

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 10/13/2010

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 08/17/2010

ACTION REQUESTED: New collection (Request for a new OMB Control Number)
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201008-0648-003
AGENCY ICR TRACKING NUMBER:
TITLE: Regional Economic Data Collection Program for Southeast Alaska
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0614

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: 10/31/2013

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	0	0	0
New	394	148	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	394	148	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official:

Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Vessel survey	NA	SE Alaska Fisheries Economic Activity Survey	
Follow-up telephone interview/arrangement for key informant interviews	NA	SE Alaska Fisheries Economic Activity Survey Follow-up Telephone Interview	
Key informant interviews	NA	SE Alaska Fisheries Economic Activity Key Informant Interview Worksheet	

PAPERWORK REDUCTION ACT SUBMISSION

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

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

19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
REGIONAL ECONOMIC DATA COLLECTION PROGRAM
FOR SOUTHEAST ALASKA
OMB CONTROL NO. 0648-XXXX**

A. JUSTIFICATION

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

Regional or community economic analysis of proposed fishery management policies is required by the [Magnuson-Stevens Fishery Conservation and Management Act](#) (MSA), [National Environmental Policy Act](#) (NEPA), and [Executive Order 12866](#), among others. To satisfy these mandates and inform policymakers and the public of the likely regional economic impacts (REI) associated with fishery management policies, appropriate economic models and the data to implement these models are needed.

Much of the data required for REI analysis of the fishing industry in the Southeast Alaska (SE Alaska) economy are either unavailable or unreliable. Accurate fishery-level data on employment, labor income, and expenditures are needed to estimate the effects of fisheries on the economy. To remedy this information gap, this information collection will gather data from industry sources (i.e., commercial fishing vessel owners, local businesses) on these important regional economic variables needed to develop REI models. The modeling results will provide more reliable estimates about fishery management alternatives and significantly improve information available to management policy-makers for their decision making.

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.

The information collected will be used by economists at the National Ocean and Atmospheric Administration's (NOAA's) Alaska Fisheries Science Center (AFSC) and AFSC contractors to supplement deficient fishery data in IMPact analysis for PLANning, Minnesota IMPLAN Group (IMPLAN). IMPLAN is a commercially available economic modeling system. The data collected by this project will be made available to develop regional economic models for fisheries in SE Alaska, including input-output (IO) models and computable general equilibrium (CGE) models. The resulting regional economic models will be used to estimate the impacts resulting from changes in fishery management policies for Alaska fisheries, and thus provide policy-makers with additional information to aid in decision making.

In this project, two different data collection methods will be used: (1) a mail survey of vessel owners, and (2) personal interviews with "key informants", consisting of vessel owners and representatives from local fishing industry-related businesses (see page 3, Heading B for definition and determination of "key informants", including input suppliers and seafood processors. The mail survey will be administered to six different vessel classes. The vessel

classes were determined by analyzing the vessels' main target fishery. The vessel classification system is more thoroughly described in The Research Group (TRG 2007).¹ The mail-out survey will include an option for the respondent to fill out a survey form by accessing an internet website. The key informant interviews of vessel owners, seafood processors and other local fishery-related businesses will generally take place in SE Alaska communities.

The data collection method is more fully described below. Attachment A contains the mail-out survey instruments, including the questionnaire, an advance letter for the mail survey, the questionnaire's transmittal letter, a postcard reminder for the mail survey, and a follow-up phone call script for non-responders to the mail survey. The key informant interviews will be used to (1) follow-up with vessel owners in order to fill in blanks created by incomplete or unreturned survey responses, and (2) gather information about expenditures in and outside SE Alaska economies by processors and input suppliers. The interviews will be informal and, compared with the mail out surveys, use a less-rigidly structured conversational approach to glean information from the key informants.

a. Mail Surveys for Vessel Owners

The vessel owner survey is structured to gather a limited amount of information related to specific vessel expenditures for labor and other inputs. Questions will be asked about the number and remuneration of crew members and skippers, and their participation in particular fishing activities. An additional question will be asked about expenditures related to operating, maintaining, and owning the vessel. These expenditures include variable expenses e.g., for fuel and lubricants, groceries, fishing gear, vessel mechanical parts, vessel equipment, repair services, bait, etc., and capital expenditures and other fixed costs. A question about net return to the vessel owner will also be asked. The resulting information will contribute to a complete set of data for use in constructing six fishing vessel economic sectors in SE Alaska.² Detailed explanations of each question in the vessel survey are given below.

- Question 1 is intended to demonstrate the accuracy of data that is in the possession of the researchers. Showing this information to the respondent elicits confidence. This confidence should help raise survey response rates.³

¹ The Research Group. Estimating Economic Impacts of Alaska Fisheries Using a Computable General Equilibrium Model Data Acquisition and Reduction Task Documentation. Draft. Prepared for National Marine Fisheries Service Alaska Fisheries Science Center. November 2007.

² IMPLAN data provides only aggregate information on harvesting activity; there is only a single harvesting sector in IMPLAN data. To estimate the potential impacts of fishery management actions on individual harvesting sub-sectors, it is necessary to disaggregate this into different sub-sectors.

³ According to Social Exchange Theory (Cook 2000), survey response can be improved if the responder has confidence that effort expended to complete the survey will be rewarded by meeting some of their needs (Dillman 2000). Fanning (2005) argues that a survey provides respondents with an opportunity to voice their concerns and incept change and/or the survey is a means of validating their participation or association with a group or endeavor. Eliciting this motivation can be facilitated through proper formatting and question flow.

Cook, Karen. Charting Futures for Sociology: Structure and Action. *Contemporary Sociology* 29: 685-692. 2000.

Dillman, Don. *Constructing the questionnaire. Mail and internet surveys.* New York: John Wiley & Sons. 2000.

Fanning, Elizabeth. "Formatting a Paper-based Survey Questionnaire: Best Practices" in *Practical Assessment, Research & Evaluation*. Volume 10 Number 12, August 2005.

- Question 2 will provide information on how many months in the calendar year the survey respondent was an owner of the vessel. If the owner owned the vessel for less than a full year, the expenditure information would need to be pro-rated to represent annual expenditures. Vessel identification doesn't change with transfer of ownership, so it will be possible to screen responses to avoid double counting.
- Question 3 will provide a gross employment number associated with vessel operations. The question directs the responder's thinking to the vessel's labor requirements. The logical flow from general questions to more specific ones should improve survey accuracy.
- Question 4 provides information needed to determine employment by fishery and residency. The question will account for regional (SE Alaska) employment of crew, skipper(s), and owners by species fished.
- Question 5 will request information on remuneration paid to crew and skippers.
- Question 6 is designed to get overall information about other expenditures made in and outside SE Alaska. A redundant item about labor expenditures in this question will serve as a validity check for answers supplied in Question 5. Information on itemized labor related expenses such as P&I payments are also solicited. The information from Question 6 will contribute to the research goal of determining employee compensation, proprietor income, and other non-labor expenditures made in the regional economy.

The survey concludes with space for respondents to comment on the survey.

b. Personal Interviews with Key Informants

Personal interviews will be conducted with key informants selected from among vessel owners, seafood processors and input suppliers. For our purposes, "key informant" means any representative of commercial fishing, seafood processing, or input supplier businesses who has unique knowledge of their industry in Southeast Alaska and who is willing to provide that information. For survey accuracy and representativeness it is important to have an acceptable response rate in each vessel stratification. Attempts will therefore be made to follow-up with owners of vessels who were unresponsive to the mail out survey. The selection of these vessel owner key informants to be interviewed will be determined by the response rate to the mail-out survey. It is expected that certain vessel sampling stratifications will have higher non-response rates and therefore require extra efforts to generate complete data. For example, it is predictable that there will be a relatively lower response rate for higher-earning vessels such as catcher-processors and longliners owned by large business enterprises. Key informants from seafood processor and input supplier businesses will be solicited through contact with fishing industry associations, SE Alaska port staff, and other industry representatives. Processor and supplier key informants will be selected so that a high proportion of SE Alaska spending by these business types is included in the responses.

Several days before an interview is desired, candidate key informants will be contacted to schedule interviews. This contact call will inform them of the purpose of the study and describe the type of questions to be asked. Interviews will take the form of informal conversations, with interviewer worksheets (included in this request) used as a guide.

Personal interviews with key informants from seafood processors will be used to determine relative expenditures for inputs (including workforce) made in and outside SE Alaska. It will not be necessary to ask processors about their harvest purchases since this information is available from fish tickets.

Personal interviews with key informants from input supply industries will gather information on the level of supplier sales made to fishing industry businesses inside and outside SE Alaska, and the portion of business expenditures for labor and non-labor inputs made inside and outside SE Alaska.

Personal interviews with vessel owners will seek to fill in gaps in cases of incomplete or missing responses to the mail out survey. These interviews will also be informal but attempt to gather useable information from vessel owners especially in cases of sample strata where the number or quality of survey responses was inadequate. Other informants with expert knowledge of the harvesting sectors who are willing to provide information will also be interviewed to provide background information and ground-truthing of survey and interview responses.

Information collected from these interviews will be used to amend survey-collected vessel data and to construct regional data for the supplier and processing industries.

The survey information gathered by the contractors will be turned over to NOAA's National Marine Fisheries Service (NMFS). NMFS 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 Question 10 below 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. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the 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.

The mail-out survey will have an optional response procedure for filling out the questionnaire using a form hosted on an internet website. A unique password provided on the mailed questionnaire will allow the responder to gain access to a form. The form will contain the same pre-coded information and ask the same questions as the mail-out questionnaire. The responder will be informed that there is a 72-hour remorse period during which time submitted answers can be edited. After the 72-hour period expires, the information will be tendered as final. In the case that both a mail and a web-base response are received, the web-base response will have precedence.

4. Describe efforts to identify duplication.

There have been several other economic data collection efforts in Alaska that are noteworthy. Hartman (2002) collected regional economic information for SE Alaska from 1995-96 (for data year 1994).⁴ Another study [Hermann, et al. (2004)] tried to collect regional economic information in Alaska related to the snow crab fishery in the Bering Sea and Aleutian Islands region.⁵ More recently, surveys gathering regional economic information from harvesting vessels have been completed for Alaska's Southwest and Gulf Coast regions (OMB Control Nos. 0648-0562 and 0648-0571). Although Hartman (2002) also gathered regional economic data for SE Alaska, the data collected from that study is outdated and so needs to be updated with information from this data collection project.

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

The mail-out survey and personal interviews will be used to obtain information about expenditures for goods and services made in the regional economy. Many of the vessel ownership arrangements and the supplier/processor businesses contacted will meet the definition of a small business.⁶ Questions are limited in number and scope, thereby minimizing the burden to each respondent. The vessel owner mail-out survey should not take more than 20 minutes to complete, and the business interviews will take less than 40 minutes each on average.

The vessel owner survey was specifically developed so as to minimize the amount of time required to answer questions. For example, the question on vessel expenditures asks for corrections to be made to a prepared income statement rather than asking the responder to supply original information. The income statement shows example shares of expenditures rather than actual dollar expenditures and is tailored to each respondent's vessel class. Income statements are adapted from an earlier economic model that should provide a reasonable starting point. Also, characteristics specific to the vessel are pre-printed in each individual survey so that the respondent does not need to spend time recalling or looking these things up.

The unstructured interviews with vessel owners, suppliers and processor businesses will be conducted by experienced personnel with many years of experience in fishing industry economics. Conversations will be informal but guided to gather useable data about processes, sales and expenditures made within and outside the regional economy. Examples of personal interview worksheets to be used to guide interviews with suppliers and processors are included in attachment C. In the case of input supplier businesses the main goal will be to determine how

⁴ Hartman, J. 2002. *Economic Impact Analysis of the Seafood Industry in Southeast Alaska: Importance, Personal Income, and Employment in 1994*. Regional Information Report No. 5J02-07. Alaska Department of Fish and Game.

⁵ Herrmann, M., J. Greenberg, C. Hamel, and H. Geier. 2004. *Regional Economic Impact Assessment of the Alaska Snow Crab Fishery Integrated with an International Snow Crab Market Model*. University of Alaska, Fairbanks, School of Management Working Series Report 2004-001.

⁶ A fish harvesting business is considered a small business by the Small Business Administration if it has annual receipts not in excess of \$4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people.

well the regional industry is represented by IMPLAN data. A few questions about the suppliers' customer base and sales levels in and outside SE Alaska will provide sufficient information for this determination. The conversations will also pursue information about sources of supply and locus of expenditures. In the case of processors, rather than simply asking the respondent to provide original numbers, they will be shown an income statement (derived from an earlier economic model) containing financial accounting information itemized in a way they are accustomed to seeing. The respondent will review and correct the income statement. The processor interviews will also gather information about product forms and yields as well as destination sales markets. Processor representatives are generally open-minded about providing such information as they are proud of their business successes. In turn, the experienced interviewer may be able to provide general information about the fishing industry to assist the responder in making future business decisions.

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

No other entity is likely to collect the information needed for resolving the IMPLAN data deficiencies. Therefore, if the data collection is not conducted by us, the deficiencies in the regional data will not be corrected, and therefore, the mandates of MSA, NEPA, and Executive Order 12866 described in Question 1 above will not be satisfied.

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

None.

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 May 7, 2010 (75 FR 25203) solicited public comment. No comments were received.

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

We do not have any plan to provide any payments or other gifts to the respondents.

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

On the last page of the survey, we provide a confidentiality statement as follows:

CONFIDENTIALITY: Per Section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, et seq.), all individual surveys will be held by only a limited number of researchers at AFSC and the contractors who will enter or work with the data. After the data are entered in an electronic format, only these researchers will have password-protected access to the data. After data from the surveys have been entered into an electronic format, the hard copies will be kept in a locked metal cabinet. These individual surveys will be destroyed upon completion of the study. Your name, vessel identification and address will be used only for mailing and survey administration purposes. Only summary results will be reported to the public. NMFS and other agencies will receive only aggregate results in summary form.

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.

No sensitive questions will be asked.

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

The mail-out survey will be used to gather information from vessel owners on the harvesting sector, and key informant interviews will be conducted to follow-up this information and also to gather information from seafood processors and local input suppliers. The mail-out survey will be sent to a sample of vessel owners. Ex-vessel revenue information contained in the Alaska Fisheries Information Network (AKFIN) database for vessels delivering to Southeast Alaska ports was used to derive the sample. The sample size was determined using an unequal probability sampling (UPS) method to account for the unequal distribution of harvest in each vessel stratification. The questions to be asked of survey respondents will pertain to their activities during calendar year 2009. AKFIN data for 2009 will be used to tabulate survey results and perform a non-response analysis. The AKFIN database will also provide information about ex-vessel sales and processor purchases at Southeast Alaska ports. While the survey of vessel owners uses scientific procedures to determine an optimal sample size in order to achieve statistical significance, the selection of key industry informants to be interviewed will use much less formal selection procedures. The following describes the estimated responder burden for both the vessel owner and key informant survey procedures.

It was found using AKFIN data that 2,271 vessels delivered to SE Alaska ports during 2008. Therefore, the total population size is 2,271 vessels consisting of six subpopulations corresponding to the six distinct vessel classes. Given the population size, desired level of precision, choice of confidence level, and variance of an expenditure proxy variable (i.e., ex-vessel revenue), the target sample size is 284. The expected response rate is 25%, so the number of vessels whose owners will receive a mail-out questionnaire is 1,136. The subpopulation sizes and the number in each vessel class who will receive a mail-out questionnaire are: catcher-

processors (75 receiving the survey, 46 expected to respond); trawlers (5, 2); longliners (414, 343); crabbers (147, 67); salmon vessels (1,419, 593); and other vessels (211, 85). A questionnaire will take about 20 minutes to complete. Therefore the expected 284 responses will represent a total burden of about 95 hours.

It is estimated that up to 60 phone calls will be made to contact local vessel owners, processors and input suppliers. It is anticipated that these calls could take up to 20 minutes each. In some cases calls will be used to gather follow-up information directly from vessel owners. Other calls will serve to arrange appointments for interviews with vessel owners and key informants. The total burden of these 60 calls is expected to be 20 hours.

The number of interviews necessary to be conducted with vessel owners will depend on response rates to the mail out survey received in the various vessel strata. It is anticipated that approximately 30 interviews with vessel owners will be required.

A review of the AKFIN database shows that in 2008 there are 310 harvest buyers in SE Alaska; however, only 10 of these purchased almost two-thirds of all harvests. All 10 of these major shoreside processors will be contacted to arrange key informant interviews.

Information about supplier businesses will be assessed by talking with fishing industry representatives during port visits. Local knowledge will be used to identify candidate supplier businesses for key informant interviews. A list of candidate business contacts for the interviews will be compiled to ensure broad coverage of business types. The evaluation will consider the range of goods and services provided to harvesters and processors, as well as the relative size of the businesses. It is anticipated that approximately 10 interviews with supplier business key informants will be conducted.

Given the interpersonal nature of these informal conversations to be held with vessel owners, suppliers and processor representatives, meetings could last between 30 minutes and one hour. It is assumed an average interview would take 40 minutes. If each of a total of 50 interviews (30 vessel owners + 10 processors + 10 suppliers) takes 40 minutes, the total burden of the key informant interviews will be 34 hours.

Therefore, the total burden of respondents is estimated to be 149 hours (95 + 20 + 34), as shown in Table 1, below (*rounded down to 148 in ROCIS*).

Table 1. Estimated population, respondents and burden on data collection participants.

Respondent type	Population	Expected responses	Responses per respondent	Estimated time per response	Estimated hours (responses multiplied by time per response)
Mail Survey					
Catcher-Processor Vessels	75	12	1	20 minutes	4
Trawler Vessel	5	2	1	20 minutes	1
Longliner Vessels	414	85	1	20 minutes	28
Crabber Vessels	147	17	1	20 minutes	6
Salmon Netter/ Troller Vessels	1,419	147	1	20 minutes	49
Other Vessels	211	21	1	20 minutes	7
Phone calls to follow-up with vessel owners and to arrange interviews with input suppliers and processors.		60	1	20 minutes	20
Interviews with vessel owners and key informants from input suppliers and seafood processors		50	1	40 minutes	34
TOTALS	2,291 ^a	394 responses	-	-	149 hours (148 in ROCIS)

^a 2,271 vessels and 20 suppliers/processors

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).

The estimated total annual cost to the public is \$0 (mail surveys will be accompanied by postage-paid envelopes).

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

The total cost of this data collection project is estimated to be \$64,000. This covers compensation for labor, travel, and per diem to design and implement the surveys. Since this project will be spread over two years, the annualized cost is \$32,000. In the event that a lower than expected survey response rate is realized, a contingency budget of up to \$40,000 will be made available to increase the number of on-site interviews conducted with vessel owners in

order to assure that an adequate number of responses are obtained in key sample strata. These expanded site visits will also be used as opportunities to interview local industry key informants.

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

There are no program changes or adjustments.

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

The data collected will be used to revise or replace IMPLAN data for the study region. The collection of data is expected to be implemented during late 2010 – early 2011. The construction and revision of the regional economic data set will be completed by June 2011. Summary results of data collection will be published in a project report, but will not be made available on the Alaska Fisheries Science Center's website. It is anticipated that data collected under this project will be used to construct regional economic models of SE Alaska under subsequent projects. Results from these models and descriptions of the data methods used to develop the models will be published in peer-reviewed journals.

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.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

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

For the vessel surveys, information in the AKFIN database for Year 2008 was used to determine survey population characteristics. Year 2009 data should be available once the survey is complete. The questions to be asked of survey participants will be for Year 2009 activity. The overall population will consist of all fishing vessels making deliveries to a port in SE Alaska. In 2008, there were 2,271 such vessels. This population consists of six vessel classes as shown in Table 1. An unequal probability sampling (UPS) procedure is used to determine the sample sizes needed for each vessel class. UPS procedures are described in Attachment A.

The expected response rates for the vessel surveys are based on consideration of the following factors. A previous data collection project conducted for SE Alaska (Hartman 2002) achieved an overall response rate of about 30%. That study contained a larger number of questions including sensitive ones. The AFSC has completed a survey similar to the proposed one for the Southwest Alaska region and the Gulf Alaska region. The average response rates were about 20% for the harvest sector survey. Based on these two survey programs, it is assumed that, overall, the response rate for mail survey of fishermen for the present project will be about 25%. For a more detailed description of the methods we will use to increase the response rate, see Item #3 below.

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.

Since the majority of gross revenue within each harvesting sector comes from a small number of vessels, a simple random sampling (SRS) of vessels would only include a small portion of the total ex-vessel value, and therefore, would be misleading. As a result, for this project an unequal probability sampling (UPS) method without replacement is used to account for the unequal distribution of harvest in each target population. The objective of the sampling task is to estimate the employment, labor income and other input cost information for each of six disaggregated harvesting sectors using as an auxiliary variable, ex-vessel revenues provided by AKFIN and the Pacific Fisheries Information Network (PacFIN) databases. Since each sector will be used as a separate economic sector in an economic model, we face six separate problems for six different sectors in sampling. For each sector, we use a UPS without replacement method to identify sampling units. Details of the sampling methodology are described in Attachment A.

3. Describe the methods used to maximize response rates and to deal with non-response. 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.

(a) Maximizing Response Rates

Previous applications of voluntary commercial fishing surveys in Alaska (e.g., Hartman 2002) tended to be hampered by relatively low response rates that principally resulted from the use of long and complicated survey instruments. Commercial fishermen are frequently asked, and often required, to participate in surveys from numerous organizations including NOAA, Alaska Department of Fish and Game (ADF&G), and universities. As a result, commercial fishermen are less likely to complete voluntary surveys that are lengthy, poorly-designed, or do not clearly involve issues that are important to them. In this data collection effort, significant efforts were made to ensure the survey instruments were short in length, contained well-designed questions, and clearly conveyed the relationship of the data collection to issues that are important to commercial fishermen.

The mail survey is short (i.e., six questions spanning five pages) and avoids many of the more sensitive questions included in previously-fielded commercial fishing surveys. The set of questions was limited to only those that are essential for achieving the objectives of the project as outlined in Part A, Question 1 above. Compared with the Hartman (2002) SE Alaska commercial fishing survey, which achieved an overall response rate of about 30%, a much smaller number of questions will be asked. Questions on vessel expenditures are often included in surveys of commercial fishermen. In the effort proposed here, information on simple expenditure shares rather than actual expenditures is solicited to avoid the added complexity and likely sensitivity of requesting this type of information. It is not necessary to ask total vessel harvest revenues because that information is already known from the AKFIN and PacFIN databases.

The personal interviews with vessel owners, and key informant local supplier businesses and seafood processors, will be structured with similar objectives in mind. The interviews are designed to follow up on vessel cost information; acquire information on value added by seafood processors, and gather information on local expenditures for labor and non-labor inputs by supplier businesses. Information on non-labor costs will be grouped into categories, e.g., fuel, maintenance, packaging, transportation, etc. A worksheet containing estimates of expenditures for items in these categories as a share of total business expenditures will be used to guide the interviews. The worksheet will be prepared using income statements taken from an earlier economic fishing industry model. The expenditure shares in these statements will serve as reasonable starting points, but scrutiny by the key informants will be needed to judge whether these are valid, or if not, to update them. Questions about total business sales and expenditures of seafood processors do not need to be asked because these can be calculated by knowing the amounts purchased from harvesters (from AKFIN and PacFIN) and information collected about value added in the manufacturing process. Omitting asking sensitive questions about actual dollars combined with the pre-coded worksheet approach will minimize respondents' time burden.

To overcome concerns about confidentiality, a detailed confidentiality statement will be distributed with the mail survey. Protection of confidentiality will also be stressed up front in the key informant interviews. A similar confidentiality statement will be included in the advance and transmittal letters accompanying the mail survey.

Another reason believed to have caused low response rates in previous surveys is disinterest among respondents toward the survey purpose. Surveys collecting information that will clearly benefit or interest respondents are more likely to be completed. The importance and benefits of this data collection project to the respondents (fishermen, local supplier businesses, and seafood processors) will be emphasized in the mail-outs and during interviews. This will clearly state that with their help, the important role of the respondents' fishing and business activities in the regional economy can be better understood. The information they provide will be used to enhance the fishery management practices of NOAA fisheries, and thereby, increase the long-run economic benefits to the fishermen and local businesses. Making a clear link between the survey, their participation, the fishery and the regional economy is expected to help increase the response rate compared with previous efforts.

In addition to the above steps taken to maximize response rates, the survey instruments (mail and telephone) were reviewed by several researchers with expertise in Alaska fisheries and economic surveys to ensure the quality of the materials.

A set of survey protocols to be followed was designed to maximize response rates. For the mail-out survey, a modified Dillman (2000) approach will be employed that includes:

- An **advance letter** notifying the respondents a few days before they receive the survey questionnaire. This will be the first contact with the respondent.
- An **initial mailing** sent a few days after the advance letter. Each mailing will contain a cover letter, personalized questionnaire, and a pre-addressed stamped return envelope.
- A **postcard follow-up reminder** mailed 10 days following the initial mailing.

The proposed option for vessel owners to fill out a confidential and personalized web-based questionnaire hosted on a secure internet website will make responding easier for some survey participants. It is expected that this feature will also help to increase the response rate.

The result of the efforts described above are compact and high-quality survey instruments that contain questions vessel owners, local businesses, and seafood processors can answer with minimal effort. As a result, the expected response rate for the mail survey of vessel owners is modestly expected to be approximately 25%. Through recruitment efforts to secure candidate key informants, up to 50 personal interviews with vessel owners, processors and suppliers will also be completed.

(b) Non-response

A follow-up phone call will be made to a portion of mail-out non-responders in order to determine degree of non-response bias. The interviewer will encourage a mail response, but provide an option for the information to be provided during the phone call. If the respondent agrees, the mail survey will be completed over the phone.⁷ Up to three attempts will be made to contact a non-responder for the telephone interview. Individuals needing an additional copy of the survey will be sent one with a cover letter and return envelope.

To better understand the differences between responders and non-responders, additional comparisons will be drawn with respect to several observable characteristics: (1) geographical area of landed fish, (2) ex-vessel value, and (3) species caught. This information is available from AKFIN and PacFIN data for each vessel. If significant and systematic differences between responder and non-responder groups are discovered, population parameter estimates may be adjusted using weights derived from this information.

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.

There are no plans to conduct a pilot survey or other tests involving more than ten respondents.

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.

John Slanta (Census Bureau) assisted in the development and review of sampling procedures for this project. Mr. Slanta's contact information is (301) 763-4773.

Several NMFS economists with experience in economic survey design and implementation reviewed the survey materials and survey protocols, including Dr. Dan Lew, Dr. Ron Felthoven, and Dr. Brian Garber-Yonts.

Dr. Chang Seung (Alaska Fisheries Science Center) is the AFSC contact who is responsible for project management and will participate in the development of regional economic models using the information from this project. Dr. Seung's contact information is (206) 526-4250, chang.seung@noaa.gov.

The contractor coordinating the project and preparing documentation is Edward Waters, Beaverton, Oregon. Mr. Waters's contact information is (503) 804-8857, edwaters@hotmail.com.

⁷ In this case, the harvest values for the vessel will be provided to the vessel owners so that they will not need to access their records. Having this information on hand should greatly simplify responses for labor payments and expenditure shares. In doing this, we will make sure that the person we will be interviewing on the phone is the true owner of the vessel so as not to breach confidentiality by providing sensitive information to an unauthorized person. The harvest value information will not be provided to the respondent in the mail survey, as can be seen in the example mail survey questionnaire in Attachment B.

The contractor performing and tabulating the survey is Shannon Davis, The Research Group, Corvallis, Oregon. Ms. Davis's contact information is (541) 758-1432, shannon_davis@class.orednet.org.

ATTACHMENT A. SAMPLING PROCEDURES FOR HARVESTING SECTORS¹

The objective of the vessel-level data collection proposed under this project is to estimate employment, payments to labor, and payments for non-labor inputs for each of six disaggregated harvesting vessel sectors using data to be collected via a mail survey. Using ex-vessel revenue information, an unequal probability sampling (UPS) procedure will be employed to determine the sampling plan for each of the six harvesting sectors. The UPS procedure is described below. An expanded version of this attachment will be published in an academic journal (Seung 2010).

The literature contains many methods for conducting UPS without replacement (see, for example, Brewer and Hanif 1983; Sarndal 1992). One critical weakness with most of these methods is that the variance estimation is very difficult because the structure of the 2nd order inclusion probabilities $(\pi_{ij})^2$ is complicated. One method that overcomes this problem is Poisson sampling. However, Poisson sampling has the weakness that the sample size is a random variable, which increases the variability of the estimates produced. An alternative method that is similar to Poisson sampling but overcomes this weakness is Pareto sampling (Rosen 1997)³ which yields a fixed sample size.

In this project, there are two main tasks involved in estimating the harvesting vessel population parameters using UPS without replacement. First, the optimal sample size needs to be determined. Second, once the optimal sample size is determined, the population parameters and confidence intervals need to be estimated. For the first task, we will use the variance of Horvitz-Thompson (HT) estimator from Poisson sampling in Part I below.⁴ For the second task, we will use the Pareto sampling method described in Part II below (Slanta 2006). In determining the optimal sample size in Part I, we will use information on an auxiliary variable (ex-vessel revenue). To estimate the population parameters in Part II, we use actual response sample information on the variables of interest (employment and labor income).

Part I: Estimating Sample Size

Step 1: Estimation of Optimal Sample Size (n*)

(A) Obtaining Initial Probabilities

To obtain the initial values of the inclusion probabilities (π_i) for unit i in the population, we multiply the auxiliary value of unit i (X_i , i.e., the ex-vessel value of vessel i in the population) by a proportionality constant (t) ⁵:

$$\pi_i = t X_i \tag{1}$$

where π_i : probability of vessel i being included in the survey sample
 X_i : value of the auxiliary variable (ex-vessel value of vessel i in the population)

Here, t is given by

$$t = \frac{\sum_i^N X_i}{V + \sum_i^N X_i^2} \quad (2)$$

where N : population size
V : desired variance (of HT estimator of the population total); Poisson variance. Here, V is given as:

$$V = \left(\frac{\varepsilon X}{z_{1-(\alpha/2)}} \right)^2$$

where ε is the error allowed by the investigator [e.g., if ε is 0.1, then 10% error of true population total ($X = \sum_{i=1}^N X_i$) is allowed]; and z is percentile of the standard normal distribution. Therefore, choosing a desired variance V is equivalent to

setting the values of ε and z. The value of V calculated using $V = \sum_{i=1}^N \frac{(1 - \pi_i) X_i^2}{\pi_i}$

(Poisson variance; Brewer and Hanif 1983, page 82) with π_i 's being the final values of N inclusion probabilities obtained from Step 1, will be equal to the desired variance given at the beginning of Step 1.

Some of the resulting π_i 's could be larger than one. The number of certainty units (i.e., the number of units for which $\pi_i > 1$) is denoted C_1 . If $\pi_i > 1$, then we force this inclusion probability to equal one ($\pi_i = 1$).

(B) Iterations and Determination of Optimal Sample Size

We recalculate t using the noncertainty units (i.e., the units for which $\pi_i < 1$) obtained in (A) above, i.e.,

$$t = \frac{\sum_i^{M_1} X_i}{V + \sum_i^{M_1} X_i^2} \quad (2')$$

where M_1 : number of noncertainty units from (A), where $M_1 = N - C_1$.

Using equation (1) above, we calculate the inclusion probabilities for the noncertainty units by multiplying the t value [from equation (2')] by the ex-vessel values of the noncertainty units. If the resulting π_i 's are larger than one, we force them to equal one. The resulting numbers of certainty and noncertainty units are denoted C_2 ($= C_1 +$ additional number of certainty units) and M_2 ($= M_1 -$ additional number of certainty units), respectively, where $C_2 + M_2 = N$. Next, for

M_2 units of noncertainty, we calculate the t and π_i 's again. This is an iterative process. We continue this process until the noncertainty population stabilizes (i.e., until there is no additional certainty unit).

If the noncertainty population stabilizes after k th iteration, there will be C_k units of certainty units and M_k units of noncertainty units and $C_k + M_k = N$. Summing over the probabilities for all these certainty and noncertainty units, we obtain the optimal sample size (n^*) as:

$$n^* = \sum_i^N \pi_i \quad (3)$$

At this stage the optimal sample size may not be an integer number. In this stage, we also compute the optimal sample size under simple random sampling (SRS)⁶, n_{srs} , and compare it with n^* .

Step 2: Determining Number of Mailout Surveys

(A) Adjustment of Probabilities

Once the optimal sample size (n^*) is determined in Step 1, we divide the sample size (n^*) by the expected response rate (obtained from previous studies) to determine the number of surveys that need to be mailed out to achieve n^* . The number thus derived is denoted n_a (this number may not still be an integer value). We next adjust the inclusion probabilities for the M_k noncertainty units obtained in Step 1 above as:

$$\pi_i = (n_a - C_k) \left[\frac{\pi_i}{\sum_i^{M_k} \pi_i} \right] \quad (4)$$

If the resulting probabilities are larger than one ($\pi_i > 1$), we make them certainties ($\pi_i = 1$). The resulting numbers of certainty and noncertainty units are denoted C_{k+1} and M_{k+1} , respectively. Next, we adjust the probabilities of the new set of noncertainty units (M_{k+1}) in a similar way using equation (4') below:

$$\pi_i = (n_a - C_{k+1}) \left[\frac{\pi_i}{\sum_i^{M_{k+1}} \pi_i} \right] \quad (4')$$

We continue this process until the noncertainty population stabilizes. The resulting numbers of certainty and noncertainty units are C_q and M_q , respectively.

(B) Apply Minimum Probability Rule

At this point, we impose a minimum probability rule. UPS can have excessively large weights ($= 1/\pi_i$) and if they report a large value, then the population estimate and its variance would be very large. In order to avoid this problem, we can impose a minimum value of the inclusion probabilities. If m is the minimum imposed probability, then we do the following:

If $\pi_i < m$, then set $\pi_i = m$ for each i , where $i = 1, \dots, N$.

The value for m here is determined arbitrarily. The only cost involved in using this rule is a small increase in sample size.⁷

(C) Finding an Integer Value for Sample Size

Next, we add up all the resulting inclusion probabilities. The resulting sum is denoted n_b ($> n_a$), which may not be an integer value. Next, we adjust again the probabilities for noncertainty units including the units for which the minimum probabilities were imposed as:

$$\pi_i = (n_c - C_q) \left[\frac{\pi_i}{\sum_i \pi_i} \right] \quad (5)$$

where n_c is the smallest integer value larger than n_b (e.g., if $n_b = 15.3$, then $n_c = 16$). Finally, we add up the resulting (certainty and noncertainty) probabilities. The sum of all these probabilities is the final survey sample size (i.e., the number of surveys to be sent out to), and is denoted $n_m (= n_c)$.

Part II: Estimation of Population Parameters and Confidence Intervals

Step 3: Implementation of Pareto Sampling

After the mailout sample size (n_m) for each sector is determined in Step 2, the mailout sample is selected from each sector's population using Pareto sampling. The probability of each unit (vessel) being in the sample in a given sector is proportional to the unit's (vessel's) ex-vessel revenue. Because the majority of gross revenue within each sector comes from a small number of vessels, a random sample of vessels would only include a small portion of the total ex-vessel values.

According to Brewer and Hanif (1983), there are fifty different approaches that are used for UPS. Most of these approaches suffer from the weakness that it is very hard to estimate the variance. Poisson sampling overcomes this problem, and is relatively easy to implement. However, the limitation of Poisson sampling is that the sample size is a random variable. Therefore, in this project, we will use Pareto sampling (Rosen 1997 and Saavedra 1995) which overcomes the limitation of Poisson sampling. The mailout sample size will be n_m as determined

in Step 2 (C) above. We will use the inclusion probabilities obtained from Equation (5) above in implementing Pareto sampling.

The procedure of this sampling method (Block and Crowe 2001) is briefly described here:

1. Determine the probability of selection (π_i) for each unit i as in Equation (5) above.
2. Generate a Uniform (0,1) random variable U_i for each unit i
3. Calculate $Q_i = U_i (1 - \pi_i) / [\pi_i (1 - U_i)]$
4. Sort units in ascending order by Q_i , and select n_m smallest ones in sample.

From the above, it is clear that we will have a fixed sample size with Pareto sampling.

Step 4: Mailing out Surveys and Obtaining Actual Response Sample

Next, we will send out the surveys to the n_m units (vessel owners). Actual response sample will be obtained and the size of the actual response sample is denoted r .

Step 5: Estimation of Population Parameters (Population Total)

Using the information in the actual response sample, we calculate population parameters *for variables of interest* (employment and labor income in our project), *not for ex-vessel revenue*, using HT estimator (Horvitz and Thompson 1952). We are interested in estimating the population totals (not population means) of the variables of interest. The HT estimator is given as:

$$\ddot{Y}_{HT} = \sum_{i=1}^r w_i y_i \quad (6)$$

where r : number of respondents
 w_i : weight for i th unit ($= 1/\pi_i$). Note that the weights are calculated here using the information on the auxiliary variable, not that on the variables of interest
 y_i : response sample data of i^{th} unit (employment or labor income)

However, the HT estimator needs to be adjusted for non-response. The estimator is adjusted in the following way.

$$\ddot{Y} = \left(\frac{\sum_{j=1}^N X_j}{\sum_{i=1}^r w_i X_i} \right) \ddot{Y}_{HT} \quad (7)$$

where N : population size
 X_i : auxiliary variable of i^{th} unit (respondents only)

Usually, we apply this adjustment to the certainties separately from the noncertainties, and then add the two together to get a final estimate. If there are no respondents within any of the two groups of certainty units and noncertainty units, then we collapse the two groups before applying the adjustment. Specifically, the final estimate of population total is given by:

$$\check{Y} = \left(\frac{\sum_{j=1}^{N_1} X_j}{\sum_{i=1}^{r_1} w_i X_i} \right) \sum_{i=1}^{r_1} w_i y_i + \left(\frac{\sum_{j=1}^{N_2} X_j}{\sum_{i=1}^{r_2} w_i X_i} \right) \sum_{i=1}^{r_2} w_i y_i \quad (8)$$

where N_1 : number of certainty units in the population
 N_2 : number of noncertainty units in the population
 r_1 : number of respondents from certainty units
 r_2 : number of respondents from noncertainty units, and
 $N_1 + N_2 = N$ and $r_1 + r_2 = r$.

Step 6: Estimation of Variance for \check{Y}_{HT} and \check{Y}

Here we will calculate the variances of the population estimates for the variables of interest. The variance estimate for Pareto sampling is given in Rosen (1997, Equation (4-11), p. 173) as:

$$Var(\check{Y}_{HT}) = \frac{n_m}{n_m - 1} \left\{ \left[\sum_{i=1}^{n_m} (1 - \pi_i) \left(\frac{y_i}{\pi_i} \right)^2 \right] - \frac{\left[\sum_{i=1}^{n_m} y_i \left(\frac{1 - \pi_i}{\pi_i} \right) \right]^2}{\sum_{i=1}^{n_m} (1 - \pi_i)} \right\} \quad (9)$$

Since we have adjusted for nonresponse, we need to incorporate the variability due to nonresponse into the variance. If we assume that the response mechanism is fixed⁸, then we have a ratio estimator and its variance can be found in Hansen, Hurwitz, and Madow (1953, page 514). This variance is a Taylor expansion, and is given as:

$$Var(\check{y}) = \check{y}^2 \left(\frac{\check{\sigma}^2(A)}{A^2} + \frac{\check{\sigma}^2(B)}{B^2} - \frac{2COV(A, B)}{AB} \right) \quad (10)$$

where

$$A = \sum_{i=1}^r w_i y_i$$

$$B = \sum_{i=1}^r w_i X_i$$

$$\sigma^2(A) = \frac{n_m}{n_m - 1} \left\{ \left[\sum_{i=1}^r (1 - \pi_i) (w_i y_i)^2 \right] - \frac{\left[\sum_{i=1}^r (1 - \pi_i) (w_i y_i) \right]^2}{\sum_{i=1}^{n_m} (1 - \pi_i)} \right\}$$

$$\sigma^2(B) = \frac{n_m}{n_m - 1} \left\{ \left[\sum_{i=1}^r (1 - \pi_i) (w_i X_i)^2 \right] - \frac{\left[\sum_{i=1}^r (1 - \pi_i) (w_i X_i) \right]^2}{\sum_{i=1}^{n_m} (1 - \pi_i)} \right\}$$

$$COV(A, B) = \frac{n_m}{n_m - 1} \left\{ \left[\sum_{i=1}^r (1 - \pi_i) w_i^2 y_i X_i \right] - \frac{\left[\sum_{i=1}^r (1 - \pi_i) (w_i y_i) \right] \left[\sum_{i=1}^r (1 - \pi_i) (w_i X_i) \right]}{\sum_{i=1}^{n_m} (1 - \pi_i)} \right\}.$$

Step 7: Calculation of Confidence Intervals

Confidence intervals are calculated using response sample statistics obtained in steps 5 and 6. We only choose one sample, but if there were many independent samples chosen then we would expect on average that approximately $100(1-\alpha)$ % of the confidence intervals constructed in the following manner will contain the truth.

$$\left(\hat{Y} - z_{\alpha/2} \sqrt{Var(\hat{Y})}, \hat{Y} + z_{\alpha/2} \sqrt{Var(\hat{Y})} \right) \quad (11)$$

where \hat{Y} : Estimated population total for employment or labor income.

Note that it is possible to use t-statistics if the sample size is small.

Footnotes

1. In the process of developing this document, several experts in UPS sampling assisted me by providing helpful comments and inputs. The experts include John Slanta (U.S. Census Bureau), Bengt Rosen (Uppsala University), Pedro Saavedra (ORC Macro), Holmberg Anders (Statistics Sweden), Paolo Righi (ISTAT, Italy), and Bob Fay (U.S. Census). In particular, I would like to thank John Slanta very much for his time and effort in providing valuable inputs and advice. His suggestions and comments contributed significantly to the development of the sampling procedures in this document. Many thanks go to Dan Lew (NMFS) for his rigorous review and valuable suggestions which contributed in a significant way to the improvement of this document. I also benefited from discussions of UPS with Norma Sands at NWFSC and from the Excel file that she developed.
2. 2nd order inclusion probability (π_{ij}) is defined as the joint probability of including in sample the i^{th} and j^{th} population units.
3. Saavedra (1995) independently developed the same sampling methodology as Rosen (1997), which he called Odds Ratio Sequential Poisson Sampling (ORSPPS).
4. Although we do not use Poisson sampling itself, we do use the Poisson variance of HT estimator of the population total.
5. Equation (1) is derived as follows.

HT estimator, $\check{X}_{HT} = \sum_i \frac{X_i}{\pi_i}$, has variance,

$$V(\check{X}_{HT}) = \sum_{i=1}^N \frac{X_i^2}{\pi_i} (1 - \pi_i) = \sum_{i=1}^N \frac{X_i^2}{\pi_i} - \sum_{i=1}^N X_i^2 \quad (\text{Brewer and Hanif 1983, page 82}) \quad (\text{A})$$

For an expected sample size n ,

$$\pi_i = n \left(\frac{X_i}{\sum_{i=1}^N X_i} \right) \quad (\text{B})$$

Substituting (B) into (A) and solving for n ,

$$n = \left(\sum_{i=1}^N X_i \right)^2 / \left(V(\check{X}_{HT}) + \sum_{i=1}^N X_i^2 \right) \quad (\text{C})$$

Substituting (C) into (B),

$$\pi_i = \left[\frac{\sum_{i=1}^N X_i}{V(\ddot{X}_{HT}) + \sum_{i=1}^N X_i^2} \right] X_i, \quad i = 1, 2, \dots, N, \quad (D)$$

where $V(\ddot{X}_{HT})$ is the desired variance.

6. The optimal sample size under SRS is determined using the following standard formula:

$$n_{srs} \geq \frac{z^2 N (CV_p)^2}{z^2 (CV_p)^2 + (N-1) \varepsilon^2} \quad (\text{Levy and Lemeshow, formula (3.14) on page 74})$$

where n_{srs} : optimal sample size under SRS
 CV_p : coefficient of variation of the population parameter. Since the information on the population parameters (i.e., employment and labor income) is not available, we use ex-vessel revenue, for which the population information is available from CFEC. Therefore, CV_p is defined as standard deviation of the ex-vessel revenue in the population divided by the mean.

7. This minimum probability rule is used, for example, in the Manufacturing and Construction Division of the Census Bureau. To date, there has not been any research on the minimum probability in the sampling literature. It is an arbitrary value and in applications has sometimes varied between strata in the same survey. Some researchers determine the minimum probability such that the resulting weight, which is the reciprocal of the minimum probability, is less than or equal to the population size. Generally speaking, this minimum probability rule has little effect on the sample size.
8. Fixed response mechanism means that a unit included in a sample is always a respondent or non-respondent no matter what sample the unit is included in. In other words, the probability of the unit being a respondent is either one or zero but nothing in-between.

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Advance Letter for Fishing Vessel Survey

<DATE>

Phish Erman
<Vessel Name>
Address
City, state, zip

Dear Mr. Erman:

The Alaska Fisheries Science Center (AFSC), of NOAA Fisheries (National Marine Fisheries Service), is conducting a voluntary survey to learn more about commercial fishing activity in Southeast Alaska (SE Alaska). With your help, we can identify the important role fishing activity plays in the SE Alaska economy. This will provide better information to fishery management decision makers.

Your name was selected at random from commercial fishermen who landed fish at SE Alaska ports during 2009. Very few fishermen were chosen for the study, so your help is critical to its success. In the next few days, you will receive a questionnaire in the mail from AFSC. This survey will have an optional response procedure for filling out the questionnaire using a form hosted on an internet website. A unique password will be provided on the mailed questionnaire which will allow you to gain access to the form, if desired.

The survey asks about employment and earnings of crew and skipper(s) working on your vessel. It also asks about the share of spending to own and operate the vessel that is made in SE Alaska communities. We recognize the sensitivity of the information to be collected, and want to assure you it will be handled confidentially. All individual surveys will be held by the researchers at AFSC and destroyed upon completion of the study.

You are one of a small number of fishermen who are selected to help. To keep costs low and make sure that the information obtained correctly represents SE Alaska fishing activity, we need to hear from you.

Thank you in advance for your help.

Sincerely,

Cover Letter for Fishing Vessel Survey

<Date>

Mr. Phish Erman

<Vessel Name>

Address

City, state, zip

Dear Mr. Erman:

As you know, commercial fishing plays a significant role in the Southeast Alaska (SE Alaska) economy. One way commercial fishing contributes to the region's economy is through the jobs held by fishing vessel crew and skippers, and the income these crew and skippers spend in the region. Another way the fishing industry contributes to the region's economy is through other spending to own and operate a vessel. Information about jobs and spending by the commercial fishing industry is needed by local and state governments, businesses, and others who make decisions that affect people and industries in SE Alaska.

To help us improve our understanding of commercial fishing's role in the SE Alaska economy, we ask that you complete the enclosed voluntary survey. The survey is being conducted by the Alaska Fisheries Science Center (AFSC) and collects employment and income information related to the landings by your vessel, <Vessel name>. The information you provide will be useful to fishery management decision makers, and, thereby, increase the long-run economic benefits to those who engage in fishing activities. If you choose to fill out your questionnaire using the optional on-line form hosted on a secure internet website, the url is:

Your unique password for accessing the secure online form is included on the attached questionnaire.

We recognize the sensitivity of the information being collected, and want to assure you it will be handled confidentially. All individual surveys will be held by the researchers at AFSC and destroyed upon completion of the study. Your name and address will only be used for mailing purposes. Only summary results will be reported to the public and no data identifying you or your individual vessel will be provided to the public, National Marine Fisheries Service (NMFS) or other agencies that receive the study results.

Most of the information you need to complete the survey is available on your **2009** federal business tax return documents and your crew settlement sheets. With these materials, the survey should take about 20 minutes to complete and mail back in the enclosed self-addressed stamped envelope.

You are one of only a few vessel owners being asked to participate in this study. You were randomly selected from all vessel owners who delivered fish to seafood processing plants in the

Southeast region of Alaska. To ensure the results of the study truly represent vessels like yours, it is very important that you complete and return the survey.

I would be happy to answer any questions you may have about this study. Please call me at (541) 758-1432 or email at shannon_davis@class.oregonvos.net. Thank you very much for your assistance.

Sincerely,

Shannon Davis
Survey Director
The Research Group

2009

Southeast Alaska Fisheries Economic Activity Survey



Sponsored by

Alaska Fisheries Science Center
National Marine Fisheries Service

OMB Control No. 0648-XXXX
Expiration Date: mm/dd/yyyy

Vessel Information

1. Please examine the table containing information about you and your vessel, and make any corrections that are needed. (The vessel contact and characteristics information is public information from the Commercial Fisheries Entry Commission, Alaska Department of Fish and Game.)

Item	Information on Record	Corrections (if any)
Owner's name	<i>Phish Erman</i>	
Owner's address	<i>Rt. 1, Box 368, Stewart, MN 55385</i>	
Vessel name	<i>Lutefisk</i>	
USCG vessel ID	<i>3333666</i>	
State/vessel ID	<i>AK/FV33336</i>	
Vessel home port	<i>Ketchikan, AK</i>	
Refrigeration system?	<i>No</i>	
Freezing system?	<i>Yes</i>	

Skipper, Crew, and Owner Employment Information

The following questions are about employment of crewmembers, skippers, and owner for fishing-related activities during the 2009 calendar year (January 1 – December 31).

2. During 2009, how many months (0 to 12) were you an owner of this vessel?

3. On average in 2009, how many total crew and skipper jobs (different positions) did this vessel have while fishing and/or having maintenance or repairs performed?

4. For each of the shown fisheries, please indicate the number of crew members, skippers, and owners that served as skippers who worked on the vessel and the number that were **Southeast Alaska residents in 2009**. (For determining the residency, please use the addresses on record of the crew members, skippers, and owners that served as skippers. If a crew member or skipper worked during more than one fishery, include their counts for each fishery.)

Fisheries this vessel participated	Crewmembers		Skippers		Owners that are Skippers	
	Total Number	Number that are SE residents	Total Number	Number that are SE residents	Total Number	Number that are SE residents
Groundfish other than pollock						
Pollock						
Crab (all)						
Halibut and black cod						
Herring						
Salmon (all)						
Other species (all)						

Crew and Skipper Payment Information

5. The following question is about payments to crew and skippers for the 2009 calendar year. Information contained on delivery settlement sheets may assist you in accurately answering the question. For each fishery participated, please record the payment (in dollars) made to crew and skippers. In the case the owner served as skipper for any fishery, do not include the proprietorship earnings for the vessel owner. (Information contained on crew employment agreements may assist you in accurately answering this question. Include bonuses and payroll taxes, but exclude benefits, insurance, etc. Payments would also exclude food, fuel, fees, and other vessel expenses that may be stipulated in the vessel's agreement.)

Fisheries this vessel participated	Net crew payments	Net skipper payments
Groundfish other than pollock	\$	\$
Pollock	\$	\$
Crab (all)	\$	\$
Halibut and black cod	\$	\$
Herring	\$	\$
Salmon (all)	\$	\$
Other species (all)	\$	\$

6. Please examine the table below containing information about a representative income statement for a vessel of your size. Please make corrections to the shares of revenue and expenditures that apply to your vessel in 2009. We don't need to know the actual numbers - just the shares of total revenue and shares of total expenditures. (The income statement information is from an outdated economic model we hope to be able to update.)

(sample for longliner vessel type)

Category	Representative % of Revenue	Corrections (if any)	% of expenditures made in SE Alaska communities
Harvest Revenue			
SE Alaska	45.0%		
Other Alaska	41.7%		
West Coast	5.3%		
Total harvest revenue	92.1%		
Permit lease revenue and payments			
Paid	-8.8%		
Received	0.9%		
Net	-7.9%		
Other income (tendering, charters, etc.)	15.8%		
Total revenue	100%	100%	
Variable Expenses			
Vessel/engine repair	5.50%		
Gear repair/replace	3.00%		
Processing equipment repair	0.00%		
Fuel and lubricants	15.00%		
Food and supplies	2.50%		
Ice and bait	2.10%		
Dues and fees	1.10%		
Transportation, shipping, storage	1.90%		
Miscellaneous	2.00%		
Crew shares			
Processing and harvesting crew	26.22%		
Tech crew	0.00%		
Management and observer	1.28%		
Crew P&I insurance	3.03%		
Packaging and other materials	0.10%		
Fish and landing tariffs	0.10%		
Bad debt	0.25%		
Subtotal	64.08%		
Fixed Expenses			
Insurance	4.50%		

Category	Representative % of Revenue	Corrections (if any)	% of expenditures made in SE Alaska communities
Moorage	0.50%		
Interest payments (short term liabilities)	2.50%		
G&A overhead, including employee recruitment, training	2.00%		
Licenses, equip. and gear leases	0.20%		
Miscellaneous	0.20%		
Subtotal	9.90%		
Total expenditures	73.98%		
Net income	26.02%		

Comments

Please use this space to provide us with any comments that you feel would assist us to report the economic contribution of fishers like you to the economy of SE Alaska.

THANK YOU FOR PARTICIPATING IN THE SURVEY!

Confidentiality

Per Section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, et seq.), all individual surveys will be held by only a limited number of researchers at Alaska Fisheries Science Center and the contractors who will enter or work with the data. After the data are entered in an electronic format, only these researchers will have password-protected access to the data. After data from the surveys have been entered into an electronic format, the hard copies will be kept in a locked metal cabinet. These individual surveys will be destroyed upon completion of the study. Your name, vessel identification and address will be used only for mailing and survey administration purposes. Only summary results will be reported to the public. NMFS and other agencies will receive only aggregate results in summary form.

Paperwork Reduction Act Statement

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Chang Seung, Alaska Fisheries Science Center (Address: 7600 Sand Point Way NE Seattle WA 98115-6349, Phone: 206-526-4250)

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Script of Follow-up Telephone Interview with Vessel Owners

Hello, my name is _____ and I am calling from the Alaska Fisheries Science Center. I am trying to reach [vessel owner].

[IF NOT AVAILABLE] --> Thank you, I will call back later. When would be a good time to reach [vessel owner]?

[IF QUALIFIED RESPONDENT IS ON THE PHONE]

QA Recently, we mailed you a survey asking you about your recent fishing activity, entitled "Southeast Alaska Fisheries Economic Activity Survey." Do you remember receiving that survey?

- 1 YES [SKIP TO QA1]
- 2 NO [SKIP TO QA2]

QA1 As of today, we have not received your completed survey. You are one of a small group of vessel owners who landed fish at ports in Southeast Alaska we are asking for input, so your response is very important. All of your answers are confidential and your name will not be revealed to anyone. If we send you another survey, would you be able to complete the survey and return it to us within a week of receiving it?

- 1 YES – SEND NEW SURVEY [SKIP TO VERIFY]
- 2 YES – DO NOT NEED ANOTHER SURVEY [Thanks. We will be looking forward to receiving your completed survey.]
- 3 SURVEY HAS ALREADY BEEN RETURNED [THANK AND TERMINATE]
- 4 NO [SKIP TO QA3]

QA2 We are collecting job and spending information for your vessel to help us understand better the important role that your fishing activity plays in the economy of the Southeast region of Alaska. You are one of a small group of vessel owners we are asking for the information, so your response is very important. I'd like to remind you that all of your answers are confidential and your name will not be revealed to anyone. If we send you another survey, could you return the survey to us within a week after you receive it?

- 1 YES – SEND NEW SURVEY [SKIP TO VERIFY]
- 2 YES – DO NOT NEED ANOTHER SURVEY [Thanks. We will be looking forward to receiving your completed survey.]
- 3 NO [SKIP TO QA3]

VERIFY (If new survey needs to be sent)

I would like to verify some information that I have. I have your name as...

NAME _____
STREET ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE _____

Thank you, I will send another survey out today.

QA3 It is extremely important for our analysis that we obtain the information from fishermen like you. The information you provide will help us understand how your fishing activity have contributed to the community's economy. The information will be useful for fishery management decision makers, and, thereby, increase the long-run economic benefits to the fishermen like you. If it is convenient for you, we can administer phone interview with you now. Would you be able to spend about 20 minutes to provide the information now?

- 1 YES [SKIP TO PHONE]
- 2 NO [THANK AND TERMINATE]

PHONE

Thank you very much. I am going to ask you first about the characteristics of your vessel.

Q1 I would like to verify some information about your name, address, and characteristics of your vessel. The information is public information, and is from a government data source (Commercial Fisheries Entry Commission, Alaska Department of Fish and Game). I have your name as...

Item	Information on Record	Corrections (if any)
Owner's name	<i>Phish Erman</i>	
Owner's address	<i>Rt. 1, Box 368, Stewart, MN 55385</i>	
Vessel name	<i>Lutefisk</i>	
USCG vessel ID	<i>3333666</i>	
State/vessel ID	<i>AK/FV33336</i>	

Item	Information on Record	Corrections (if any)
Vessel home port	<i>Ketchikan, AK</i>	
Refrigeration system?	<i>Yes</i>	
Freezing system?	<i>No</i>	

NOTE FOR RESPONDENTS (Say the following to the respondents)

In the remaining questions, I am going to ask you about employment of crew and skipper(s) and payments to them during the 2009 calendar year (January 1 – December 31).

Q2 During 2009, for how many months (0 to 12) were you an owner of this vessel?

Q3 On average, in 2009, how many total crew and skipper jobs (different positions) did this vessel have while fishing and/or having maintenance or repairs performed?

Q4 I am going to list seven (groups of) species for which I am interested in estimating the employment. They are groundfish other than pollock, pollock, crab (all), halibut and black cod, herring, salmon (all), and other species (all). For each of these fisheries, can you tell me the total number of crew members, skippers, and owners serving as skippers employed by this vessel and the number that were Southeast Alaska residents in 2009? If a crew member (or skipper) fished for more than one species, count them as employed for each species they fished.

(IF THE RESPONDENT DOES NOT HAVE THE SURVEY THAT HAS THE SOUTHEAST REGION MAP OR IF HE/SHE DOES NOT KNOW SOUTHEAST REGION, EXPLAIN THE REGION TO HIM/HER, BY PROVIDING DESCRIPTIONS OF THE REGION.) For determining the residency, please use the addresses on record of the crew members, skippers, and owners that served as skippers. If a crew member or skipper worked during more than one fishery, include their counts for each fishery.

Fisheries this vessel participated	Crewmembers		Skippers		Owners that are Skippers	
	Total Number	Number that are SE residents	Total Number	Number that are SE residents	Total Number	Number that are SE residents
Groundfish other than pollock						
Pollock						
Crab (all)						
Halibut and black cod						
Herring						
Salmon (all)						
Other species (all)						

Q5 For each species group listed in the previous question, can you tell me the payment (in dollars) made to crew and skipper(s) for the 2009 calendar year. To help you figure out the payments to crew and skipper(s), I will give you the ex-vessel value of each species group landed in 2009. This data was obtained from a government data source (Commercial Fisheries Entry Commission, Alaska Department of Fish and Game). Information contained on crew employment agreements may assist you in accurately answering the question. Include bonuses and payroll taxes, but exclude benefits, insurance, etc. Payments would also exclude food, fuel, fees, and other vessel expenses that may be listed in the vessel's agreement. The government data says that the ex-vessel value of salmon is _____ dollars in 2009...

Fisheries this vessel participated	2009 Ex-vessel value reported by species for this vessel	Net crew payments	Net skipper payments
Groundfish other than pollock	\$0	\$	\$
Pollock	\$0	\$	\$
Crab (all)	\$0	\$	\$
Halibut and black cod	\$0	\$	\$
Herring	\$52,000	\$	\$
Salmon (all)	\$175,000	\$	\$
Other species (all)			

Q6 I am going to list vessel income statement revenue and expenditure categories and a representative share percent. Please make corrections to the shares so they apply to your vessel in 2009. We don't need to know the actual numbers - just the shares of total revenue and shares of total expenditures. (The income statement information is from an out-dated economic model we hope to be able to update.)

(sample for longliner vessel type)

Category	Representative % of Revenue	Corrections (if any)	% of expenditures made in SE Alaska communities
Harvest Revenue			
SE Alaska	45.0%		
Other Alaska	41.7%		
West Coast	5.3%		
Total harvest revenue	92.1%		
Permit lease revenue and payments			
Paid	-8.8%		
Received	0.9%		
Net	-7.9%		
Other income (tendering, charters, etc.)	15.8%		
Total revenue	100%	100%	
Variable Expenses			
Vessel/engine repair	5.50%		
Gear repair/replace	3.00%		
Processing equipment repair	0.00%		
Fuel and lubricants	15.00%		
Food and supplies	2.50%		
Ice and bait	2.10%		
Dues and fees	1.10%		
Transportation, shipping, storage	1.90%		
Miscellaneous	2.00%		
Crew shares			
Processing and harvesting crew	26.22%		
Tech crew	0.00%		
Management and observer	1.28%		
Crew P&I insurance	3.03%		
Packaging and other materials	0.10%		
Fish and landing tariffs	0.10%		
Bad debt	0.25%		
Subtotal	64.08%		
Fixed Expenses			
Insurance	4.50%		

Category	Representative % of Revenue	Corrections (if any)	% of expenditures made in SE Alaska communities
Moorage	0.50%		
Interest payments (short term liabilities)	2.50%		
G&A overhead, including employee recruitment, training	2.00%		
Licenses, equip. and gear leases	0.20%		
Miscellaneous	0.20%		
Subtotal	9.90%		
Total expenditures	73.98%		
Net income	26.02%		

COMMENTS

That's all the questions I have for you. Thank you very much. Do you have any comments that you feel would assist us to report the economic contribution of fishers like you to the economy of the Southeast region of Alaska?

- 1 YES [OBTAIN THE COMMENTS AND GO TO CONCLUDE]
- 2 NO [GO TO CONCLUDE]

CONCLUDE

Thank you for your time. We really appreciate your participation. If you have any further questions, please contact me (Shannon Davis) at the The Research Group by telephone at (541) 758-1432 or email at shannon_davis@class.oregonvos.net.

QUESTIONS/COMMENTS AND ANSWERS

[If concerned about purpose of the call] This is not a marketing or sales call. We are collecting information on your fishing activity. I want to assure you that your answers will be kept confidential and your name will not be revealed to anyone.

[If asking about the study sponsor] This survey is being conducted by The Research Group in cooperation with the Alaska Fisheries Science Center, NOAA Fisheries, also known as the National Marine Fisheries Service, a U.S. government agency charged with understanding the effects of federal management actions and policies affecting the nation's saltwater fisheries.

PAPERWORK REDUCTION ACT (PRA) STATEMENT

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Shannon Davis, The Research Group, P.O. Box 813, Corvallis, OR 97339, telephone (541) 758-1432, email: shannon_davis@class.orednet.org.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Postcard Reminder for Fishing Vessel Survey

Last week a questionnaire was mailed to you seeking information about your commercial fishing activity in Southeast Alaska (SE Alaska).

If you have already completed and returned the questionnaire, please accept our sincere thanks. If you have not completed and returned the questionnaire, we ask that you do so today.

It is very important that we hear from you. You are one of a small number of fishermen selected to participate in this study. Your response will help us improve understanding of commercial fishing's role in the SE Alaska economy. However, a high rate of survey participation is required to make sure we have a sufficient number of respondents.

If you need another copy of the survey, please call me at (541) 758-1432 or email to shannon_davis@class.oregonvos.net and another survey will be mailed to you.

Thank you for your help.

Shannon Davis
Survey Director
The Research Group

PERSONAL INTERVIEW WORKSHEETS

1. Processor Worksheet

Fishery	Purchase	Volume	Product	Yield	Gross	<u>Product Form</u>	
	Share	Correct	Amount	Correct		Form	Correct
Groundfish							
Sablefish	4.5%		59.6%		87.0%	Whole	
Flatfish	1.9%		37.7%		15.4%	Fillet	
Other Groundfish	24.6%		41.8%		45.1%	Fillet	
Rockfish	2.3%		36.4%		44.8%	Fillet	
Other	0.3%		48.7%		5.8%	Whole	
Non-Groundfish							
Crab	6.0%		64.2%		81.8%	Cooked whole, sections	
Halibut	6.0%		79.3%		98.5%	Head-off	
Herring	2.9%		88.3%		36.9%	Whole	
Salmon	51.5%		73.0%		31.9%	Fillet	
Other finfish	0.1%		73.4%		51.4%	Whole	
Other							
invertebrates	0.0%		73.4%		51.4%	Whole	
Other shellfish	0.0%		73.4%		51.4%	Whole	
Total	100.0%		63.5%		56.0%		

Vessel Supply Sales	Amount
Fuel	\$
Other	\$
Total	\$

Inventory Expenses	Mark-up	Correct	SE Share
Fuel	10%		
Other	10%		

Processor Worksheet (cont.)

	Representative	Correct	SE Share
<u>Variable Expenses</u>			
Tendering cost	1.00%		
Other fish buying costs	8.00%		
Processing labor	26.32%		
Line workers			
Supervisors			
Management and observer	5.29%		
Packaging and other materials	5.00%		
Other manufacturing	8.00%		
Freight	6.00%		
Supplies	5.00%		
Fish and landing tariffs	0.10%		
Bad debt expense	<u>0.50%</u>		
Subtotal	65.21%		
<u>Fixed Expenses</u>			
Admin salaries	7.00%		
Admin. supplies	1.80%		
Misc. administration.	1.20%		
Maintenance and repairs	2.50%		
Utilities	2.10%		
Insurance	1.70%		
Business/property taxes	0.35%		
Interest payments (short term)	<u>4.50%</u>		
Subtotal	21.15%		

2. Supplier Worksheet

1. Customer base (vessels, processors, other commercial fishing industry businesses, recreational fishing businesses, repair yards)?

Primary: _____

Secondary: _____

2. Proportion of sales:

a. SE Alaska located businesses? ____%

b. Other Alaska located businesses? ____%

c. Out-of-state located businesses? ____%

3. Products and services offered

a. _____

b. _____

c. _____

4. Proportion of non-inventory expenditures

	SE Alaska businesses or residents	Other Alaska	Outside Alaska
a. Labor	_____	_____	_____
b. Utilities	_____	_____	_____
c. Accounting	_____	_____	_____
d. Other 1	_____	_____	_____
e. Other 2	_____	_____	_____
f. Other 2	_____	_____	_____

PAPERWORK REDUCTION ACT (PRA) STATEMENT

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Shannon Davis, The Research Group, P.O. Box 813, Corvallis, OR 97339, telephone (541) 758-1432, email: shannon_davis@class.orednet.org.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

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.

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;

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(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;

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

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

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

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

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

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

(A) minimize bycatch; and

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

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(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

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

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

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

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

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

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

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

(B) the operator of any such vessel; or

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

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

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

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

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

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

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

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

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

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

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

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(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

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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).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

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

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

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

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

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

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

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

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

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(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.

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.

Presidential Documents

Title 3—

Executive Order 12866 of September 30, 1993

The President

Regulatory Planning and Review

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

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

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

Section 1. Statement of Regulatory Philosophy and Principles. (a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

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

(1) Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) "Regulatory action" means any substantive action by an agency (normally published in the **Federal Register**) that promulgates or is expected

to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

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

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Sec. 4. Planning Mechanism. In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law: (a) *Agencies' Policy Meeting.* Early in each year's planning cycle, the Vice President shall convene a meeting of the Advisors and the heads of agencies to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

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

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

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

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

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

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

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

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

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

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

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

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

Sec. 5. Existing Regulations. In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regula-

tions promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

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

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

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

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

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

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

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory

actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

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

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

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

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

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

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

(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

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

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

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

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

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

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

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

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

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

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

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

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

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

not attend, and telephone conversations between OIRA personnel and any such persons); and

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

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

(i) The status of all regulatory actions, including if (and if so, when and by whom) Vice Presidential and Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

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

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

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

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

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

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

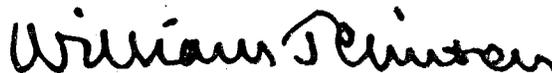
Sec. 8. Publication. Except to the extent required by law, an agency shall not publish in the **Federal Register** or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without

any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Vice President, as provided under section 7 of this order. Upon receipt of this request, the Vice President shall notify OIRA and the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

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

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

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



THE WHITE HOUSE,
September 30, 1993.

[FR Doc. 93-24523
Filed 10-1-93; 12:12 pm]
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Editorial note: For the President's remarks on signing this Executive order, see issue 39 of the *Weekly Compilation of Presidential Documents*.

**Executive Order 12866 of September 30, 1993, as amended by E.O. 13258 of February 26, 2002
and E.O. 13422 of January 18, 2007**

REGULATORY PLANNING AND REVIEW

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

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

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

Section 1. *Statement of Regulatory Philosophy and Principles.* (a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

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

(1) Each agency shall identify in writing the specific market failure (such as externalities, market power, lack of information) or other specific problem that it intends to address (including, where applicable, the failures of public institutions) that warrant new agency action, as well as assess the significance of that problem, to enable assessment of whether any new regulation is warranted.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) *Assistance.* In fulfilling his responsibilities under this Executive order, the President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President may, from time to time, consult.

Sec. 3. Definitions. For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Director of the Office of Science and Technology Policy; (7) the Deputy Assistant to the President and Director for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Chairman of the Council on Environmental Quality and Director of the Office on Environmental Quality; (12) the Assistant to the President for Homeland Security; and (13) the Administrator of OIRA, who also shall coordinate

communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

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

(c) “Director” means the Director of OMB.

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

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

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

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

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

(e) “Regulatory action” means any substantive action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) “Significant regulatory action” means any regulatory action that is likely to result in a regulation that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order.

(g) “Guidance document” means an agency statement of general applicability and future effect, other than a regulatory action, that sets forth a policy on a statutory, regulatory or technical issue or an interpretation of a statutory or regulatory issue

(h) “Significant guidance document” –

(1) means a guidance document disseminated to regulated entities or the general public that, for purposes of this order, may reasonably be anticipated to:

(A) lead to an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(B) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or

(D) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order; and

(2) does not include:

(A) Guidance documents on regulations issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

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

(C) Guidance documents on regulations that are limited to agency organization, management, or personnel matters; or

(D) Any other category of guidance documents exempted by the Administrator of OIRA.

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

(a) *Agencies' Policy Meeting.* The Director may convene a meeting of agency heads and other government personnel as appropriate to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

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

(c) *The Regulatory Plan.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. Unless specifically authorized by the head of the agency, no rulemaking shall commence nor be included on the Plan without the approval of the agency's Regulatory Policy Officer, and the Plan shall contain at a minimum:

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits of each rule as well as the agency's best estimate of the combined aggregate costs and benefits of all its regulations planned for that calendar year to assist with the identification of priorities;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order, and specific citation to such statute, order, or other legal authority;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

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

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

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

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

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

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

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

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

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

Sec. 5. Existing Regulations. In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regulations promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

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

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

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

(a) *Agency Responsibilities.* (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. In consultation with OIRA, each agency may also consider whether to utilize formal rulemaking procedures under 5 U.S.C. 556 and 557 for the resolution of complex determinations. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate one of the agency's Presidential Appointees to be its Regulatory Policy Officer, advise OMB of such designation, and annually update OMB on the status of this designation. The Regulatory Policy Officer shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

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

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

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

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

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

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

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

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

(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The status of all regulatory actions, including if (and if so, when and by whom) Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

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

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

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

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

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

(d) At the end of this review process, the President, or the Chief of Staff acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President’s decision with respect to the matter.

Sec. 8. Publication. Except to the extent required by law, an agency shall not publish in the **Federal Register** or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Director, as provided under section 7 of this order. Upon receipt of this request, the Director shall notify OIRA and

the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

Sec. 9. *Significant Guidance Documents.* Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with advance notification of any significant guidance documents. Each agency shall take such steps as are necessary for its Regulatory Policy Officer to ensure the agency's compliance with the requirements of this section. Upon the request of the Administrator, for each matter identified as, or determined by the Administrator to be, a significant guidance document, the issuing agency shall provide to OIRA the content of the draft guidance document, together with a brief explanation of the need for the guidance document and how it will meet that need. The OIRA Administrator shall notify the agency when additional consultation will be required before issuance of the significant guidance document.

Sec. 10. *Preservation of Agency Authority.* Nothing in this order shall be construed to impair or otherwise affect the authority vested by law in an agency or the head thereof, including the authority of the Attorney General relating to litigation.

Sec. 11. *Judicial Review.* Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 12. *Revocations.* Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.

be operated or disposed of in violation of the Regulations. Furthermore, renewal of the TDO is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with the Respondents in export transactions involving items subject to the EAR.

It is therefore ordered:

First, that, Orion Air, S.L., Canada Real de Merinas, 7 Edificio 5, 3^A, Eissenhower business center, 28042 Madrid, Spain, and Ad. de las Cortes Valencianas no 37, Esc.A Puerta 4546015 Valencia, Spain; and Syrian Pearl Airlines, Damascus International Airport, Damascus, Syria (each a "Denied Person" and collectively the "Denied Persons") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations ("EAR"), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by any Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby any Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from any Denied Person in the United States any item subject to the

EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by any Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by any Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to any of the Respondents by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of section 766.24(e) of the EAR, the Respondents may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondents may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondents and shall be published in the **Federal Register**.

This Order is effective upon issuance and shall remain in effect for 180 days.

Issued this 29th day of April 2010.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2010-10812 Filed 5-6-10; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Regional Economic Data Collection Program for Southeast Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 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 Chang Seung, (206) 526-4250 or Chang.Seung@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The regional or community economic analysis of proposed fishery management policies is required by the Magnuson-Stevens Fishery Conservation and Management Act, National Environmental Policy Act, and Executive Order 12866, among others. To satisfy these mandates and inform policymakers and the public of the likely regional economic impacts associated with fishery management policies, appropriate economic models and the data to implement them are needed.

Much of the data required for regional economic analysis associated with Southeast Alaska fisheries are either unavailable or unreliable. Accurate fishery-level data on employment, labor income, and expenditures in the Southeast Alaska fishery and related industries are not currently available but are needed to estimate the effects of fisheries on the economy of Southeast Alaska. In this planned survey effort, data on these important regional economic variables will be collected and used to develop models that will

provide more reliable estimates and significantly improve policymakers' ability to assess policy effects on fishery-dependent communities in Southeast Alaska. The survey will be conducted one-time only. The survey (mailed) will request data on employment, labor payments, and other expenditures from owners of 1,700 vessels that delivered fish to Southeast Alaska processors in 2009.

II. Method of Collection

Mail surveys will be used.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 425.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 142.

Estimated Total Annual Cost to Public: \$0 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: May 4, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010-10780 Filed 5-6-10; 8:45 am]

BILLING CODE 3510-22-P

U.S. DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 29-2010]

Foreign-Trade Zone 125 - South Bend, Indiana

Application for Reorganization under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the St. Joseph County Airport Authority, grantee of Foreign-Trade Zone 125, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 1/12/09; correction 74 FR 3987, 1/22/09). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u) and the regulations of the Board (15 CFR part 400). It was formally filed on April 29, 2010.

FTZ 125 was approved by the Board on March 11, 1986 (Board Order 326, 51 F.R. 10564; 3/27/86). After approval of a minor boundary modification (A(27f)-33-95), the general-purpose zone currently consists of the following two sites: *Site 1:* (7 acres) - located at 2809 North Foundation Drive within the Airport Industrial Park, South Bend (St. Joseph County); and *Site 2:* (21 acres) - located at 1507 South Olive Street, South Bend (St. Joseph County), Indiana.

The grantee's proposed service area under the ASF would be St. Joseph, Elkhart, Kosciusko, Marshall, LaPorte and Starke Counties, Indiana, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Chicago Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include both of the existing sites as "magnet" sites. The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 2 be so exempted. No usage-driven sites

are being requested at this time. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 125's authorized subzones.

In accordance with the Board's regulations, Claudia Hausler of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 6, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 21, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230-0002, and in the "Reading Room" section of the Board's website, which is accessible via www.trade.gov/ftz. For further information, contact Claudia Hausler at Claudia.Hausler@trade.gov or (202)482-1379.

Dated: April 29, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010-10862 Filed 5-6-10; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XV18

Endangered and Threatened Species; Recovery Plans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension of public comment period.

SUMMARY: On March 18, 2010, we, NMFS, announced the release of the Draft Recovery Plan for Central California Coast coho salmon (Draft Plan) for public review and comment. The Draft Plan addresses the Central California Coast coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU). NMFS is soliciting review and comment from the