primary contacts to many others in the industry. These individuals will assist in the communication of the research, will have access to literature about the study to be distributed to their constituents, and will assist researchers in the field to coordinate with study participants. The action of working with industry members and including them in the survey design and study and points of contact is expected to increase the response rate dramatically.

Additional efforts to increase response rate include in-person survey administration whenever possible. It has been the experience of other research efforts that conducting the research in person and collecting completed surveys immediately, dramatically increases response rates (Russell and Schneider 2009, Rea and Parker 1997, Robson 2002). In addition, the individuals participating in the research have the opportunity to communicate with the researcher and provide additional information that is of concern to them to be included in the data set.

Contact has also been made with other key members of NMFS, academia, and industry to better understand the study universe and to work together to collect a more complete data set. Communication with NMFS Northwest Regional Office, NMFS Observer program personnel, NMFS survey program personnel, NMFS Alaska Fisheries Science Center personnel, NMFS SWFSC personnel, other NMFS field personnel, Oregon Sea Grant Personnel, and California Sea Grant personnel are included in collaborative efforts of this research. These efforts have increased the background knowledge available to the researchers, provided additional key informants and gate keepers to the industry, and have provided a support network throughout the west coast to conduct this research. This network of information available to the researchers will contribute to an increased response rate. An example of how this will work is through coordinating our approach of fishermen with observers. This coordination will serve two functions, 1) access to vessel schedules, and 2) gate keeper assistance. The observers work with fishermen on a daily basis; they will have knowledge of the boats schedules, which would direct the researchers to be available to conduct the research at the most appropriate times for the survey respondents. It would reduce the contact burden and extensive scheduling calls, and capture the targeted respondents when they are most available. In addition, the observers know the individuals of research interest personally. Collaborating with the observers and arranging

for introductions between researchers and study participants by the observers, will likely increase the willingness of study participants to work with researchers.

Multiple options will be provided to study participants to participate in the research. For individuals who are willing to work with us but don't want to fill out the survey, researchers will conduct an interview and complete the survey per the participants' responses. For those who don't want to complete the entire survey, a section completion guide directs the participants as to which sections are most important to complete for the role the individual plays in the industry, limiting the sections the participant needs to complete. It is also clearly communicated that the individuals can stop their participation at any time, stop the completion of the survey at any time, or skip any questions of concern at any time, without any personal consequence. For those individuals who are not interested in the survey at all but are willing to participate in an interview, researchers will limit their data collection to interviews. If a participant is willing to give us only a few minutes of their time, we will ask the questions outlined in Sections A and B of the survey instrument. These sections are estimated to take approximately 5 minutes to complete. These responses will be used to analyze non-response 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.

A full review of the study description, the study methodology, and the survey instrument has been undertaken. NMFS personnel and other federal personnel in various regions have reviewed the survey tool and provided comments on both the survey tool and the study. As previously discussed in Question 3, key industry members were provided a description of the research, discussed the research with the principal investigator, and reviewed the survey tool in a pilot study of fewer than 10 industry participants. Communication with reviewers is being maintained to 1) communicate changes to the survey tool as a result of the reviews, and 2) to lay the framework for the deployment of researchers into the field to conduct the research.

Information received from industry members and other NMFS personnel was found to be invaluable to the development of the survey tool. Significant changes were thus made to improve the tool. Their continued participation in this research is expected to contribute greatly to its success.

5. Provide the name and telephone number of individuals consulted on 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 internal NMFS design, development, and review team including statistical analysis included Dr. Karma Norman, social scientist NWFSC (206) 302-2418; Anna Varney, ERT contractor at the NWFSC (206) 302-2486, Kristin Hoelting, UW Research Assistant at the NWFSC, (206) 302-2418, Todd Lee, Economist NWFSC (206) 302-2436, Carl Lian, Economist, NWFSC (206) 302-2414.

The primary individuals expected to collect the data include Suzanne Russell, social scientist, principal investigator, NWFSC, Anna Varney, ERT contractor NWFSC, Karma Norman, social scientist NWFSC, Jennifer Gilden Pacific Fisheries Management Council Staff, Christina Package, Pacific States Marine Fisheries Commission, Stacey Miller, NWFSC, and others to be

identified. It is expected that at minimum two additional individuals will be collection data in collaboration with the Oregon Sea Grant Program and the California Sea Grant Program.

Individuals who are expected to analyze the data include Suzanne Russell (206) 860-3274, Karma Norman (206) 302-2418, and Anna Varney (206) 302-2486.

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Fisheries Science Center
2725 Montlake Boulevard East
Seattle, WA 98112-2097

To Whom It May Concern:

We would like to inform you of a new study focused on individuals who participate in any aspect of the West Coast Groundfish Fishery. Please see the attached flyer for more information. This study aims to gain information about the individuals in the fishery both before and after the upcoming fisheries management change to a 'rationalization' program. The main tool to collect data for this research is a survey. Over the next several months, NOAA Fisheries will be surveying individuals whom are part of the West Coast Groundfish Fishery. The survey will be conducted by the Northwest Fisheries Science Center's (NWFSC) Human Dimensions Program. We invite you, your industry colleagues or employees, or others connected to the fishery to participate in the study.

As social scientists, we study the human dimensions of ecosystems, working to better understand people and their relationship to marine resources. In this study, we are interested in learning more about the people connected to the West Coast Groundfish Fishery. We think of industry members as vessel owners, permit owners, permit lessees, vessel operators/captains, crew members, processor owners, processor employees, buyers/first receivers, shore support companies, as well as others connected to the industry.

The survey will begin in early August 2010 and continue until the implementation of the new 'rationalization' program, currently scheduled for January 1, 2011. The best method for administering the survey is by conducting them in person. This will be done by scheduling an appointment ahead of time; we can conduct the survey at a time and location that is convenient for the person completing the survey. We can also provide any additional information or answer any questions that may arise. The survey may be given to multiple people at once or to individuals. Depending on the person being surveyed, we expect the survey to take about one hour to complete. If it is not possible to meet in person, the survey will be available on-line and through the mail. In addition to the survey, the researchers would greatly appreciate an opportunity to conduct a short interview to obtain any other information that is important to your participation in the fishery.

We understand that your time and that of your employees and colleagues is very valuable. We encourage your participation in this survey as you and other industry members are the only people that can provide the necessary information. By collecting this information we can better understand the industry itself. Please expect a follow up call within two weeks to discuss any questions and schedule appointments.



Thank you very much for your consideration and we look forward to talking to you further. If you have any questions about our program, the study, or would like to schedule your appointment please contact us at the number provided below or email at nwfsc.XXXXXXXXXX@noaa.gov or see our web page at www.nwfsc.XXXXXXXXXX@noaa.gov.

Thank you again for your time and consideration.

Sincerely,

OMB Control No. 0648-xxxx
Expires: xx/xx/xxxx

Suzanne Russell
Social Scientist
Principal Investigator
National Marine Fisheries Service
Northwest Fisheries Science Center
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Pacific Coast Groundfish Fishery Social Study

Brief Information

Principal Investigator: Suzanne M. Russell, NOAA/NMFS/NWFSC

Co-Investigators: Karma Norman, NOAA/NMFS/NWFSC
Anna Varney, ERT Contractor for NOAA/NMFS/NWFSC
Others TBD

Website: www.nwfsc/XXXXXXXXXXXX@noaa.gov

Email: www.XXXXXXXXXX@noaa.gov

WHAT IS THE PURPOSE OF THIS STUDY?

This study aims to collect social and cultural information from those participating in any aspect of the Pacific Coast Groundfish fishery. The study will allow us to create a baseline or foundational description of the people in the industry prior to the upcoming fisheries management system change in the form of a 'catch shares' or rationalization program. After the management change we will repeat the study. We can then compare the results from both studies to update the baseline data on the industry, and better understand any changes or social impacts that have occurred in the industry.

WHY AM I BEING INVITED TO TAKE PART IN THIS STUDY?

You are being invited to participate in this study because you are involved in the Pacific Coast Groundfish Trawl Fishing industry. People who are being invited to participate include but are not limited to fishermen, permit holders, quota allocation recipients, buyers/first receivers, processors, or any others who participate in any role(s) or company that supplies services to the trawl fishery.

WHAT WILL I HAVE TO DO AND HOW MUCH TIME IS REQUIRED FROM MY PARTICIPATION?

You are being asked to participate in this study which includes your completion of a survey and a short interview. It is expected that the average time to complete the survey and conduct the interview is 1 hour. Time periods may be shorter or slightly longer depending on each participant.

WHO WILL SEE THE INFORMATION I GIVE?

The information you provide will be seen in its full form by those researchers participating in this study. They will collect the information you provide and enter the information into a database. Your responses will be combined with responses from other participants and analyzed. The analysis of the data will then be added to any reports or publications of the study and be available to view by anyone whom is interested in this research.

ARE MY RESPONSES CONFIDENTIAL?

The information you provide will be kept confidential to the extent possible per MSA Sec. 402(b) and the NOAA Administrative Order NAO 216-100, Protection of Confidential Fisheries Statistics. In addition, in the event of a Freedom of Information Act (FOIA) request, we will protect the confidentiality to the extent possible under the Exemption 4 of the FOIA. To support the confidentiality of this research, your name will not be included on the survey document. When writing final reports and publishing the findings of this research, your responses will be combined with responses from other participants so that no single individual may be identified. All personal names provided will be viewed only by the researchers. The

names will either be coded with a descriptor such as 'X Community Fisherman' or assigned a code such as 'A1' as an identifier. The type of code that will be applied to each data set may vary based on the question or the analysis required of that question. Every method to protect the confidentiality of all responses will be applied in any and all contexts of this research.

DO I HAVE A CHOICE TO BE IN THE SURVEY?

Participation in this research is completely voluntary. You may ask questions at any time. You may ask for additional information about specific questions or the research as a whole. You may participate in the study and choose not to answer specific questions without any consequence at any time. You may stop your participation at any time.

WHAT ARE THE RISKS AND BENEFITS OF THIS STUDY?

There are no foreseeable personal risks or any personal direct benefits of this study.

WILL I BE ABLE TO SEE THE RESULTS OF THIS STUDY?

Research results will be provided either in electronic or hard copy form to all participants/ organizations who participated in the research. The resulting documents will also be publicly available to any other parties who have an interest in the research.

WHAT IF I HAVE QUESTIONS?

If you have additional questions or would like additional information about this study, please do not hesitate to contact the Principal Investigator, Suzanne Russell, Office (206) 860-3274 or suzanne.russell@noaa.gov.

THANK YOU FOR YOUR TIME AND WILLINGNESS TO PARTICIPATE IN OUR RESEARCH.

OMB Control No. 0648-xxxx
Expires: xx/xx/xxxx



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Pacific Coast Groundfish Trawl Fishery Social Survey

Informed Consent Form - Optional

Principal Investigator: Suzanne M. Russell, NOAA/NMFS/NWFSC

Co-Investigators: Karma Norman, NOAA/NMFS/NWFSC
Anna Varney, ERT Contractor for NOAA/NMFS/NWFSC
Others TBD

WHAT IS THE PURPOSE OF THIS STUDY?

This study aims to collect social and cultural information from those participating in any aspect of the Pacific Coast Groundfish fishery. The study will allow us to create a baseline or foundational description of the people in the industry prior to the upcoming fisheries management system change in the form of a 'catch shares' or rationalization program. After the management change we will repeat the study. We can then compare the results from both studies to update the baseline data on the industry, and better understand any changes or social impacts that have occurred in the industry.

WHAT IS THE PURPOSE OF THIS FORM?

This form is in addition to the survey information section in the primary survey document. This form is to further clarify information about each individual's participation in this research.

WHY AM I BEING INVITED TO TAKE PART IN THIS STUDY?

You are being invited to participate in this study because you are involved in the Pacific Coast Groundfish Trawl Fishing industry. People who are being invited to participate include but are not limited to fishermen, permit holders, quota allocation recipients, buyers/first receivers, processors, or participate in any role(s) or company that supplies services to the trawl fishery.

WHAT WILL I HAVE TO DO AND HOW MUCH TIME IS REQUIRED FROM MY PARTICIPATION?

You are being asked to participate in this study which includes your completion of a survey and a short interview. It is expected that the average time to complete the survey and conduct the interview is 1 hour. Time periods may be shorter or slightly longer depending on each participant.

WHO WILL SEE THE INFORMATION I GIVE?

The information you provide will be seen in its full form by those researchers participating in this study. They will collect the information you provide and enter the information into a database. Your responses will be combined with responses from other participants and analyzed. The analysis of the data will then be added to any reports or publications of the study and be available to view by anyone whom is interested in this research.

ARE MY RESPONSES CONFIDENTIAL?

The information you provide will be kept confidential to the extent possible per MSA Sec. 402(b) and the NOAA Administrative Order NAO 216-100, Protection of Confidential Fisheries Statistics. In addition, in the event of a Freedom of Information Act (FOIA) request, we will protect the confidentiality to the extent possible under the Exemption 4 of the FOIA. To support the confidentiality of this research, your name will not be included on the survey document. When writing final reports and publishing the findings of this

research, your responses will be combined with responses from other participants so that no single individual may be identified. All personal names provided will be viewed only by the researchers. The names will either be coded with a descriptor such as 'X Community Fisherman' or assigned a code such as 'A1' as an identifier. The type of code that will be applied to each data set may vary based on the question or the analysis required of that question. Every method to protect the confidentiality of all responses will be applied in any and all contexts of this research.

DO I HAVE A CHOICE TO BE IN THE SURVEY?

Participation in this research is completely voluntary. You may ask questions at any time. You may ask for additional information about specific questions or the research as a whole. You may participate in the study and chose not to answer specific questions without any consequence at any time. You may stop your participation at any time.

WHAT ARE THE RISKS AND BENEFITS OF THIS STUDY?

There are no foreseeable personal risks or any personal direct benefits of this study.

WILL I BE ABLE TO SEE THE RESULTS OF THIS STUDY?

Research results will be provided either in electronic or hard copy form to all participants/ organizations who participated in the research. The resulting documents will also be publicly available to any other parties who have an interest in the research.

WHAT IF I HAVE QUESTIONS?

If you have additional questions or would like additional information about this study, please do not hesitate to contact the Principal Investigator, Suzanne Russell, Office (206) 860-3274 or suzanne.russell@noaa.gov.

THANK YOU FOR YOUR TIME AND WILLINGNESS TO PARTICIPATE IN OUR RESEARCH

Your signature indicates that this research study has been explained to you, that your questions have been answered, and that you agree to take part in this study. You will receive a copy of this form.

Participants Name (printed): _____

(Signature of Participant)

(Date)

Pacific Coast Groundfish Trawl Fishery Social Survey



Sponsored by:
NOAA Fisheries (National Marine Fisheries Service)
Northwest Fisheries Science Center
Human Dimensions Program

Questions?

Please Contact Suzanne Russell, NWFSC Social Scientist
Phone: (206) 860-3274
Email: suzanne.russell@noaa.gov

OMB Control No.: 0648-XXXX

EXPIRATION DATE: XX/XX/XXXX

This survey is voluntary.

ALL RESPONSES ARE CONFIDENTIAL

SURVEY INFORMATION

WHAT IS THE PURPOSE OF THE STUDY? This study aims to collect social and cultural information from those participating in any aspect of the Pacific Coast Groundfish fishery. The study will allow us to create a baseline description of the people in the industry before a 'catch share' or individual fishing quota program is put in to place in the groundfish fishery. After the management change we will repeat the study. We can then compare the results from both studies to update the baseline data on the industry, and better understand any changes or social impacts that have occurred in the industry.

WHO IS CONDUCTING THIS STUDY? This study is being conducted by the Human Dimensions Program at the Northwest Fisheries Science Center (NWFSC), National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA). This program researches people within ecosystems. This means we study human society as it relates to marine resources, such as in commercial fishing.

HOW IS THIS STUDY FUNDED? This project is funded by Human Dimensions Program of the NWFSC, NMFS, NOAA.

HOW WILL THIS STUDY BE USED? The information collected in this study will be used to understand the impacts of fishery management measures, and to improve fishery management in the future. The information will be publically available. It will also serve to meet regulatory requirements, including, for example, requirements concerning information about fishing communities in the Magnuson-Stevens Fishery Conservation Act National Standard 8 and those concerning minorities and environmental policy in Executive Order 12898 – the Environmental Justice Initiative.

HOW IS THIS SURVEY ORGANIZED? The survey is organized into six parts; demographics, individual participation, connections, a section for fishermen/harvesters, a section for buyers/first receivers, and a section for processors. The questions allow us to better understand all of the components of the fishery and how they function and are connected.

WHO DOES THIS STUDY INCLUDE? This study includes trawl limited entry permit holders, vessel owners, vessel captains/operators, crew, rationalization quota allocation recipients, processors, and buyers/first receivers who participate in aspects of the Pacific Coast Groundfish fishery.

HOW LONG WILL IT TAKE? This survey takes most people 1 hour to complete.

ARE MY ANSWERS CONFIDENTIAL? This is a confidential survey. Analysis of the survey results will be anonymous and/or aggregated. Information in this survey will be subject to the confidentiality requirements of the National Marine Fisheries Service, and will not be provided or presented in any way as to identify individual respondents. Please see next page for more information.

DO I HAVE TO PARTICIPATE? Your participation and input is **VERY** important and will help us to better understand the unique opportunities and challenges of this fishery. However, this is a **voluntary** survey and you may choose to skip any question or end at any point in the survey.

HOW WAS MY NAME OBTAINED? Depending on your role in the industry, your name was obtained through ownership of a vessel, websites, through your employer, or through third party referrals.

Thank you for your participation!

Please contact Suzanne Russell, NWFSC Social Scientist for more information.
Contact information: suzanne.russell@noaa.gov, or by phone: (206) 860-3274

Filled out by survey administrator

Code number: _____ Survey Location: _____

Date: _____ Name of administrator: _____

Notes: _____

SURVEY INSTRUCTIONS

All answers given in this survey should reflect YOUR OWN perception of the commercial fishing industry based on your personal experience and knowledge.

- Please ask questions at any time. Feel free to ask the researcher who is working with you or contact Suzanne Russell 206-860-3274, suzanne.russell@noaa.gov.
 - Please follow directions carefully.
 - Please **DO NOT** write your name anywhere on this survey.
 - Please mark one answer per question unless otherwise specified. Please write clearly.
 - If you are unable to answer the question or it does not apply to you, please make sure to select the 'do not know' or 'not applicable' box from the options provided.
 - If you chose to **not** answer a question for any reason, please write a notation next to the question in the margin if an appropriate option (ex. Not applicable) is not provided in the question.
 - Please mark boxes clearly
- In electronic survey versions, check boxes can be selected and unselected with a click of the mouse.
- If you mark and answer incorrectly, please draw a horizontal line through the incorrect answer and check the correct answer.

THANK YOU FOR YOUR TIME AND PARTICIPATION

EXPLANATION OF CONFIDENTIALITY

The information you provide will be kept confidential to the extent possible per the Magnuson-Stevens Fishery Conservation and Management Act (as amended) Sec 402(b). and NOAA Administrative Order NAO 216-100, Protection of Confidential Fisheries Statistics. In addition, in the event of a Freedom of Information Act (FOIA) request, we will protect the confidentiality to the extent possible under the Exemption 4 of the FOIA. To support the confidentiality of this research the following processes are in place:

- Your name will not be included on the survey document. It will be tracked in an alternate document to reduce duplication, to account for your participation in the survey, and code your name as needed for the data analysis. Access to this document will be limited to researchers and protected via confidentiality agreements.
- All personal names provided on the survey document as answers to questions, will be viewed only by the researchers. The names will either be coded with a descriptor such as 'X Community Fisherman' or assigned a code such as 'A1' as an identifier. The type of code that will be applied to each data set may vary based on the question or the analysis required of that question.
- When writing final reports and publishing the findings of this research, your responses will be combined with responses from other participants so that no single individual may be identified.
- Every method to protect the confidentiality of all responses will be applied in any and all contexts of this research.

Section Completion Guide

Please see the following table for guidance on which survey sections to complete. Anyone can complete any of the survey sections; this information is simply provided for your assistance.

- = Please complete all sections that are marked with this symbol
- = Sections marked with this symbol are optional based on your knowledge of the subject.

Industry Role	Sections					
	A	B	C	D	E	F
Fishermen	■	■	■	■	■	
At-Sea Mothership and/or Catcher Processor Owner and/or Operator	■	■	■	■	■	■
At-Sea Mothership Employee	■	■	■	■		□
At-Sea Catcher Processor Employee - Fisherman	■	■	■	■	■	
At-Sea Catcher Processor Employee – Processing role	■	■	■	■		□
At-Sea Mothership/Catcher Processor Employee – Other role	■	■	■	□		
Shoreside Processor Owner and/or Operator	■	■	■	■		■
Shoreside Processor Employee	■	■	■	□		□
Buyer/First Receiver	■	■	■	■		■
Fishermen’s Wife	■	■	■	■		
Industry Supplier	■	■	■	□		
Other Business Operations	■	■	■	□		

For further clarification, the following table is provided to correlate to the above table.

Industry Role	Description
Fishermen	Permit Holders Permit lessee Vessel Owner Captain/Operator Crew Quota allocation recipient
Buyer/First Receiver	As defined in next section
Shoreside Processor	Those working for processors permanently fixed on land
Industry Supplier	Net suppliers, gear suppliers, equipment suppliers, fuel, etc.
Other Business Operations	Any individual who is active in the fishery in other aspects such as accounting, business management, etc., but does not clearly fall into the other roles identified. For example a business partner who may not be an owner.

SURVEY DEFINITIONS

The following definitions are for the application to this survey only. Where possible, these definitions have been correlated to definitions found in associated fishery management documents¹.

AT-SEA PROCESSOR: An operation conducting processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shore-based or on the water.

BUYER/FIRST RECEIVER: A person(s) or organization(s) who receives, purchases, or takes custody, control, or possession of commercially caught fish onshore directly from a shoreside vessel.

CATCH-SHARES: A general term for several fishery management strategies that allocate a specific portion of the total allowable fishery catch to individuals, cooperatives, communities, or other entities. The term includes specific programs defined in law such as “limited access privilege” (LAP) and “individual fishing quota” (IFQ), and rationalization programs².

COMMERCIAL FISHING: (1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or (2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

FISHERMAN: An individual who plays a role on a vessel that commercially harvests, takes, or catches of fish.

OWNER OF A VESSEL OR VESSEL OWNER: means a person identified as the current owner in the Certificate of Documentation (CG-1270) issued by the United States Coast Guard (USCG) for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel.

PERMIT OWNER: A person who owns a limited entry permit.

PERMIT HOLDER: A vessel owner as identified on the USCG form 1270 or state motor vehicle licensing document.

PERMIT LESSEE: A person who has the right to possess and use a limited entry permit for a designated period of time, with reversion of those rights to the permit owner.

SHORESIDE PROCESSOR: An individual or operation that is permanently fixed to land that engages in processing; or received live Groundfish directly from a fishing vessel for retail sale without further processing

¹ Source: Title 50: Wildlife and Fisheries, Part 660 Fisheries off the West Coast States, Subpart G- West Coast Groundfish Fisheries §660.302 Definitions. [Electronic Code of Federal Regulations](#); accessed 2-23-10.

² Source: Draft NOAA Catch Shares Policy. Accessed April 9, 2009
http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/docs/draft_noaa_cs_policy.pdf

Section A: Demographic Information

Demographic questions help us to better understand the unique characteristics of people. They are standard questions in social science and can be compared to the U.S. Census data to better describe a specific population such as fishermen.

A1 What is your gender?

Answer	
<input type="checkbox"/>	Male
<input type="checkbox"/>	Female

A2 How old are you?

Answer

A3 What is the highest level of education you have attained?

Answer			
<input type="checkbox"/>	Some high school	<input type="checkbox"/>	Associates degree
<input type="checkbox"/>	High school diploma or equivalent	<input type="checkbox"/>	Bachelors degree
<input type="checkbox"/>	Some college or vocational, no degree	<input type="checkbox"/>	Graduate or professional degree

A4 Are you Hispanic or Latino?

Answer	
<input type="checkbox"/>	Yes, Hispanic or Latino
<input type="checkbox"/>	No, not Hispanic or Latino



A5 What is your race? **Please mark all that apply.**

Answer	
<input type="checkbox"/>	American Indian or Alaska Native
<input type="checkbox"/>	Asian
<input type="checkbox"/>	Black or African American
<input type="checkbox"/>	Native Hawaiian or Other Pacific Islander
<input type="checkbox"/>	White/Caucasian

A6 What is your ancestry (ethnic origin)? **Please mark all that apply.**

Answer	Answer	Answer			
<input type="checkbox"/>	Chinese	<input type="checkbox"/>	Italian	<input type="checkbox"/>	Mexican
<input type="checkbox"/>	English	<input type="checkbox"/>	Irish	<input type="checkbox"/>	Norwegian
<input type="checkbox"/>	Filipino	<input type="checkbox"/>	Japanese	<input type="checkbox"/>	Russian
<input type="checkbox"/>	German	<input type="checkbox"/>	Korean	<input type="checkbox"/>	Vietnamese
Other (Specify)					

A7 What is your current marital status?

Answer	
<input type="checkbox"/>	Single
<input type="checkbox"/>	Married ➔ Go to A7a
<input type="checkbox"/>	Divorced
<input type="checkbox"/>	Widowed
<input type="checkbox"/>	Other (Specify)

A7a If married, does your spouse participate in any aspect of the commercial fishing industry?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

Section A: Demographic Information Continued

A8 How many members are in your household (including yourself)?

Answer in #

A9 What percentage of your income comes from your participation in any commercial fishing activity?

Answer
<input type="checkbox"/> Prefer not to answer this question

A10 How are you paid for your work in the commercial fishing industry?
Please mark all that apply.

Answer
<input type="checkbox"/> By Trip
<input type="checkbox"/> By percentage of value of catch
<input type="checkbox"/> By days at sea
<input type="checkbox"/> Hourly
<input type="checkbox"/> Salary
<input type="checkbox"/> Owner Share
<input type="checkbox"/> Other (Specify)

A11 Please indicate your permanent residence (where you are registered to vote) or your most current residence:

Answer
City/Town:
State:
Zip Code:

A12 How long have you lived in your permanent or current residence?

Answer

A13 Please describe your living situation.

Answer
<input type="checkbox"/> Own Home
<input type="checkbox"/> Rent Home
<input type="checkbox"/> Live with Parents
<input type="checkbox"/> Other (Specify)

Section B: Individual Participation

Questions in this section help us better understand more unique characteristics of the people in the industry, beyond what demographic information provides. In this section we seek to better understand how you participate in commercial fishing and your historical activity in fishing.

B1 Please indicate your role and any role your spouse/partner may have in any aspect of commercial fishing? **Please mark all that apply.**

Self	Role Description	Spouse/ Partner
<input type="checkbox"/>	Permit Holder	<input type="checkbox"/>
<input type="checkbox"/>	Co-Permit Holder	<input type="checkbox"/>
<input type="checkbox"/>	Permit Lessee	<input type="checkbox"/>
<input type="checkbox"/>	Vessel Owner	<input type="checkbox"/>
<input type="checkbox"/>	Co-Vessel Owner	<input type="checkbox"/>
<input type="checkbox"/>	Captain/Operator	<input type="checkbox"/>
<input type="checkbox"/>	Fishing Crew	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Owner	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Operator	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Employee - Fisherman	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Employee – Processing Role	<input type="checkbox"/>
<input type="checkbox"/>	Vessel Crew – Other Non-Fishing/Non-Processing Role	<input type="checkbox"/>
<input type="checkbox"/>	Buyer (First Receiver)	<input type="checkbox"/>
<input type="checkbox"/>	Shoreside Processor Owner	<input type="checkbox"/>
<input type="checkbox"/>	Shoreside Processor Operator	<input type="checkbox"/>
<input type="checkbox"/>	Shoreside Processor Employee	<input type="checkbox"/>
<input type="checkbox"/>	Fishermen’s Wife	<input type="checkbox"/>
<input type="checkbox"/>	Industry Supplier (Nets, Fuel, etc.)	<input type="checkbox"/>
<input type="checkbox"/>	Business Operations (accounting etc.)	<input type="checkbox"/>
<input type="checkbox"/>	Other (Specify)	<input type="checkbox"/>
	Not Applicable	<input type="checkbox"/>

B2 Has you family historically participated in any commercial fishing activity?

Answer		
<input type="checkbox"/>	Yes	➔ Go to B3
<input type="checkbox"/>	No	➔ Go to B4

B3 For how many generations has your family participated in any commercial fishing activity?

Answer

B4 How old were you when you started to work in any commercial fishing activity?

Answer

B5 For how many total years have you worked in **any** commercial fishing activity?

Answer

B6 Of the years you’ve worked in commercial fishing, how many years have you worked in the Pacific Coast **groundfish** fishing industry?

Answer

Section B: Individual Participation Continued

B7 What location do you work from in relation to where you live (your permanent or current residence)?

Answer		
<input type="checkbox"/>	Same city/town	➔ Go to B8
<input type="checkbox"/>	Different city/town - same county	➔ Go to B7a
<input type="checkbox"/>	Different city/town - same state	
<input type="checkbox"/>	Different city/town - different state	

B7a Please list the city/towns where you participate in the commercial fishing industry.

Answer	

B7b Why do you participate in the commercial fishing industry in a location other than where you live?

Answer

B8 Please indicate your level of employment in each category indicated below. **(Please mark all that apply)**

Answer	Groundfish Fishery	All Other Fisheries	Non- Fishing
Full-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Part-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seasonal Full-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seasonal Part-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Self Employed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please describe)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B8a Do you work multiple jobs?

Answer	
<input type="checkbox"/>	Yes , multiple part-time jobs
<input type="checkbox"/>	Yes , multiple full-time jobs
<input type="checkbox"/>	Yes , both full and part-time jobs
<input type="checkbox"/>	No

Section B: Individual Participation Continued

B9 Do you maintain a job outside the commercial fishing industry?

Answer		
<input type="checkbox"/>	Yes	➔ Go to B9a
<input type="checkbox"/>	No	➔ Go to B10

B9a Please describe any jobs you have outside of the commercial fishing industry.

Answer

B9b Please indicate why you maintain a job(s) outside the commercial fishing activity.
For example: personal interest, supplement income, etc.

Answer

B10 How would you rate the following items in your role in the commercial fishing industry?

Description	Poor	Fair	Good	Excellent
Job satisfaction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compensation/Pay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Method of compensation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Job Stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Standard of Living	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Relationship with co-workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B10a What would contribute to improving the above (B9) conditions? Please indicate the item and how it may be improved. *For example: Standard of Living would improve with increased income.*

Answer

Section C: Connections

Questions in this section help us understand how people in the industry are connected, how information and resources flow, and identify important resources.

C1 Who do you depend on for everyday information you while working in the commercial fishing industry? *For example status of fishing grounds* **Please list first and last names of people, companies, and/or organizations.** Personal names will be coded to protect identity, see page ii.

Answer

NOT APPLICABLE

C2 Who do you depend on for equipment and supplies you utilize while working in the commercial fishing industry? *For example net suppliers, vessel parts, etc.* **Please list first and last names of people, companies, and/or organizations.** Personal names will be coded to protect identity, see page ii

Answer

NOT APPLICABLE

C3 Who do you depend on for services you utilize while working in the commercial fishing industry? *For example shipyards, equipment repairs etc.* **Please list first and last names of people, companies, and/or organizations.** Personal names will be coded to protect identity, see page ii

Answer

NOT APPLICABLE

Section C: Connections Continued

C4 Who do you depend on for information about fisheries management? *For example changes in regulations.* Please list first and last names of people, companies, and/or organizations. Personal names will be coded to protect identity, see page ii

Answer	
<input type="checkbox"/>	NOT APPLICABLE

C5 Where do you get information related to your work in the fishery?

Answer			
<input type="checkbox"/>	Telephone/Cell Phone	<input type="checkbox"/>	Social Networking Sites (Facebook, Twitter, etc.)
<input type="checkbox"/>	Radio	<input type="checkbox"/>	Print Media (Newspaper, Magazines, Newsletters)
<input type="checkbox"/>	Internet	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	NOT APPLICABLE		

C6 Please list any organizations or associations you are a member of relating to your participation in any part of the commercial fishing industry.

Answer	
<input type="checkbox"/>	NOT APPLICABLE

Section D: Catch Shares Perspectives

Questions in this section will help us understand your ideas and opinions about the new catch shares management program.

D1 Please rate how well informed are you about the upcoming fisheries management change to 'catch shares' or rationalization program?

Highly Informed	Reasonably Informed	Somewhat Informed	Not Informed
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D2 Do you support the upcoming 'catch shares' program?

Answer			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	No	<input type="checkbox"/>	Do Not Know

D3 Please select the top 5 reasons for your response in the previous question **D2**. Why do you support or not support the upcoming 'catch shares' program?

Answer			
<input type="checkbox"/>	Increase in market value	<input type="checkbox"/>	Management Program difficult to understand
<input type="checkbox"/>	Increase in market competition	<input type="checkbox"/>	Increase cost to enter fishery – purchase quota
<input type="checkbox"/>	Increase in business flexibility	<input type="checkbox"/>	Increase cost to remain in the fishery
<input type="checkbox"/>	Longer fishing seasons	<input type="checkbox"/>	Fewer jobs
<input type="checkbox"/>	Reduced bycatch	<input type="checkbox"/>	More stable jobs
<input type="checkbox"/>	Increase in safety	<input type="checkbox"/>	Increase cost for raw product
<input type="checkbox"/>	Increase in gear flexibility	<input type="checkbox"/>	Increase in processing costs
<input type="checkbox"/>	Improvement of product quality	<input type="checkbox"/>	Decrease in processing costs
<input type="checkbox"/>	More stable delivery schedule	<input type="checkbox"/>	Boats leave the fishery and negatively impact the community
<input type="checkbox"/>	More businesses and better community infrastructure	<input type="checkbox"/>	Processors leave the community and negatively impact the community
<input type="checkbox"/>	Increase in Income	<input type="checkbox"/>	An increase in processor capacity
<input type="checkbox"/>	Decrease in Income	<input type="checkbox"/>	A decrease in processor capacity
<input type="checkbox"/>	More Stable Income	<input type="checkbox"/>	Loss of businesses and community infrastructure
<input type="checkbox"/>	Other (Specify)		

D4 How do you personally expect to be affected by the reasons you selected in the previous question **D3**? Please select an option that represents your expectation.

Answer			
<input type="checkbox"/>	Benefit	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Negative Impact	<input type="checkbox"/>	Do Not Know

FISHERMEN: PLEASE CONTINUE TO NEXT PAGE
AT-SEA & SHORESIDE PROCESSOR& BUYERS: PLEASE CONTINUE TO PAGE 15

Section E: FISHERMEN

Questions in this section are specifically for fishermen. Information gathered will help us understand how fishermen are connected to each other and to processors, how fishermen move between the groundfish fishery and other fisheries, the relationships between people they work with, and what happens to fish after it's caught.

E1 Please rank, in order of importance, which fisheries you participate in on a regular basis (for the past three years) (1 being the most important). BSAI: Bering Sea/Aleutian Island, GOA: Gulf of Alaska

Rank	Pacific Coast Fisheries	Rank	Alaska Fisheries
	Pacific Whiting		BSAI Groundfish
	Groundfish		BSAI King and Tanner Crab
	Salmon		GOA Groundfish
	Pacific Halibut		Alaska Scallop
	Highly Migratory Species		Alaska Salmon
	Coastal Pelagic Species		Other (Specify)
	Dungeness Crab		
	Other (Specify)		

E2 What are the most common fish you have commercially fished for in the last five years?
Please mark all that apply.

Rockfish	
<input type="checkbox"/>	Chilipepper
<input type="checkbox"/>	Longspine Thorneyhead
<input type="checkbox"/>	Shortspine Thorneyhead
<input type="checkbox"/>	Splitnose
<input type="checkbox"/>	Yellowtail

Roundfish	
<input type="checkbox"/>	Lingcod
<input type="checkbox"/>	Pacific Cod
<input type="checkbox"/>	Pacific Whiting
<input type="checkbox"/>	Sablefish

Flatfish	
<input type="checkbox"/>	Arrowtooth Flounder
<input type="checkbox"/>	Dover Sole
<input type="checkbox"/>	English Sole
<input type="checkbox"/>	Petrals Sole
<input type="checkbox"/>	Starry Flounder

Sharks and Skates	
<input type="checkbox"/>	Longnose Skate
<input type="checkbox"/>	Big Skate
<input type="checkbox"/>	California Skate
<input type="checkbox"/>	Spiny Dogfish

Other	
<input type="checkbox"/>	Herring
<input type="checkbox"/>	Mackerel
<input type="checkbox"/>	Tuna
<input type="checkbox"/>	Pink Shrimp
<input type="checkbox"/>	Ridgeback Prawn
<input type="checkbox"/>	Squid
<input type="checkbox"/>	Alaska Pollock
<input type="checkbox"/>	Alaska King Crab

Other	
<input type="checkbox"/>	Alaska Tanner Crab
<input type="checkbox"/>	Alaska Salmon
<input type="checkbox"/>	Alaska Atka Mackerel
<input type="checkbox"/>	Alaska Sablefish
<input type="checkbox"/>	Alaska Halibut
<input type="checkbox"/>	Alaska Pacific Cod
<input type="checkbox"/>	Alaska Flatfish

Other	
<input type="checkbox"/>	Dungeness Crab
<input type="checkbox"/>	Pacific Halibut

<input type="checkbox"/>	Other (Specify)
--------------------------	-----------------

Section E: FISHERMEN Continued

E3 Have you changed the species you have catch within the last 5 years?

Answer		
<input type="checkbox"/>	Yes	➔ Go to E3a
<input type="checkbox"/>	No	➔ Go to E4
<input type="checkbox"/>	Not Applicable	

E3a Why have you changed the species you catch?

Answer

E4 What are the common gears you use to fish? **Please mark all that apply.**

Answer					
<input type="checkbox"/>	Setline	<input type="checkbox"/>	Crab Pot	<input type="checkbox"/>	Roller Trawl
<input type="checkbox"/>	Jig	<input type="checkbox"/>	Fish Pot	<input type="checkbox"/>	Beam Trawl
<input type="checkbox"/>	Pole (Commercial)	<input type="checkbox"/>	Prawn Trap	<input type="checkbox"/>	River Trawl
<input type="checkbox"/>	Vertical Hook and Line	<input type="checkbox"/>	Danish/Scottish Seine	<input type="checkbox"/>	Drift Gill Net
<input type="checkbox"/>	Gill Net	<input type="checkbox"/>	Flatfish Trawl	<input type="checkbox"/>	Shrimp Trawl, Double Rigged
<input type="checkbox"/>	Dip Net	<input type="checkbox"/>	Groundfish Trawl, Large Footrope	<input type="checkbox"/>	Shrimp Trawl, Single or Double Rigged
<input type="checkbox"/>	Set Net	<input type="checkbox"/>	Groundfish Trawl, Small Footrope	<input type="checkbox"/>	Shrimp Trawl, Single Rigged
<input type="checkbox"/>	Seine	<input type="checkbox"/>	Groundfish Trawl	<input type="checkbox"/>	Bottomfish Trawl
<input type="checkbox"/>	Diving Gear	<input type="checkbox"/>	Midwater Trawl	<input type="checkbox"/>	Troll
<input type="checkbox"/>	Lobster Pot	<input type="checkbox"/>	Pair Trawl	<input type="checkbox"/>	Stick Gear
<input type="checkbox"/>	Other (Specify)				

Section E: FISHERMEN Continued

E5 Please complete the following table to help us understand more about the boats you own or work on.

O: Please check the box if you own or co-own the vessel listed.

Mooring Port(s): Please tell us the port(s) where the boat most frequently moors. (This may be different than where the boat lands catch)

PCGTFP: Please check whether or not the vessel actively participates in the Pacific Coast Groundfish Trawl Fishery.

Please list all other Fisheries: Please list all the fisheries the boat(s) actively participates in. Please include both West Coast and Alaska Fisheries (if applicable).

DNK or Do Not Know: If you do not know a piece of information please indicate DNK or Do Not Know or in the corresponding space in the table.

<input type="checkbox"/> Not Applicable						
No.	O	Vessel Name	Mooring Port(s)	PCGTF Participant		Please list all other Fisheries
<i>Example</i>	<input checked="" type="checkbox"/>	<i>Wandering Seas</i>	<i>Bellingham, WA</i>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N	<i>Crab</i>
1				<input type="checkbox"/> Y	<input type="checkbox"/> N	
2				<input type="checkbox"/> Y	<input type="checkbox"/> N	
3				<input type="checkbox"/> Y	<input type="checkbox"/> N	
4				<input type="checkbox"/> Y	<input type="checkbox"/> N	
5				<input type="checkbox"/> Y	<input type="checkbox"/> N	
6				<input type="checkbox"/> Y	<input type="checkbox"/> N	
7				<input type="checkbox"/> Y	<input type="checkbox"/> N	
8				<input type="checkbox"/> Y	<input type="checkbox"/> N	

Section E: FISHERMEN Continued

E6 Approximately how many people work with you on the groundfish trawl boat(s) you work on or own? Please include yourself in the number.

Answer

E7 Do you typically work with the same people in the groundfish trawl fishery year after year?

Answer			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	Not Applicable
<input type="checkbox"/>	No		

E8 What is your relationship to others on the boat(s) you commercially fish on?
 Note: Please include permit holders or owners not on board. **Please mark all that apply.**

Answer			
<input type="checkbox"/>	Related to at least one individual – Family	<input type="checkbox"/>	Co-workers
<input type="checkbox"/>	All on boat are family members	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	Business partner(s)		

E9 Please rate the quality of your relationships with the following people on the most recent groundfish trawl fishery boat(s) you have worked on.

Individual	Negative	Neutral	Positive	Not Applicable	No Comment
Permit Holder	<input type="checkbox"/>				
Vessel Owner	<input type="checkbox"/>				
Captain/Operator	<input type="checkbox"/>				
Crew	<input type="checkbox"/>				
Observer	<input type="checkbox"/>				
Other (Specify)	<input type="checkbox"/>				

E10 To whom do you sell the trawl caught groundfish? Please provide information for the vessel you most recently worked on or owned. Please list business(es).

Answer	
<input type="checkbox"/>	Do Not Know

Section E: FISHERMEN Continued

E11 What items are taken into consideration when deciding where to sell the catch?

Answer			
<input type="checkbox"/>	Mutual agreement with Buyer	<input type="checkbox"/>	Mothership or Catcher - Processor
<input type="checkbox"/>	Mutual agreement with Processor	<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Contract with Buyer	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	Contract with Processor		
<input type="checkbox"/>	Only Single Buyer Available		
<input type="checkbox"/>	Best Price/Market		
<input type="checkbox"/>			

E12 Do you have a choice where you sell your fish?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

E13 How many buyers/processors are located in the port(s) you deliver to?

Answer	
<input type="checkbox"/>	Do Not Know

E14 What limits your choice of where you sell your fish?

Answer			
<input type="checkbox"/>	Market	<input type="checkbox"/>	Sell/deliver to a Mothership or Catcher-Processor
<input type="checkbox"/>	Limited number of processors	<input type="checkbox"/>	No Limitations
<input type="checkbox"/>	Location of processors	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	Amount purchased by processor		
<input type="checkbox"/>	Amount paid for catch by processor		
<input type="checkbox"/>	Species purchased by processor		
<input type="checkbox"/>	Multiple species required by processor for purchase of all species (for example groundfish and crab)		

E15 Please rate the quality of your relationships with the following people related to the selling of groundfish that you commercially caught with trawl gear.

Individual	Negative	Neutral	Positive	Not Applicable	No Comment
Buyer/First Receiver	<input type="checkbox"/>				
Processor	<input type="checkbox"/>				
Mothership	<input type="checkbox"/>				
Other (Specify)	<input type="checkbox"/>				
<input type="checkbox"/>	Not Applicable				

Section E: FISHERMEN Continued

E16 Do you plan on continuing your participation in the Pacific Coast Groundfish trawl fishery after the 'catch shares' program is implemented?

Answer		
<input type="checkbox"/>	Yes	➔ Go to E17
<input type="checkbox"/>	No	➔ Go to E16a

E16a Please describe why you do not plan on continuing fishing in the commercial Pacific Coast Groundfish trawl fishery.

Answer

E17 Do you plan on continuing your participation in other commercial fisheries?

Answer		
<input type="checkbox"/>	Yes	➔ Go to E17a
<input type="checkbox"/>	No	➔ Go to E17b

E17a Please list other commercial fisheries you plan on participating in.

Answer

E17b Please describe why you do not plan on continuing fishing in other commercial fisheries.

Answer

Section F: PROCESSORS (AT-SEA and/or SHORESIDE) and BUYERS/RECEIVERS

Questions in this section are specific to processors, including shoreside, catcher-processors, motherships, and buyers or first receivers. Information gathered in this section will help us understand the connectivity between processors and harvesters, the flow of the product from the harvester to the distributor and the stops along the way, and the decisions the processors must make.

F1 Please select below which option best describes the type of processor that you own or work for. Please provide the name of the company next to the corresponding selection.

Please mark all that apply.

Answer	Company Name
<input type="checkbox"/> shoreside processor	
<input type="checkbox"/> mothership	
<input type="checkbox"/> catcher-processor	
<input type="checkbox"/> Independent Buyer/First Receiver	
<input type="checkbox"/> Other (Specify)	

F2 In which city is the processor you own/ work for physically located? For catcher-processors or motherships, please indicate most common port(s). For buyers please indicate base city of business.

Answer

F3 Is the processor you work for part of a larger company? If so what are the company's other locations?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No ➔ Go to F4
<input type="checkbox"/>	Do Not Know

F4 Please list in order of importance the species of fish that is processed or purchased by the company you own/work for. Please list the most important species first.

Answer	
<input type="checkbox"/>	Do Not Know

Section F: PROCESSORS (AT-SEA and/or SHORESIDE) and BUYERS/RECEIVERS Continued

F5 Please describe why some of the fish you process are more important than others. *For example, market value is higher, available year round, etc.*

Answer	
<input type="checkbox"/>	Do Not Know

F6 Whom do you purchase groundfish trawl catch from? **Please mark all that apply.**

Answer	
<input type="checkbox"/>	Commercial Fishing Boats
<input type="checkbox"/>	Buyers/First Receivers
<input type="checkbox"/>	Not Applicable
<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Other (Specify)

F7 How many boats do you **purchase** trawl caught groundfish from on a regular basis (in a typical season)?

Answer	
<input type="checkbox"/>	Not Applicable
<input type="checkbox"/>	Do Not Know

F8 What items are taken into consideration when deciding where to **purchase** trawl caught groundfish? **Please mark all that apply.**

Answer			
<input type="checkbox"/>	Mutual agreement Fisherman/Boat	<input type="checkbox"/>	Catcher - Processor
<input type="checkbox"/>	Contract with Fisherman/Boat	<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Company Fishing Boats	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	Staff Buyer/First Receiver	<input type="checkbox"/>	
<input type="checkbox"/>	Contract with Buyer/First Receiver	<input type="checkbox"/>	

Section F: PROCESSORS (AT-SEA and/or SHORESIDE) and BUYERS/RECEIVERS Continued

F9 Please rate the quality of your relationships with the following people related to the purchasing of groundfish that is commercially trawl caught.

Individuals	Negative	Neutral	Positive	Not Applicable	No Comment
Permit Holder	<input type="checkbox"/>				
Vessel Owner	<input type="checkbox"/>				
Captain/Operator	<input type="checkbox"/>				
Buyer	<input type="checkbox"/>				
Distributor	<input type="checkbox"/>				
Marketer	<input type="checkbox"/>				
Laborers	<input type="checkbox"/>				
Other	<input type="checkbox"/>				

F10 Are the trawl caught groundfish purchased typically processed in the same port where they were purchased?

Answer		
<input type="checkbox"/>	Yes	➔ Go to F11
<input type="checkbox"/>	No	➔ Go to F10a
<input type="checkbox"/>	Depends on Species	
<input type="checkbox"/>	Other (Specify)	
<input type="checkbox"/>	Do Not Know	➔ Go to F11

F10a Please clarify why groundfish that is purchased in one port, is processed in another location.

Answer	
<input type="checkbox"/>	Do Not Know

F10b Where do you process groundfish that is not processed in the same port where it is purchased? Please list the cities. **Please mark all that apply.**

Answer	Locations
<input type="checkbox"/>	Local
<input type="checkbox"/>	Regional
<input type="checkbox"/>	National
<input type="checkbox"/>	International
<input type="checkbox"/>	Do Not Know

Section F: PROCESSORS (AT-SEA and/or SHORESIDE) and BUYERS/RECEIVERS Continued

F10c How are the product(s) transported? Please mark all that apply.

Answer	
<input type="checkbox"/>	Boat
<input type="checkbox"/>	Truck
<input type="checkbox"/>	Air
<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Other (Specify)

F11 What items are taken into consideration when deciding where to sell commercially trawl caught groundfish?

Answer	
<input type="checkbox"/>	Contract with wholesaler
<input type="checkbox"/>	Contract with distributor
<input type="checkbox"/>	Contract with restaurant(s)
<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Other (Specify)

F12 Where do you market your product? Please list the cities. Please mark all that apply.

Answer	Locations
<input type="checkbox"/>	Local
<input type="checkbox"/>	Regional
<input type="checkbox"/>	National
<input type="checkbox"/>	International
<input type="checkbox"/>	Do Not Know

F13 How are the product(s) transported to final distributor? Please mark all that apply.

Answer	
<input type="checkbox"/>	Boat
<input type="checkbox"/>	Truck
<input type="checkbox"/>	Air
<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Other (Specify)

Section F: PROCESSORS (AT-SEA and/or SHORESIDE) and BUYERS/RECEIVERS Continued

F14 What other businesses you depend upon for the complete purchase, processing, and sale of the products distributed? *For example: trucking company, broker, etc.*

Answer

--

Do Not Know

F15 To better understand what happens to commercially caught groundfish after it sold, please describe the path the product takes from purchase to selling. *For example:*

Vessel → Shoreside Processor → Local distributor → National market

Answer

--

Do Not Know

END SURVEY

THANK YOU FOR YOUR PARTICIPATION

Please address any questions or comments to:

Suzanne Russell
 2725 Montlake Blvd. East
 Seattle, WA 98112
Suzanne.russell@noaa.gov
 206-860-3274

*Public reporting or burden for this survey is estimated to average 1 hour 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. 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to **Suzanne Russell, NWFSC-Human Dimension Program, 2725 Montlake Blvd. East, Seattle, WA 98112-2097.***

Pacific Coast Groundfish Trawl Fishery

Social Survey

Post- Catch Shares

Supplemental Questions



Sponsored by:

NOAA Fisheries (National Marine Fisheries Service)
Northwest Fisheries Science Center
Human Dimensions Program

Questions?

Please Contact Suzanne Russell, NWFSC Social Scientist

Phone: (206) 860-3274

Email: suzanne.russell@noaa.gov

OMB Control No.: 0648-XXXX

EXPIRATION DATE: XX/XX/XXXX

This survey is voluntary.

ALL RESPONSES ARE CONFIDENTIAL.

SURVEY INFORMATION

WHAT IS THE PURPOSE OF THE STUDY? This study aims to collect social and cultural information from those participating in any aspect of the Pacific Coast Groundfish fishery. This study hopes to capture some changes that have occurred as a result of the fishery management change to a quota system. Results from a previous survey will be compared to the results from this study to update the baseline data on the industry, and better understand any changes or social impacts that have occurred in the industry.

WHO IS CONDUCTING THIS STUDY? This study is being conducted by the Human Dimensions Program at the Northwest Fisheries Science Center (NWFSC), National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA). This program researches people within ecosystems. This means we study human society as it relates to marine resources, such as in commercial fishing.

HOW IS THIS STUDY FUNDED? This project is funded by Human Dimensions Program of the NWFSC, NMFS, NOAA.

HOW WILL THIS STUDY BE USED? The information collected in this study will be used to understand the impacts of fishery management measures, and to improve fishery management in the future. The information will be publically available. It will also serve to meet regulatory requirements, including, for example, requirements concerning information about fishing communities in the Magnuson-Stevens Fishery Conservation Act National Standard 8 and those concerning minorities and environmental policy in Executive Order 12898 – the Environmental Justice Initiative.

HOW IS THIS SURVEY ORGANIZED? The survey is organized into six parts; demographics, individual participation, connections, a section for fishermen/harvesters, a section for buyers/first receivers, and a section for processors. The questions allow us to better understand all of the components of the fishery and how they function and are connected.

WHO DOES THIS STUDY INCLUDE? This study includes trawl limited entry permit holders, vessel owners, vessel captains/operators, crew, rationalization quota allocation recipients, processors, and buyers/first receivers who participate in aspects of the Pacific Coast Groundfish fishery.

HOW LONG WILL IT TAKE? This survey takes most people 1 hour to complete.

ARE MY ANSWERS CONFIDENTIAL? This is a confidential survey. Analysis of the survey results will be anonymous and/or aggregated. Information in this survey will be subject to the confidentiality requirements of the National Marine Fisheries Service, and will not be provided or presented in any way as to identify individual respondents. Please see next page for more information.

DO I HAVE TO PARTICIPATE? Your participation and input is **VERY** important and will help us to better understand the unique opportunities and challenges of this fishery. However, this is a **voluntary** survey and you may choose to skip any question or end at any point in the survey.

HOW WAS MY NAME OBTAINED? Depending on your role in the industry, your name was obtained through ownership of a vessel, websites, through your employer, or through third party referrals.

Thank you for your participation!

Please contact Suzanne Russell, NWFSC Social Scientist for more information.
Contact information: suzanne.russell@noaa.gov, or by phone: (206) 860-3274

Filled out by survey administrator

Code number: _____ Survey Location: _____

Date: _____ Name of administrator: _____

Notes: _____

SURVEY INSTRUCTIONS

All answers given in this survey should reflect YOUR OWN perception of the commercial fishing industry based on your personal experience and knowledge.

- Please ask questions at any time. Feel free to ask the researcher who is working with you or contact Suzanne Russell 206-860-3274, suzanne.russell@noaa.gov.
 - Please follow directions carefully.
 - Please **DO NOT** write your name anywhere on this survey.
 - Please mark one answer per question unless otherwise specified. Please write clearly.
 - If you are unable to answer the question or it does not apply to you, please make sure to select the 'do not know' or 'not applicable' box from the options provided.
 - If you chose to **not** answer a question for any reason, please write a notation next to the question in the margin if an appropriate option (ex. Not applicable) is not provided in the question.
 - Please mark boxes clearly
- In electronic survey versions, check boxes can be selected and unselected with a click of the mouse.
- If you mark and answer incorrectly, please draw a horizontal line through the incorrect answer and check the correct answer.

THANK YOU FOR YOUR TIME AND PARTICIPATION

EXPLANATION OF CONFIDENTIALITY

The information you provide will be kept confidential to the extent possible per the Magnuson-Stevens Fishery Conservation and Management Act (as amended) Sec 402(b). and NOAA Administrative Order NAO 216-100, Protection of Confidential Fisheries Statistics. In addition, in the event of a Freedom of Information Act (FOIA) request, we will protect the confidentiality to the extent possible under the Exemption 4 of the FOIA. To support the confidentiality of this research the following processes are in place:

- Your name will not be included on the survey document. It will be tracked in an alternate document to reduce duplication, to account for your participation in the survey, and code your name as needed for the data analysis. Access to this document will be limited to researchers and protected via confidentiality agreements.
- All personal names provided on the survey document as answers to questions, will be viewed only by the researchers. The names will either be coded with a descriptor such as 'X Community Fisherman' or assigned a code such as 'A1' as an identifier. The type of code that will be applied to each data set may vary based on the question or the analysis required of that question.
- When writing final reports and publishing the findings of this research, your responses will be combined with responses from other participants so that no single individual may be identified.
- Every method to protect the confidentiality of all responses will be applied in any and all contexts of this research.

Section Completion Guide

Please see the following table for guidance on which survey sections to complete. Anyone can complete any of the

- = Please complete all sections that are marked with this symbol
- = Sections marked with this symbol are optional based on your knowledge of the subject.

survey sections; this information is simply provided for your assistance.

Industry Role	Sections					
	A	B	C	D	E	F
Quota Owner/Holder	■	■	■	■	□	
Fishermen	■	■	■	□	■	
At-Sea Mothership and/or Catcher Processor Owner and/or Operator	■	■	■	□	■	■
At-Sea Mothership Employee	■	■	■			□
At-Sea Catcher Processor Employee - Fisherman	■	■	■		■	
At-Sea Catcher Processor Employee – Processing role	■	■	■			□
At-Sea Mothership/Catcher Processor Employee – Other role	■	■	■			
Shoreside Processor Owner and/or Operator	■	■	■			■
Shoreside Processor Employee	■	■	■			□
Buyer/First Receiver	■	■	■	□		□
Fishermen’s Wife	■	■	■	□		
Industry Supplier	■	■	■	□		
Other Business Operations	■	■	■	□		

For further clarification, the following table is provided to correlate to the above table.

Industry Role	Description
Fishermen	Permit Holders Permit lessee Vessel Owner Captain/Operator Crew Quota allocation recipient
Buyer/First Receiver	As defined in next section
Shoreside Processor	Those working for processors permanently fixed on land
Industry Supplier	Net suppliers, gear suppliers, equipment suppliers, fuel, etc.
Other Business Operations	Any individual who is active in the fishery in other aspects such as accounting, business management, etc., but does not clearly fall into the other roles identified. For example a business partner who may not be an owner.

SURVEY DEFINITIONS

The following definitions are for the application to this survey only. Where possible, these definitions have been correlated to definitions found in associated fishery management documents¹.

AT-SEA PROCESSOR: An operation conducting processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shore-based or on the water.

BUYER/FIRST RECEIVER: A person(s) or organization(s) who receives, purchases, or takes custody, control, or possession of commercially caught fish onshore directly from a shoreside vessel.

CATCH-SHARES: A general term for several fishery management strategies that allocate a specific portion of the total allowable fishery catch to individuals, cooperatives, communities, or other entities. The term includes specific programs defined in law such as “limited access privilege” (LAP) and “individual fishing quota” (IFQ), and rationalization programs².

COMMERCIAL FISHING: (1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or (2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

FISHERMAN: An individual who plays a role on a vessel that commercially harvests, takes, or catches of fish.

OWNER OF A VESSEL OR VESSEL OWNER: means a person identified as the current owner in the Certificate of Documentation (CG-1270) issued by the United States Coast Guard (USCG) for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel.

PERMIT OWNER: A person who owns a limited entry permit.

PERMIT HOLDER: A vessel owner as identified on the USCG form 1270 or state motor vehicle licensing document.

PERMIT LESSEE: A person who has the right to possess and use a limited entry permit for a designated period of time, with reversion of those rights to the permit owner.

SHORESIDE PROCESSOR: An individual or operation that is permanently fixed to land that engages in processing; or received live Groundfish directly from a fishing vessel for retail sale without further processing.

¹ Source: Title 50: Wildlife and Fisheries, Part 660 Fisheries off the West Coast States, Subpart G- West Coast Groundfish Fisheries §660.302 Definitions. [Electronic Code of Federal Regulations](#); accessed 2-23-10.

² Source: Draft NOAA Catch Shares Policy. Accessed April 9, 2009

http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/docs/draft_noaa_cs_policy.pdf

Section A: Demographic Information

Demographic questions help us to better understand the unique characteristics of people. They are standard questions in social science and can be compared to the U.S. Census data to better describe a specific population such as fishermen.

A1 How old are you?

Answer

--

A2 What is your current marital status?

Answer

<input type="checkbox"/>	Single	
<input type="checkbox"/>	Married	➔ Go to A2a
<input type="checkbox"/>	Divorced	
<input type="checkbox"/>	Widowed	
<input type="checkbox"/>	Other (Specify)	

A2a If married, does your spouse participate in any aspect of the commercial fishing industry?

Answer

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

A3 How many members are in your household (including yourself)?

Answer in #

--

A4 What percentage of your income comes from your participation in any commercial fishing activity?

Answer

<input type="checkbox"/>	Prefer not to answer this question

A5 Has the percent of your income from your commercial fishing activity changed since the implementation of the catch shares program?

Answer

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	Not Applicable

A6 Please describe why your income from your commercial fishing activity has changed.

Answer

<input type="checkbox"/>	More stable job and/or increased profits in the Pacific Coast Groundfish Trawl Fishery
<input type="checkbox"/>	More participation in other non-groundfish fisheries
<input type="checkbox"/>	Not related to commercial fishing activity
<input type="checkbox"/>	Other (Specify)

Section A: Demographic Information Continued

A7 Please indicate your permanent residence (where you are registered to vote) or your most current residence:

Answer
City/Town:
State:
Zip Code:

A8 How long have you lived in your permanent or current residence?

Answer

A9 Please describe your living situation.

Answer	
<input type="checkbox"/>	Own Home
<input type="checkbox"/>	Rent Home
<input type="checkbox"/>	Live with Parents
<input type="checkbox"/>	Other (Specify)

END Section A: Demographic Information

Section B: Individual Participation

Questions in this section help us better understand more unique characteristics of the people in the industry, beyond what demographic information provides. In this section we seek to better understand how you participate in commercial fishing and your historical activity in fishing.

B1 Please indicate your role and any role your spouse/partner may have in any aspect of commercial fishing? **Please mark all that apply.**

Self	Role Description	Spouse/ Partner
<input type="checkbox"/>	Permit Holder	<input type="checkbox"/>
<input type="checkbox"/>	Co-Permit Holder	<input type="checkbox"/>
<input type="checkbox"/>	Permit Lessee	<input type="checkbox"/>
<input type="checkbox"/>	Vessel Owner	<input type="checkbox"/>
<input type="checkbox"/>	Co-Vessel Owner	<input type="checkbox"/>
<input type="checkbox"/>	Captain/Operator	<input type="checkbox"/>
<input type="checkbox"/>	Fishing Crew	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Owner	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Operator	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Employee - Fisherman	<input type="checkbox"/>
<input type="checkbox"/>	At-Sea Catcher Processor and/or Mothership Employee – Processing Role	<input type="checkbox"/>
<input type="checkbox"/>	Vessel Crew – Other Non-Fishing/Non-Processing Role	<input type="checkbox"/>
<input type="checkbox"/>	Buyer (First Receiver)	<input type="checkbox"/>
<input type="checkbox"/>	Shoreside Processor Owner	<input type="checkbox"/>
<input type="checkbox"/>	Shoreside Processor Operator	<input type="checkbox"/>
<input type="checkbox"/>	Shoreside Processor Employee	<input type="checkbox"/>
<input type="checkbox"/>	Fishermen’s Wife	<input type="checkbox"/>
<input type="checkbox"/>	Industry Supplier (Nets, Fuel, etc.)	<input type="checkbox"/>
<input type="checkbox"/>	Business Operations (accounting etc.)	<input type="checkbox"/>
<input type="checkbox"/>	Other (Specify)	<input type="checkbox"/>
	Not Applicable	<input type="checkbox"/>

Section B: Individual Participation Continued

B2 What location do you work from in relation to where you live (your permanent or current residence)?

Answer		
<input type="checkbox"/>	Same city/town	➔ Go to B3
<input type="checkbox"/>	Different city/town - same county	➔ Go to B2a
<input type="checkbox"/>	Different city/town - same state	
<input type="checkbox"/>	Different city/town - different state	

B2a Please list the city/towns where you participate in the commercial fishing industry.

Answer	

B2b Why do you participate in the commercial fishing industry in a location other than where you live?

Answer

B3 Please indicate your level of employment in each category indicated below. (Please mark all that apply)

Answer	Groundfish Fishery	All Other Fisheries	Non- Fishing
Full-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Part-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seasonal Full-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seasonal Part-Time Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Self Employed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please describe)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section B: Individual Participation Continued

B4 How would you rate the following items in your role in the commercial fishing industry?

Description	Poor	Fair	Good	Excellent
Job satisfaction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compensation/Pay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Method of compensation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Job Stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Standard of Living	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Relationship with co-workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B4a What would contribute to improving the above (B4) conditions? Please indicate the item and how it may be improved. *For example: Standard of Living would improve with increased income.*

Section C: Catch Shares Perspectives

Questions in this section will help us understand your ideas and opinions about the recent catch shares management program.

C1 Did you support the 'catch shares' program before the management change?

Answer			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	No	<input type="checkbox"/>	Do Not Know

C2 Do you support the 'catch shares' program now?

Answer			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	Not Sure
<input type="checkbox"/>	No	<input type="checkbox"/>	Do Not Know

C3 Please select the top 5 reasons for your response in the previous question (C2). Why do you support or not support the recent fishery management change to a 'catch shares' program?

Answer			
<input type="checkbox"/>	Increase in market value	<input type="checkbox"/>	Management Program difficult to understand
<input type="checkbox"/>	Increase in market competition	<input type="checkbox"/>	Increase cost to enter fishery – purchase quota
<input type="checkbox"/>	Increase in business flexibility	<input type="checkbox"/>	Increase cost to remain in the fishery
<input type="checkbox"/>	Longer fishing seasons	<input type="checkbox"/>	Fewer jobs
<input type="checkbox"/>	Reduced bycatch	<input type="checkbox"/>	More stable jobs
<input type="checkbox"/>	Increase in safety	<input type="checkbox"/>	Increase cost for raw product
<input type="checkbox"/>	Increase in gear flexibility	<input type="checkbox"/>	Increase in processing costs
<input type="checkbox"/>	Improvement of product quality	<input type="checkbox"/>	Decrease in processing costs
<input type="checkbox"/>	More stable delivery schedule	<input type="checkbox"/>	Boats leave the fishery and negatively impact the community
<input type="checkbox"/>	More businesses and better community infrastructure	<input type="checkbox"/>	Processors leave the community and negatively impact the community
<input type="checkbox"/>	Increase in Income	<input type="checkbox"/>	An increase in processor capacity
<input type="checkbox"/>	Decrease in Income	<input type="checkbox"/>	A decrease in processor capacity
<input type="checkbox"/>	More Stable Income	<input type="checkbox"/>	Loss of businesses and community infrastructure
<input type="checkbox"/>	Other (Specify)		

END Section C: Catch Shares Perspectives

QUOTA OWNERS/HOLDERS: **PLEASE CONTINUE TO NEXT PAGE**
 FISHERMEN: **PLEASE CONTINUE TO PAGE 10**
 AT-SEA & SHORESIDE PROCESSOR& BUYERS: **PLEASE CONTINUE TO PAGE 14**

Section D: Post Catch Shares Questions – Quota Holders

Questions in this section will help us understand what actions people have taken under 'catch shares' program and what changes have incurred to date.

D1 Did you receive an initial quota allocation?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

D2 Do you still have the same quota provided in the initial allocation?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

D3 Have you acquired additional quota pounds?

Answer		
<input type="checkbox"/>	Yes – Quota Pounds	➔ Go to D3a
<input type="checkbox"/>	No - Quota Pounds	➔ Go to D4
<input type="checkbox"/>	Not Applicable	

D3a Why did you acquire additional quota shares or pounds?

Answer	
<input type="checkbox"/>	Not Applicable

D3b Did the purchase of additional quota noted in **D3a** meet your expectations for the purchase of the quota?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

D4 Have you sold additional quota shares or pounds?

Answer		
<input type="checkbox"/>	Yes – Quota Pounds	➔ Go to D4a
<input type="checkbox"/>	No - Quota Pounds	➔ Go to D5
<input type="checkbox"/>	Not Applicable	

Section D: Post Catch Shares Questions – Quota Holders Continued

D4a Why did you sell quota shares or pounds?

Answer	
<input type="checkbox"/>	Not Applicable

D4b Did the sale of your quota noted in **D4a** meet your expectations for the sale of the quota?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

D5 What are your future plans for the fishery?

Answer	
<input type="checkbox"/>	Acquire more quota shares
<input type="checkbox"/>	Keep existing quota shares and acquire more quota pounds
<input type="checkbox"/>	Maintain current level of participation with existing levels of quota shares/pounds
<input type="checkbox"/>	Sell/Transfer quota shares
<input type="checkbox"/>	Sell/Transfer quota pounds
<input type="checkbox"/>	Exit the Fishery
<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Other (Specify)

D6 Have your future plans for the fishery been influenced by the transition to catch-share management?

Answer		
<input type="checkbox"/>	Yes	➔ Go to 6a
<input type="checkbox"/>	No	➔ Go to 7

Section D: Post Catch Shares Questions – Quota Holders Continued

D6a How has the transition to catch-share management influenced your future plans?

Answer	
<input type="checkbox"/>	Not Applicable

D6b Please describe any results of the transition to a catch-shares program that occurred, but you did not expect?

Answer	
<input type="checkbox"/>	Not Applicable

D7 Has the catch-shares program changed your fishing lifestyle? If so, how? *For example: Fish groundfish more consistently or changed fishery because quota shares/lbs. too expensive, etc.*

Answer	
<input type="checkbox"/>	Not Applicable

Section E: FISHERMEN

Questions in this section are specifically for fishermen. Information gathered will help us understand how fishermen have changed any aspect of their fishing due to the change of the management of the fishery.

E1 Please rank, in order of importance, which fisheries you participate in since the management change to the 'catch shares' program. (1 being the most important). BSAI: Bering Sea/Aleutian Island, GOA: Gulf of Alaska

Rank	Pacific Coast Fisheries	Rank	Alaska Fisheries
	Pacific Whiting		BSAI Groundfish
	Groundfish		BSAI King and Tanner Crab
	Salmon		GOA Groundfish
	Pacific Halibut		Alaska Scallop
	Highly Migratory Species		Alaska Salmon
	Coastal Pelagic Species		Other (Specify)
	Dungeness Crab		
	Other (Specify)		

E2 What are the most common fish you have commercially fished for since the management change to the 'catch shares' program? **Please mark all that apply.**

Rockfish	
<input type="checkbox"/>	Chilipepper
<input type="checkbox"/>	Longspine Thorneyhead
<input type="checkbox"/>	Shortspine Thorneyhead
<input type="checkbox"/>	Splitnose
<input type="checkbox"/>	Yellowtail

Roundfish	
<input type="checkbox"/>	Lingcod
<input type="checkbox"/>	Pacific Cod
<input type="checkbox"/>	Pacific Whiting
<input type="checkbox"/>	Sablefish

Flatfish	
<input type="checkbox"/>	Arrowtooth Flounder
<input type="checkbox"/>	Dover Sole
<input type="checkbox"/>	English Sole
<input type="checkbox"/>	Petrable Sole
<input type="checkbox"/>	Starry Flounder

Sharks and Skates	
<input type="checkbox"/>	Longnose Skate
<input type="checkbox"/>	Big Skate
<input type="checkbox"/>	California Skate
<input type="checkbox"/>	Spiny Dogfish

Other	
<input type="checkbox"/>	Herring
<input type="checkbox"/>	Mackerel
<input type="checkbox"/>	Tuna
<input type="checkbox"/>	Pink Shrimp
<input type="checkbox"/>	Ridgeback Prawn
<input type="checkbox"/>	Squid
<input type="checkbox"/>	Alaska Pollock
<input type="checkbox"/>	Alaska King Crab

Other	
<input type="checkbox"/>	Alaska Tanner Crab
<input type="checkbox"/>	Alaska Salmon
<input type="checkbox"/>	Alaska Atka Mackerel
<input type="checkbox"/>	Alaska Sablefish
<input type="checkbox"/>	Alaska Halibut
<input type="checkbox"/>	Alaska Pacific Cod
<input type="checkbox"/>	Alaska Flatfish

Other	
<input type="checkbox"/>	Dungeness Crab
<input type="checkbox"/>	Pacific Halibut

<input type="checkbox"/>	Other (Specify)
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Section E: FISHERMEN Continued

E3 Have you changed the species you have catch within since the management change to a 'catch shares' program?

Answer		
<input type="checkbox"/>	Yes	➔ Go to E3a
<input type="checkbox"/>	No	➔ Go to E4
<input type="checkbox"/>	Not Applicable	

E3a Why have you changed the species you catch?

Answer

E4 Do you typically work with the same people in the groundfish trawl fishery since the management change to a 'catch shares' program?

Answer			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	Not Applicable
<input type="checkbox"/>	No		

E5 Please rate the quality of your relationships with the following people on the most recent Groundfish trawl fishery boat(s) you have worked on.

Individual	Negative	Neutral	Positive	Not Applicable	No Comment
Quota Holder	<input type="checkbox"/>				
Vessel Owner	<input type="checkbox"/>				
Captain/Operator	<input type="checkbox"/>				
Crew	<input type="checkbox"/>				
Observer	<input type="checkbox"/>				
Other (Specify)	<input type="checkbox"/>				

Section E: FISHERMEN Continued

E8 What items are taken into consideration when deciding where to sell the catch?

Answer			
<input type="checkbox"/>	Mutual agreement with Buyer	<input type="checkbox"/>	Mothership or Catcher - Processor
<input type="checkbox"/>	Mutual agreement with Processor	<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Contract with Buyer	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	Contract with Processor		
<input type="checkbox"/>	Only Single Buyer Available		
<input type="checkbox"/>	Best Price/Market		
<input type="checkbox"/>			

E9 Do you have a choice where you sell your fish?

Answer	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

E10 How many buyers/processors are located in the port(s) you deliver to?

Answer	
<input type="checkbox"/>	Do Not Know

E11 What limits your choice of where you sell your fish?

Answer			
<input type="checkbox"/>	Market	<input type="checkbox"/>	Sell/deliver to a Mothership or Catcher-Processor
<input type="checkbox"/>	Limited number of processors	<input type="checkbox"/>	No Limitations
<input type="checkbox"/>	Location of processors	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	Amount purchased by processor		
<input type="checkbox"/>	Amount paid for catch by processor		
<input type="checkbox"/>	Species purchased by processor		
<input type="checkbox"/>	Multiple species required by processor for purchase of all species (for example groundfish and crab)		

E12 Please rate the quality of your relationships with the following people related to the selling of groundfish that you commercially caught with trawl gear.

Individual	Negative	Neutral	Positive	Not Applicable	No Comment
Buyer/First Receiver	<input type="checkbox"/>				
Processor	<input type="checkbox"/>				
Mothership	<input type="checkbox"/>				
Other (Specify)	<input type="checkbox"/>				
<input type="checkbox"/>	Not Applicable				

Section F: PROCESSORS (AT-SEA and/or SHORESIDE) and BUYERS/RECEIVERS Continued

F4 Whom do you purchase groundfish trawl catch from? **Please mark all that apply.**

Answer	
<input type="checkbox"/>	Commercial Fishing Boats
<input type="checkbox"/>	Buyers/First Receivers
<input type="checkbox"/>	Not Applicable
<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	

F5 How many boats do you **purchase** trawl caught groundfish from since the management change to a 'catch shares' program?

Answer	
<input type="checkbox"/>	Not Applicable
<input type="checkbox"/>	Do Not Know

F6 What items are taken into consideration when deciding where to **purchase** trawl caught groundfish? **Please mark all that apply.**

Answer			
<input type="checkbox"/>	Mutual agreement Fisherman/Boat	<input type="checkbox"/>	Catcher - Processor
<input type="checkbox"/>	Contract with Fisherman/Boat	<input type="checkbox"/>	Do Not Know
<input type="checkbox"/>	Company Fishing Boats	<input type="checkbox"/>	Other (Specify)
<input type="checkbox"/>	Staff Buyer/First Receiver	<input type="checkbox"/>	
<input type="checkbox"/>	Contract with Buyer/First Receiver		

F7 Please rate the quality of your relationships with the following people related to the purchasing of groundfish that is commercially trawl caught.

Individuals	Negative	Neutral	Positive	Not Applicable	No Comment
Quota Holder	<input type="checkbox"/>				
Vessel Owner	<input type="checkbox"/>				
Captain/Operator	<input type="checkbox"/>				
Buyer	<input type="checkbox"/>				
Distributor	<input type="checkbox"/>				
Marketer	<input type="checkbox"/>				
Laborers	<input type="checkbox"/>				
Other	<input type="checkbox"/>				

PLEASE USE THIS SPACE FOR ANY ADDITIONAL COMMENTS

Please address any questions or comments to:

Suzanne Russell
2725 Montlake Blvd. East
Seattle, WA 98112
Suzanne.russell@noaa.gov
206-860-3274

*Public reporting or burden for this survey is estimated to average 1 hour 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. 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to **Suzanne Russell, NWFSC-Human Dimension Program, 2725 Montlake Blvd. East, Seattle, WA 98112-2097.***

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).

104-297

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104-297

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97-453

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97-453, 101-627, 104-297

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109-479

(D) CARIBBEAN COUNCIL.—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(E) GULF COUNCIL.—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States (except as provided in paragraph (3)). The Gulf 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).

(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 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), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).

(G) NORTH PACIFIC COUNCIL.—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(H) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific 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 of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).

(2) Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

97-453, 99-659, 101-627, 102-582, 104-297

(b) VOTING MEMBERS.—

(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5).

(2) (A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

109-479

(D)(i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—

(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

(iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.

(iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.

(E) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.

(3) Each voting member appointed to a Council by the Secretary in accordance with paragraphs (2) and (5) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office. No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.

(4) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

109-479

(5) (A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

(B) Representation shall be rotated among the tribes taking into consideration—

- (i) the qualifications of the individuals on the list referred to in subparagraph (A),
- (ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and
- (iii) the geographic area in which the tribe of the representative is located.

(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.

(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).

16 U.S.C. 1852
MSA § 302

(c) NONVOTING MEMBERS.—

(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The Executive Director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

96-561, 101-627, 104-297

(d) COMPENSATION AND EXPENSES.—The voting members of each Council who are required to be appointed by the Secretary and who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-15, step 7 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.

101-627

(e) TRANSACTION OF BUSINESS.—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet at appropriate times and places in any of the constituent States of the Council at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement. The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.

104-297

(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.

97-453

(f) STAFF AND ADMINISTRATION.—

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection [i](2). Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

101-627, 109-479

(g) COMMITTEES AND ADVISORY PANELS.—

(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106-554—Appendix C; 114 Stat. 2763A-153).

(F) In addition to the provisions of section 302(f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.

(G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.

(2) Each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(3) (A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

104-297

(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

(B) other interested persons.

(5) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.

95-354, 97-453, 101-627

(h) FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—

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(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);

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(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(C) or section 204(d), and any fishery management plan or amendment transmitted to it under section 304(c)(4);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term "geographical area concerned" may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);

(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;

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MSA § 302

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(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in section subsection (a)(3)) within its geographical area of authority;

109-479

(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);

109-479

(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—

(A) establish priorities for 5-year periods;

(B) be updated as necessary; and

(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and

(8) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

97-453, 99-659, 101-627

(i) PROCEDURAL MATTERS.—

109-479

(1) The Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).

104-297, 109-479

(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):

(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published in the Federal Register. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.

(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.

(F) Subject to the procedures established under paragraph (4), and the guidelines prescribed by the Secretary under section 402(b), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council or the Secretary, as appropriate.

109-479

- (3) (A) Each Council, the Council Coordination Committee established under subsection (1), scientific and statistical committee, other committees, and advisory panel—
- (i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and
 - (ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested; and

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MSA § 302

(B) If any meeting or portion is closed, the Council concerned shall provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient, including in that notification the time and place of the meeting. This subparagraph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters. Subparagraphs (D) and (F) of paragraph (2) shall not apply to any meeting or portion thereof that is so closed.

(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 402(b), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.

(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.

(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

99-659, 104-297

(j) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—

104-297

(1) For the purposes of this subsection—

(A) the term “affected individual” means an individual who—

(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

(ii) is a voting member of a Council appointed—

(I) under subsection (b)(2); or

(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

(B) the term “designated official” means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).

109-479

- (2) Each affected individual must disclose any financial interest held by—
- (A) that individual;
 - (B) the spouse, minor child, or partner of that individual; and
 - (C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.

104-297

- (3) The disclosure required under paragraph (2) shall be made—
- (A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and
 - (B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.

104-297

- (4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

104-297, 109-479

- (5) The financial interest disclosures required by this subsection shall—
- (A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;
 - (B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and
 - (C) be kept on file by the Secretary for use in reviewing determinations under paragraph 7(B) and made available for public inspection at reasonable hours.

104-297

- (6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

104-297

(7) (A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).

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(8) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).

109-479

(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.

109-479

(k) COUNCIL TRAINING PROGRAM.—

(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

- (A) fishery science and basic stock assessment methods;
- (B) fishery management techniques, data needs, and Council procedures;
- (C) social science and fishery economics;
- (D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;
- (E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;
- (F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);
- (G) public process for development of fishery management plans;
- (H) other topics suggested by the Council; and
- (I) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.

(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.

(3) REQUIRED TRAINING.—Council members appointed after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall be considered to have met the training requirement of this paragraph.

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(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

109-479

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

109-479

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

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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;

109-479

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

109-479

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

109-479

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

109-479

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

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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]¹⁵ 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.

¹⁵ 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)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

109-479

SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ 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]¹⁷ 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.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

16 U.S.C. 1853a
MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

104-297

SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

(b) TRAINING.—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

(3) ensure that an observer has received adequate training in basic vessel safety; and

(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

(c) OBSERVER STATUS.—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).

104-297

SEC. 404 FISHERIES RESEARCH

16 U.S.C. 1881c

(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—

(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

(2) indicate goals and timetables for the program described in paragraph (1);

(3) provide a role for commercial fishermen in such research, including involvement in field testing;

(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

16 U.S.C. 1881c-1881d
MSA §§ 404-405

(c) AREAS OF RESEARCH.—Areas of research are as follows:

(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

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(4) Information management research, including the development of a fishery information base and an information management system that will permit the full use of information in the support of effective fishery conservation and management.

(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

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SEC. 405. INCIDENTAL HARVEST RESEARCH

16 U.S.C. 1881d

(a) COLLECTION OF INFORMATION.—Within nine months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program.

(b) IDENTIFICATION OF STOCK.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

Presidential Documents

Title 3—

Executive Order 12898 of February 11, 1994

The President

Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

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 1-1.*Implementation.*

1-101. *Agency Responsibilities.* To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. *Creation of an Interagency Working Group on Environmental Justice.*

(a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency (“Administrator”) or the Administrator’s designee shall convene an interagency Federal Working Group on Environmental Justice (“Working Group”). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5-502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. *Development of Agency Strategies.* (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. *Federal Agency Responsibilities for Federal Programs.* Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3-3. Research, Data Collection, and Analysis.

3-301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4-4. Subsistence Consumption of Fish and Wildlife.

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or

wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. *Public Participation and Access to Information.* (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6-6. *General Provisions.*

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance

of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton

THE WHITE HOUSE,
February 11, 1994.

**The Freedom of Information Act, 5 U.S.C. § 552
As Amended By
Public Law No. 110-175, 121 Stat. 2524**

Below is the full text of the Freedom of Information Act in a form showing all amendments to the statute made by the "Openness Promotes Effectiveness in our National Government Act of 2007." All newly enacted provisions are in boldface type.

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

- (A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
- (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
- (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
- (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
- (E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

- (A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;
- (C) administrative staff manuals and instructions to staff that affect a member of the public;
- (D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and
- (E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of an index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

- (i) it has been indexed and either made available or published as provided by this paragraph; or
- (ii) the party has actual and timely notice of the terms thereof.

(3)(A) Except with respect to the records made available under paragraphs (1) and

(2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term "search" means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

- (i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or
- (ii) a representative of a government entity described in clause (i).

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that—

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

In this clause, the term ‘a representative of the news media’ means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term ‘news’ means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of ‘news’) who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.

(viii) An agency shall not assess search fees (or in the case of a requester described under clause (ii)(II), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request. [Effective one year from date of enactment]

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause is shown.

[(D) Repealed. Pub. L. 98-620, title IV, Sec. 402(2), Nov. 8, 1984, 98 Stat. 3357.]

(E)(i) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(ii) For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through either—

(I) a judicial order, or an enforceable written agreement or consent decree; or

(II) a voluntary or unilateral change in position by the agency, if the complainant's claim is not insubstantial.

(F)(i) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(ii) The Attorney General shall—

(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i).

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

The 20-day period under clause (i) shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency's regulations under this section to receive requests under this section. The 20-day period shall not be tolled by the agency except—

(I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester under this section; or

(II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period.

[Effective one year from date of enactment]

(B)(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. **To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency. [Effective one year from date of enactment].** Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular requests—

(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requester, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.

(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by

an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term "exceptional circumstances" does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.

(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records—

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure—

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term "compelling need" means—

(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

(7) Each agency shall—

(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and

(B) establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including—

(i) the date on which the agency originally received the request; and

(ii) an estimated date on which the agency will complete action on the request.

[Effective one year from date of enactment]

(b) This section does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted, **and the exemption under which the deletion is made**, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted, **and the exemption under which the deletion is made**, shall be indicated at the place in the record where such deletion is made.

(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize the withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e)(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include—

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), **the number of occasions on which each statute was relied upon**, a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median **and average** number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests, **based on the date on which the requests were received by the agency**;

(F) **the average number of days for the agency to respond to a request beginning on the date on which the request was received by the agency, the median number of days for the agency to respond to such requests, and the range in number of days for the agency to respond to such requests**;

(G) **based on the number of business days that have elapsed since each request was originally received by the agency—**

(i) **the number of requests for records to which the agency has responded with a determination within a period up to and including 20 days, and in 20-day increments up to and including 200 days**;

(ii) **the number of requests for records to which the agency has responded with a determination within a period greater than 200 days and less than 301 days**;

(iii) **the number of requests for records to which the agency has responded with a determination within a period greater than 300 days and less than 401 days**; and

(iv) **the number of requests for records to which the agency has responded with a determination within a period greater than 400 days**;

(H) **the average number of days for the agency to provide the granted information beginning on the date on which the request was originally filed, the median number of days for the agency to provide the granted information, and the range in number of days for the agency to provide the granted information**;

(I) **the median and average number of days for the agency to respond to administrative appeals based on the date on which the appeals originally were received by the agency, the highest number of business days taken by the agency to respond to an administrative appeal, and the lowest number of business days taken by the agency to respond to an administrative appeal**;

(J) data on the 10 active requests with the earliest filing dates pending at each agency, including the amount of time that has elapsed since each request was originally received by the agency;

(K) data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

(L) the number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

(M) the number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations;

(N) the total amount of fees collected by the agency for processing requests; and

(O) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Information in each report submitted under paragraph (1) shall be expressed in terms of each principal component of the agency and for the agency overall.

(3) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means. In addition, each agency shall make the raw statistical data used in its reports available electronically to the public upon request.

(4) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(5) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(6) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term—

(1) "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) 'record' and any other term used in this section in reference to information includes—

(A) any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format; and

(B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including—

(1) an index of all major information systems of the agency;

(2) a description of major information and record locator systems maintained by the agency; and

(3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.

(h)(1) There is established the Office of Government Information Services within the National Archives and Records Administration.

(2) The Office of Government Information Services shall—

(A) review policies and procedures of administrative agencies under this section;

(B) review compliance with this section by administrative agencies; and

(C) recommend policy changes to Congress and the President to improve the administration of this section.

(3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of this section and issue reports detailing the results of such audits.

(j) Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).

(k) The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

(1) have agency-wide responsibility for efficient and appropriate compliance with this section;

(2) monitor implementation of this section throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing this section;

(3) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of this section;

(4) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing this section;

(5) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency's handbook issued under subsection (g), and the agency's annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply; and

(6) designate one or more FOIA Public Liaisons.

(l) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

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

The following text of the Regulatory Flexibility Act of 1980, as amended, is taken from Title 5 of the United States Code, sections 601 – 612

(The Regulatory Flexibility Act was originally passed in 1980 (P. L. 96-354). The Act was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (P.L. 104-121).) (PDF File)

Congressional Findings and Declaration of Purpose

- (a) The Congress finds and declares that —(1) when adopting regulations to protect the health, safety and economic welfare of the Nation, Federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;
- (2) laws and regulations designed for application to large scale entities have been applied uniformly to small businesses, small organizations, and small governmental jurisdictions even though the problems that gave rise to government action may not have been caused by those smaller entities;
- (3) uniform Federal regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands including legal, accounting and consulting costs upon small businesses, small organizations, and small governmental jurisdictions with limited resources;
- (4) the failure to recognize differences in the scale and resources of regulated entities has in numerous instances adversely affected competition in the marketplace, discouraged innovation and restricted improvements in productivity;
- (5) unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes;
- (6) the practice of treating all regulated businesses, organizations, and governmental jurisdictions as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental and economic welfare legislation;
- (7) alternative regulatory approaches which do not conflict with the stated objectives of applicable statutes may be available which minimize the significant economic impact of rules on small businesses, small organizations, and small governmental jurisdictions;
- (8) the process by which Federal regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, small organizations, and small governmental jurisdictions to examine the impact of proposed and existing rules on such entities, and to review the continued need for existing rules.
- (b) It is the purpose of this Act [enacting this chapter and provisions set out as notes under this section] to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.

§ 601. Definitions

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.

§ 602. Regulatory agenda

(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.

§ 603. Initial regulatory flexibility analysis

(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--

- (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
- (3) the use of performance rather than design standards; and
- (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

§ 604. Final regulatory flexibility analysis

(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.

§ 605. Avoidance of duplicative or unnecessary analyses

(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.

§ 606. Effect on other law

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

§ 607. Preparation of analyses

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.

§ 608. Procedure for waiver or delay of completion

(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.

§ 609. Procedures for gathering comments

(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.

§ 610. Periodic review of rules

(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.

§ 611. Judicial review

(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--

(A) remanding the rule to the agency, and

(B) 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.

§ 612. Reports and intervention rights

(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.

(c) 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).

(The Regulatory Flexibility Act was originally passed in 1980 (P. L. 96-354). The Act was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (P.L. 104-121)

grant the Awards, select Examiners, and comply with statutory responsibilities.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; government entities. Individuals with expertise in the business, education, health care, and/or nonprofit fields are eligible to apply as a member to the Board of Examiners.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Jasmeet Seehra, (202) 395-3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395-5167 or via the Internet at Jasmeet_K_Seehra@omb.eop.gov.

Dated: February 2, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010-2513 Filed 2-4-10; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Coast Groundfish, Rationalization Sociocultural Study

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

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 6, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW.,

Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Suzanne Russell (206) 860-3274, suzanne.russell@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Historically, changes in fisheries management regulations have been shown to result in impacts to individuals within the fishery. An understanding of social impacts in fisheries—achieved through the collection of data on fishing communities, as well as on individuals who fish—is a requirement under several federal laws. Laws such as the National Environmental Protection Act and the Magnuson Stevens Fishery Conservation Act (as amended 2007) describe such requirements. The collection of this data not only helps to inform legal requirements for the existing management actions, but will inform future management actions requiring equivalent information.

Fisheries rationalization programs have an impact on those individuals participating in the affected fishery. The Pacific Fisheries Management Council is on track to implement a new rationalization program for the Pacific Coast Groundfish limited entry trawl fishery in January 2011. This research aims to study the individuals in the affected fishery both prior to and after the implementation of the rationalization program. The data collected will provide a baseline description of the industry as well as allow for analysis of changes the rationalization program may create for individuals in the fishery. The measurement of these changes will lead to a greater understanding of the social impacts the management measure may have on the individuals in the fishery. To achieve these goals it is critical to collect the necessary data prior to the implementation of the rationalization program for comparison to data collected after the management program has been implemented. This study will be inclusive of both a Phase 1 pre-implementation data collection effort, as well as a Phase 2, post-implementation data collection effort to achieve the stated objectives.

II. Method of Collection

Literature reviews, secondary sources including Internet sources, United States Census data, key informants, focus groups, paper surveys, electronic

surveys, and in-person interviews will be utilized in combination to obtain the greatest breadth of information as possible.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 800.

Estimated Time per Response: 1 hour 30 minutes.

Estimated Total Annual Burden Hours: 1,200.

Estimated Total Annual Cost to Public: \$1,000 in recordkeeping/reporting costs.

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 2, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010-2504 Filed 2-4-10; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Cooperatives in the Bering Sea and Aleutian Islands

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.