

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 04/15/2008

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 02/19/2008

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200802-0648-005
AGENCY ICR TRACKING NUMBER:
TITLE: Alaska Region Bering Sea and Aleutian Islands Crab Economic Data Reports
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0518

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: 04/30/2011

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	291	5,429	3,000
New	262	1,478	150,606
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	-29	-3,951	147,606
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
Annual Catcher Vessel EDR	NA	Annual Catcher Vessel EDR	
Annual Catcher/Processor EDR	NA	Annual Catcher/Processor EDR	
Annual Stationary Floating Crab Processor (SFCP) EDR	NA	Annual Stationary Floating Processor EDR	
Annual Shoreside Processor EDR	NA	Annual Shoreside Processor EDR	
Verification of Data			50 CFR 680

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
ALASKA REGION BERING SEA and ALEUTIAN ISLANDS CRAB
ECONOMIC DATA REPORTS
OMB CONTROL NO.: 0648-0518

INTRODUCTION

In January 2004, the U.S. Congress amended Section 313(j) of [Magnuson-Stevens Act](#) to mandate the Secretary of Commerce (Secretary) to implement the Crab Rationalization Program for the Bering Sea and Aleutian Islands Management Area (BSAI) crab fisheries. The Program allocates BSAI crab resources among harvesters, processors, and coastal communities. The North Pacific Fishery Management Council (Council) prepared, and National Marine Fisheries Service (NMFS) approved, the Fishery Management Plan (FMP) for BSAI King and Tanner Crabs. The FMP establishes criteria for the management of certain aspects of the BSAI crab fisheries by the State of Alaska Department of Fish and Game (ADF&G). The FMP is implemented by regulations at [50 CFR part 680](#).

This action is a request for renewal for this collection-of-information and addresses the economic data report (EDR) provisions of the BSAI Crab Rationalization Program. In addition, the title of the collection is changed from “Crab Economic Data Reports”.

The BSAI Crab Rationalization Program (CR Program) was implemented to both maintain rigorous safeguards on use of fishing privileges for a public resource and to provide safeguards for program constituents. The CR Program components include quota share allocation, processor quota share allocation, individual fishing quota (IFQ) and individual processing quota (IPQ) issuance, quota transfers, use caps, crab harvesting cooperatives, protections for Gulf of Alaska groundfish fisheries, arbitration system, monitoring, economic data collection, and cost recovery fee collection. Several of these components are analyzed in this action. Program details are found at: <http://www.alaskafisheries.noaa.gov/regs/680/default.htm>.

A. JUSTIFICATION

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

The CR Program addresses conservation and management issues associated with the previous crab derby fisheries, reduces bycatch and associated discard mortality, and increases the safety of crab fishermen by ending the race for fish. Section 313(j) of the Magnuson-Stevens Act authorizes a mandatory economic data collection program for the fisheries of the CR Program. The CR Program includes a comprehensive economic data collection program to aid the Council and NMFS in assessing the success of the CR Program and developing amendments necessary to mitigate any unintended consequences.

According to Section 313(j)(1), the data from the economic data report (EDR) will be used “to study the impacts of the CR Program,” to insure that the program will achieve “equity between the harvesting and processing sectors,” and to monitor the “economic stability for harvesters, processors and coastal communities”. The Magnuson-Stevens Act also provides specific guidance on the type of data to be collected, requirements for selecting a collection agent,

verification of data, and treatment and distribution of confidential data that are included in this collection.

Section 313(j)(1) requires the Secretary to collaborate with the Federal Trade Commission (FTC) and Department of Justice (DOJ) to develop economic data for analysis by these agencies. Data from the EDR will directly contribute to this ongoing evaluation of potential anti-trust and anti-competitive practices in the crab industry.

Congress required that an independent third party data collection agent (DCA) administer the collection and dissemination of the EDR data. NMFS selected the Pacific States Marine Fisheries Commission (PSMFC) to be PSMFC. The PSMFC is under contract (through a grant/cooperative agreement) with NMFS to collect, verify, and disseminate data to NMFS, ADF&G, and the Council.

Persons harvesting or processing crab managed under the CR Program were required to submit an historical EDR and an annual EDR to PSMFC, after which PSMFC will furnish verified data with personal identifiers removed to NMFS and other specified agencies.

PSMFC is authorized to obtain the services of an auditor to assist in verification of EDR data. At a minimum, the auditor shall be board certified and be selected based upon ability to perform the services in a timely manner within professional standards.

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.

An Economic Data Report (EDR) containing cost, revenue, ownership, and employment data is collected annually from the harvesting and processing sectors. The data are used to estimate how effort, operating revenues and costs, and labor income are affected for all parties that have participated in the CR Program. Data are also used in an effort to understand changes in the makeup of fishery participants, how fishing and processing is undertaken, and how crew are compensated or employed. Specifically, the data will be used in meeting the Council's stated goal of analyzing changes in resource utilization, excess harvesting and processing capacity, economic returns, variable costs and revenues, economic efficiency, and the stability of harvesters, processors, and coastal communities.

Another use of the EDR data is as a source of information for DOJ and FTC to assess potential antitrust and/or anti-competitive practices relating to the issuance and use of processing quota.

The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information is subjected to quality control measures by the PSMFC and NMFS and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

The EDR data is confidential and is not disseminated to the public. PSMFC disseminates the EDR data to NMFS, ADF&G and the Council staff after removing all personal identifiers such as Social Security Numbers, vessel identification numbers, names, and addresses and telephone numbers. The data are supplanted with a randomized identification number that can be matched

between datasets. The information is used to assist the Council in evaluating and potentially suggesting amendments to the CR Program. EDR data are also made available to the Department of Justice and Federal Trade Commission who utilize EDR data to facilitate their investigations and actions.

An EDR is available in both an historical version and an annual version for each of four categories of participant in the Crab Rationalization fisheries (CR fisheries). These categories are: catcher vessel, catcher/processor, stationary floating crab processor, and shoreside crab processor. The historical EDRs were required only for the first year of the CR Program and are not included in this analysis. The Catcher Vessel Annual EDR, Catcher/Processor Annual EDR, the Stationary Floating Crab Processor Annual EDR, and the Shoreside Processor Annual EDR must be submitted on or before May 1 of each year, beginning with the year 2005.

The following persons must submit an annual EDR:

- ◆ Persons who owned fishing vessels or processing plants that harvested crab or processed crab harvested in the CR fisheries at any time during the calendar year.
- ◆ Persons who were lease holders of fishing vessels or processing plants that participated in the CR fisheries during the calendar year.
- ◆ Definition of "Leaseholder": For the purpose of defining the persons responsible for submitting the EDR, a Leaseholder is a person, other than the owner of the catcher vessel for which the EDR is required, who: was identified as the leaseholder, in a written lease, of the catcher vessel, OR paid expenses of the catcher vessel, OR claimed expenses for the catcher vessel as a business expense on schedule C of his/her Federal Income Tax Return, or on a State Income Tax Return.

The EDR must be submitted to the Pacific States Marine Fisheries Commission (PSMFC)

Ensuring industry compliance with the data reporting requirements of the CR Program is considered an integral component of collecting reliable data and accurate data. To ensure accuracy of the EDR, enforcement staff has access to individual and confidential data in the course of an investigation. It would not be possible to ensure reporting compliance from the firms that are required to provide the data in a timely fashion without these enforcement tools.

a. Historical Catcher Vessel EDR – NO LONGER USED

It was expected that 275 catcher vessels would submit an historical EDR. PSMFC reports that 218 catcher vessels submitted EDR data for 1998 participation, 218 catcher vessels submitted EDR for 2001 participation, and 237 catcher vessels submitted EDR data for 2004.

b. Annual Catcher Vessel (CV) EDR

An Economic Data Report (EDR) is required from any owner or leaseholder of a catcher vessel that harvested crab in specified Bering Sea and Aleutian Islands (BSAI) crab fisheries during the prior calendar year. The annual EDR submission deadline is June 28. 2007 EDRs won't be collected until June of 2008. Postage for submittal of the EDR is paid by PSMFC.

Annual catcher vessel EDR

Certification page

Catcher Vessel Information

Vessel Name and ADF&G Vessel Registration Number
Crab License Limitation Permit Number(s)
USCG Documentation Number
Current Estimated Market Value of Vessel and Equipment (\$)
Replacement Value of Vessel and Equipment (\$)
Name of Crab Harvesting Cooperative (if applicable)

Owner Information

Name of company, partnership, or sole proprietorship
Business Telephone Number and Business FAX Number
Business E-mail address, if available

Leaseholder Information (if applicable)

Name of company, partnership, or sole proprietorship
Business Telephone Number and Business FAX Number
Business E-mail address, if available

Person Completing this Report (check one)

Owner (If name and address are the same name and address provided in the Owner Information block above, do not repeat)

Leaseholder (If name and address are the same name and address provided in the Leaseholder Information block above, do not repeat here)

Designated Representative

Name and Title
Business Telephone Number and Business FAX Number
Business E-mail address (if available)

The participant must select the appropriate statement to describe his or her EDR filing status and provide either the complete EDR or just the certification pages

Buyer/Leaseholder Information (if applicable)

Buyer/Leaseholder Name
Telephone No (include area code)
Business Address
Date of Sale or Lease (day/month/2006)

Signature and date signed

EDR

BSAI Crab Activity Chart

CR Fishery Code
ADF&G Fish Ticket Number
Number of Days Crab Fishing
Number of Days Traveling and Offloading.

Crab Sales, Gross Revenue

Crab harvested, by fishery.
IFQ Type
Pounds Sold
Deadloss
Gross Revenue

BSAI Crab Quota

Catcher Vessel Owner Annual IFQ Allocation
Owner Quota Harvested by this Catcher Vessel
Owner Quota Transferred to Other Vessels

BSAI Crab CDQ and IFQ Lease Costs

Adak WAG IFQ and Community Development Quota (CDQ): Pounds and Total Cost
CPO-IFQ: Pounds and Total Cost
IFQ A: Pounds and Total Cost
IFQ B: Pounds and Total Cost
IFQ C: Pounds, Total Cost, and Number of Crew

Labor Information

Crab Harvesting Labor Costs

Number of Paid Harvest Crew Members (exclude the captain)

Total Labor Payment to Harvest Crew (exclude the captain)

Captain Labor Payment

Labor Payment Details

Indicate by checking the appropriate column whether the following expenses were

Deducted (shared expenses taken off the top of gross revenues)

Directly charged (charged to an individual after the crew share is calculated), or

Not charged to crew when calculating the harvest crew payments in BSAI crab fisheries

Revenue Shares

Indicate what percentage of the net share (total revenues minus the expenses was paid to the owner, crew, and captain for each of the listed CR fisheries

BSAI Crab Crew Licenses

Alaska Commercial Crew license number or

State of Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number

Vessel Costs

Costs for BSAI Crab Fishing Only

Insurance Premiums (Hull, Property and Indemnity, and Pollution)

Insurance Deductibles

Crab Pots Purchased for Use in BSAI Crab Fishery, by location

Line and Other Crab Gear Purchases, by location

Bait used in BSAI crab fishery, by type and location

Fuel, Lubrication, and Fluids Used in BSAI Crab Fishery

Food and Provisions for Crew

Other Crew Costs

Freight Costs for Landed Crab

Storage, Wharfage, and Delivery

Observer Costs

Crab Landing Taxes and Fees

Fishing Cooperative Costs

Other Crab-specific Costs

Annual Vessel Costs

Investments in Vessel and Equipment

Repair and Maintenance for Vessel and Equipment

Insurance Premiums (Hull, Property and Indemnity, and Pollution)

Fuel, Lubrication, and Fluids

Other Vessel-specific Costs

Annual Totals for All Fisheries

Calendar year for days at sea

Gross revenue

Pounds retained

Labor costs

It was expected that 275 catcher vessels would submit an annual EDR. PSMFC reports that 166 catcher vessels submitted EDR data for 2005 participation, and 99 catcher vessels submitted EDR data for 2006 participation. 2007 EDRs won't be collected until June of 2008. No responses are indicated for the Federal Government, as the responses go to PSMFC. Federal time burden is changed from 2 hr to 1 hr, because the coordination and data entry are done by PSMFC. The 1 hr shown as Federal Government burden is due to staff comparison of lists from PSMFC of participants who submitted EDRs. This comparison is necessary for issuance of permits. The number of participants used in the analysis is 100.

Annual Catcher Vessel EDR, Respondent	
Number of respondents	100
Total annual responses	100
Frequency of response = 1	
Total burden hours (100 x 7.5 hr)	750 hr
Time per response = 7.5 hr	
Total personnel cost	0
Total miscellaneous costs (75,138.50)	\$75,139
Photocopy (\$0.10 x 15 x 77 = 115.50)	
Online costs (23 x \$1 = 23)	
Postage paid by PSMFC = 0	
Accountant completion of EDR (\$100 x 750 = 75,000)	

Annual Catcher Vessel EDR, Federal Government	
Number of responses	0
Total burden hours	1 hr
Time per response = 1 hr	
Total personnel costs (\$50 x 1)	\$50
Total miscellaneous costs	0

c. Historical Catcher/Processor (C/P) EDR – NO LONGER USED

It was expected that 12 catcher/processors would submit an historical EDR. PSMFC reports that 8 catcher/processors submitted EDR data for 1998 participation, 7 catcher/processors submitted EDR data for 2001 participation, and 10 catcher/processors submitted EDR data for 2004.

d. Annual Catcher/Processor EDR

An Economic Data Report (EDR) is required from any owner or leaseholder of a catcher/processor that harvested or processed crab in specified Bering Sea and Aleutian Islands (BSAI) crab fisheries during the prior calendar year. The annual EDR submission deadline is June 28. Postage for submittal of the EDR is paid by PSMFC.

Certification page

Catcher/processor Information

Catcher/processor Name and ADF&G Processor Code
Registered Crab Receiver Permit Number
Crab License Limitation Permit Number(s)
USCG Documentation Number
Current Estimated Market Value of Vessel and Equipment (\$)
Replacement Value of Vessel and Equipment (\$)
Name of Crab Harvesting Cooperative (if applicable)

Owner Information

Name of company, partnership, or sole proprietorship
Business Telephone Number and Business FAX Number
Business E-mail address, if available

Leaseholder Information (if applicable)

Name of company, partnership, or sole proprietorship
Business Telephone Number and Business FAX Number
Business E-mail address, if available

Person Completing this Report (check one)

Owner (If name and address are the same name and address provided in the Owner Information block above, do not repeat)
Leaseholder (If name and address are the same name and address provided in the Leaseholder Information block above, do not repeat here)
Designated Representative

Name and Title
Business Telephone Number and Business FAX Number
Business E-mail address (if available)
The participant must select the appropriate statement to describe his or her EDR filing status
and provide either the complete EDR or just the certification pages
Buyer/Leaseholder Information (if applicable)
Buyer/Leaseholder Name
Telephone No (include area code)
Business Address
Date of Sale or Lease (day/month/2006)
Signature and date signed

EDR

Harvesting and Processing Information

BSAI Crab Activity Chart
Dates Covered
Number of Days Crab Fishing
Number of Days Traveling and Offloading
Number of Days Crab Processing
BSAI Crab Production
Raw Crab Pounds
Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
Custom Processed (Yes or No)

BSAI Crab Sales and Processing

Annual BSAI Crab Sales
Species Code
Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
FOB Alaska/Seattle Revenues
Custom Processing Services Provided
CR fishery code
Product Code
Process Code
Custom Processing Revenue

BSAI Crab Quota

Catcher/Processor Owner Annual IFQ Allocation
Owner Quota Harvested or Processed by this Catcher/Processor
CPO – IFQ Harvested
IFQ A Harvested
IFQ B Harvested
Owner Quota Transferred to other Vessels
CPO – IFQ Transferred
Revenue
IFQ A Transferred Pounds
Revenue
IFQ B Transferred Pounds
Revenue
BSAI Crab CDQ and IFQ Lease Costs
Adak WAG IFQ and Community Development Quota (CDQ): Pounds and Total Cost
CPO-IFQ: Pounds and Total Cost

IFQ A: Pounds and Total Cost
IFQ B: Pounds and Total Cost
IFQ C: Pounds, Total Cost and Number of Crew

Labor Information

Crab Harvesting Labor Costs

Number of Paid Harvest Crew Members (exclude the captain)
Total Labor Payment to Harvest Crew (exclude the captain)
Captain Labor Payment

Crab Processing Labor Costs

Number of Crew with Pay Determined by Processing Work
Average Number of Crab Processing Positions
Total Processing Labor Payment

Harvest Labor Payment Details

Indicate whether the following expenses were
Deducted (shared expenses taken off the top of gross revenues)
Directly charged (charged to an individual after the crew share is calculated), or
Not charged to crew

BSAI Harvest Crew Licenses/Permits

Alaska Commercial Crew license number or
State of Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number

BSAI Crab Processing Employee Residence

City, state, or country of residence
Number of employees that are from each residential location

BSAI Crab Custom Processing Done for You

Raw Pounds Supplied to Custom Processors

Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
Processing Fee

Raw Crab Purchases from Delivering Vessels

Crab Size
Crab Grade
Raw Pounds Purchased
Gross Payment

Vessel Costs

Costs for BSAI Crab Production Only

Insurance Premiums (Hull, Property and Indemnity, and Pollution)
Insurance Deductibles
Crab Pots Purchased for Use in BSAI Crab Fishery, by location
Bait used in BSAI crab fishery, by type and location
Fuel, Lubrication, and Fluids Used in BSAI Crab Fishery, by location
Food and Provisions for Crew
Other Crew Costs
Processing and Packaging Materials, Equipment, and Supplies
Re-packing Costs
Broker Fees and Promotions for BSAI Crab Sales
Crab Landing and Sales Taxes and Fees
Storage, Wharfage, and Delivery
Observer Costs
Freight and Handling Costs for Processed Crab Products from the Vessel
Product Storage
Fishing Cooperative Costs
Other Crab-specific Costs

Annual Vessel Costs

Investments in Vessel and Equipment
Repair and Maintenance (R&M) for Vessel and Equipment

Number of Employees and Salaries for Foremen, Managers and other Employees
 Insurance Premiums (Hull, Property and Indemnity, and Pollution)
 Fuel, Lubrication, and Fluids
 Other Vessel-specific Costs

Annual Totals for All Fisheries

Total sum for the calendar year for all fishing and processing activities
 Processing days
 Days at sea
 FOB revenues
 Finished pounds processed
 Pounds retained
 Labor costs

It was expected that 12 catcher/processors would submit an annual EDR. PSMFC reports that 8 catcher/processors submitted EDR data for 2005 participation, and 7 catcher/processors submitted EDR data for 2006 participation. 2007 EDRs won't be collected until June of 2008. No responses are indicated for the Federal Government, as the responses go to PSMFC. Federal time burden is changed from 4 hr to 1 hr, because the coordination and data entry are done by PSMFC. The 1 hr shown as Federal Government burden is due to staff comparison of lists from PSMFC of participants who submitted EDRs. This comparison is necessary for issuance of permits. The number of participants used in the analysis is 10.

Annual Catcher/Processor EDR, Respondent	
Number of respondents	10
Total annual responses	10
Frequency of response = 1	
Total burden hours (10 x 12.5 hr)	125 hr
Time per response = 12.5 hr	
Total personnel cost	0
Total miscellaneous costs	\$12,515
Photocopy \$0.1 x 15 x 10 = 15)	
Postage paid by PSMFC	
Accountant fee to complete EDR (\$100 x 12500)	

Annual Catcher/Processor EDR, Federal Government	
Number of responses	0
Total burden hours	1 hr
Time per response = 1 hr	
Total personnel cost (\$50 x 1)	\$50
Total miscellaneous costs	0

e. Historical Stationary Floating Crab Processor EDR—NO LONGER USED

It was expected that 4 stationary floating crab processors (SFCP) would submit an historical EDR. PSMFC reports that 12 SFCP submitted EDR data for 1998 participation, 6 SFCP submitted EDR data for 2001 participation, and 6 SFCP submitted EDR data for 2004.

f. Annual Stationary Floating Crab Processor (SFCP) EDR

An Economic Data Report (EDR) is required from any owner or leaseholder of a stationary floating crab processor that processed crab in specified Bering Sea and Aleutian Islands (BSAI) crab fisheries during the prior calendar year. The annual EDR submission deadline is June 28. Postage for submittal of the EDR is paid by PSMFC.

Certification page

Stationary floating crab processor Information

SFCP Name and ADF&G Processor Code
Registered Crab Receiver Permit Number
USCG Documentation Number
Current Estimated Market Value of SFCP and Equipment (\$)
Replacement Value of SFCP and Equipment (\$)

Owner Information

Name of company, partnership, or sole proprietorship
Business Telephone Number and Business Fax Number
Business E-mail address, if available

Leaseholder Information (if applicable)

Name of company, partnership, or sole proprietorship
Business Telephone Number and Business Fax Number
Business E-mail address, if available

Person Completing this Report (check one)

Owner (If name and address are the same name and address provided in the Owner Information block above, do not repeat)
Leaseholder (If name and address are the same name and address provided in the Leaseholder Information block above, do not repeat)
Designated Representative
Name and Title
Business Telephone Number and Business Fax Number
Business E-mail address (if available)
The participant must select the appropriate statement to describe his or her EDR filing status and provide either the complete EDR or just the certification pages

Signature and date signed

EDR

BSAI Crab Processing Activity

BSAI Crab Activity Chart
Number of Crab Processing Days
Dates Covered
Raw Crab Pounds Purchased
Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
Custom Processed (Yes or No)

BSAI Crab Sales and Processing

Annual BSAI Crab Sales
Species Code
Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
FOB Alaska/Seattle Revenues

Custom Processing Services Provided

CR fishery code
Product Code
Process Code
Custom Processing Revenue

Labor Information

Crab Processing Labor Costs
Average Number of Crab Processing Positions
Total Man-Hours
Total Processing Labor Payment
BSAI Crab Processing Employee Residence
City, state, or country of residence
Number of employees that are from each residential location

BSAI Crab Custom Processing Done for You

Raw Pounds Supplied to Custom Processors
Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
Processing Fee

Raw Crab Purchases from Delivering Vessels

IFQ Type
Crab Size
Crab Grade
Raw Pounds Purchased
Gross Payment

Vessel Costs

Costs for BSAI Crab Production Only
Fisheries Taxes
Processing and Packaging Materials, Equipment, and Supplies, by Location
Food and Provisions
Other Costs for Direct Crab Labor
Insurance Deductibles
Re-packing Costs
Broker Fees and Promotions for BSAI Crab Sales, by Fishery
Observer Costs, by Fishery
Freight Costs for Supplies to the Plant
Freight and Handling Costs for Processed Crab Products from the Plant
Product Storage
Water, Sewer, and Waste Disposal
Other Crab-specific Costs:
Annual Vessel Costs
Fuel, Electricity, Lubrication and Hydraulic Fluids
Investments in Plant and Equipment, by location
Repair and Maintenance (R&M) for Plant and Equipment, by location
Number of Employees and Salaries for Foremen, Managers and other Employees
Other Vessel-specific Costs

Annual Totals for All Fisheries

Total sum for the calendar year for all relevant fishery participation
Processing days
FOB Alaska/Seattle revenues
Finished pounds processed
Processing Labor costs

It was expected that 4 SFCPs would submit an annual EDR. PSMFC reports that 4 SFCPs submitted EDR data for 2005 participation, and 5 SFCPs submitted EDR data for 2006

participation. 2007 EDR won't be collected until June of 2008. No responses are indicated for the Federal Government, as the responses go to PSMFC. Federal time burden is changed from 4 hr to 1 hr, because the coordination and data entry are done by PSMFC. The 1 hr shown as Federal Government burden is due to staff comparison of lists from PSMFC of participants who submitted EDRs. This comparison is necessary for issuance of permits. The number of participants used in the analysis is 5.

Annual stationary floating crab processor EDR, Respondent	
Number of respondents	5
Total annual responses	5
Frequency of response = 1	
Total burden hours (5 x 10 hr)	50 hr
Time per response = 10 hr	
Total personnel cost	0
Total miscellaneous costs (5007.50)	\$5,008
Photocopy (\$0.1 x 15 x 5 = 7.50)	
Postage paid by PSMFC	
Accountant fee to complete EDR (100 x 50 = 5,000)	

Annual stationary floating crab processor EDR, Federal Government	
Number of responses	0
Total burden hours	1 hr
Time per response = 1 hr	
Total personnel costs (\$50 x 1)	\$50
Total miscellaneous costs	0

g. Historical Shoreside Processor EDR—NO LONGER USED

It was expected that 20 shoreside processors would submit an historical EDR. PSMFC reports that 13 shoreside processors submitted EDR data for 1998 participation, 17 shoreside processors submitted EDR for 2001 participation, and 14 shoreside processors submitted EDR data for 2004.

h. Annual Shoreside Processor EDR

An Economic Data Report (EDR) is required from any owner or leaseholder of a shoreside processor that processed crab in specified Bering Sea and Aleutian Islands (BSAI) crab fisheries during the prior calendar year. The annual EDR submission deadline is June 28. Postage for submittal of the EDR is paid by PSMFC.

Certification page

Shoreside processor Information

- Shoreside Processor Name and ADF&G Processor Code
- Registered Crab Receiver Permit Number
- Physical Location of Land-based Plant (street address, city, state, zip code)
- Borough Assessed Value of Plant and Equipment (\$) and Year Assessed
- Current Estimated Value of Plant and Equipment (\$)

Owner Information

- Name of company, partnership, or sole proprietorship
- Business Telephone Number and Business FAX Number
- Business E-mail address, if available

Leaseholder Information (if applicable)

Name of company, partnership, or sole proprietorship
Business Telephone Number and Business FAX Number
Business E-mail address, if available

Person Completing this Report (check one)

Owner (If name and address are the same name and address provided in the Owner Information block above, do not repeat)
Leaseholder (If name and address are the same name and address provided in the Leaseholder Information block above, do not repeat)
Designated Representative
Name and Title
Business Telephone Number and Business FAX Number
Business E-mail address (if available)

The participant must select the appropriate statement to describe his or her EDR filing status and provide either the complete EDR or just the certification pages

Signature and date signed

EDR

BSAI Crab Processing Activity

Number of Crab Processing Days
Dates Covered
Raw Crab Pounds Purchased
Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
Custom Processed (Yes or No)

BSAI Crab Sales and Processing

Annual BSAI Crab Sales
Species Code
Product Code
Process Code
Crab Size
Crab Grade
Box Size
Finished Pounds
FOB Alaska/Seattle Revenues
Custom Processing Services Provided
CR fishery code
Product Code
Process Code
Custom Processing Revenue

Labor Information

Crab Processing Labor Costs
Average Number of Crab Processing Positions
Total Man-Hours
Total Processing Labor Payment
BSAI Crab Employee Residence
City, state, or country of residence
Number of employees that are from each residential location

BSAI Crab Custom Processing Done for You

Raw Pounds Supplied to Custom Processors
Product Code
Process Code
Crab Size
Crab Grade

- Box Size
- Finished Pounds
- Processing Fee
- Raw Crab Purchases from Delivering Vessels
 - IFQ Type
 - Crab Size
 - Crab Grade
 - Raw Pounds Purchased
 - Gross Payment
- Plant Costs
 - Costs for BSAI Crab Production Only
 - Fisheries Taxes
 - Processing and Packaging Materials, Equipment, and Supplies, by Location
 - Food and Provisions
 - Other Costs for Direct Crab Labor
 - Insurance Deductibles
 - Re-packing Costs
 - Broker Fees and Promotions for BSAI Crab Sales, by Fishery
 - Observer Costs, by Fishery
 - Freight Costs for Supplies to the Plant
 - Freight and Handling Costs for Processed Crab Products from the Plant
 - Product Storage
 - Water, Sewer, and Waste Disposal
 - Other Crab-specific Costs
 - Annual Plant Costs
 - Fuel, Electricity, Lubrication and Hydraulic Fluids
 - Investments in Plant and Equipment, by location
 - Repair and Maintenance (R&M) for Plant and Equipment, by location
 - Number of Employees and Salaries for Foremen, Managers and other Employees
 - Other Plant-specific Costs
- Annual Totals for All Fisheries
 - Total sum for the calendar year for all relevant fishery participation
 - Processing days
 - FOB Alaska/Seattle revenues
 - Finished pounds processed
 - Processing Labor costs

It was expected that 20 shoreside processors would submit an annual EDR. PSMFC reports that 13 shoreside processors submitted EDR data for 2005 participation, and 16 shoreside processors submitted EDR data for 2006 participation. 2007 EDRs won't be collected until June of 2008. No responses are indicated for the Federal Government, as the responses go to PSMFC. Federal time burden is changed from 2 hr to 1 hr, because the coordination and data entry are done by PSMFC. The 1 hr shown as Federal Government burden is due to staff comparison of lists from PSMFC of participants who submitted EDRs. This comparison is necessary for issuance of permits. The number of participants used in the analysis is 16.

Annual shoreside processor EDR, Respondent	
Number of respondents	16
Total annual responses	16
Frequency of response = 1	
Total burden hours (16 x 10 hr)	160 hr
Time per response = 10 hr	
Total personnel cost	0
Total miscellaneous costs	\$16,024
Photocopy (\$0.1 x 15 x 16 = 24)	
Postage paid by PSMFC	
Accountant fee to complete EDR (100 x 160 = 16,000)	

Annual shoreside processor EDR, Federal Government	
Number of responses	0
Total burden hours	1
Time per response = 1 hr	
Total personnel costs (\$50 x 16)	\$50
Total miscellaneous costs	0

i. Verification of Data.

PSMFC conducts verification of EDR information with the owner or leaseholder. The owner or leaseholder must respond to inquiries by PSMFC within 20 days of the date of issuance of the inquiry. The owner or leaseholder must provide copies of additional data to facilitate verification by PSMFC.

To make sure that each company is consistently and accurately completing the EDR, random audits will be performed by a qualified accountant on some of the EDRs for a subset of the crab fishery participants. This step will ensure that the data can be relied upon to produce accurate and reliable information for the Alaska crab fisheries. The PSMFC auditor may review and request copies of additional data provided by the owner or leaseholder, including but not limited to: previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data.

Auditors will verify records by comparing specific elements of the report with participant accounting records. To make this activity as efficient and non-intrusive as possible, NMFS suggests that participants:

- ◆ Keep a copy of the completed EDR or certification pages submitted to the Data Collection Agent (DCA). Copy and attach extra sheets as needed.
- ◆ Keep a file that has all of the supporting information used in the preparation of the EDR.
- ◆ Make sure that the EDR agrees to the company's highest level of financial information. For this purpose, the highest level of financial information is defined in order as:
 - Audited financial statements
 - Reviewed financial statements
 - Compiled financial statements
 - Tax returns.
- ◆ Record only whole numbers. Round up dollar figures to the next highest dollar.

Verification of Data, Respondent	
Number of respondents (16+5+10+100)	131
Total annual responses	131
Frequency of response = 1	
Total burden hours (131 x 3 hr)	393
Time per response = 3 hr	
Total personnel cost	0
Total miscellaneous costs	\$41,920
Photocopy (\$15 x 131 = 1965)	
Telephone calls (\$5 x 131 = 655)	
Accountant fee to verify EDR (\$100 x 393 = 39300)	

Verification of Data, Federal Government	
Total burden hours	0
Total personnel costs	0
Total miscellaneous costs	0

Focused Outreach Campaign

Office of Management and Budget (OMB) stipulated that the renewal request for this and two other collections include a "focused outreach campaign" to validate burden estimates and elicit suggestions from the regulated community for reducing the burden. The information collections are: Crab Permits; Crab Economic Data Reports (EDR); and Crab Arbitration. Comments were required to be submitted by November 1, 2007, through the Alaska Region's website at: <http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/pra>.

A postcard was sent to all crab permit holders announcing NMFS' request for comments and indicating the web address for entering comments. In addition, an information bulletin was posted on the NMFS Alaska Region web site soliciting response to the online questionnaire. The information bulletin No. 90 is provided in Appendix A.

The online questionnaire was posted at <http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/pra> and stated:

BSAI Crab Rationalization Program Information Collection Public Comment Period

NMFS invites the public to comment on three of the BSAI Crab Rationalization Program's information collection systems. Comments must be submitted by November 1, 2007, and will be accepted through the following forms. Please click on the form that is most applicable:

- Comment Forms on:
- Crab Permit Applications
- Crab Arbitration
- Crab Economic Data Reports

The agency is seeking comments on (a) whether the three information collection systems are necessary and whether the information has practical utility; (b) the accuracy of the agency's estimates on the burden of collecting the information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of collecting the information from respondents.

For more information, contact Patsy Bearden, NMFS Resource Management Specialist, at 907-586-7008, or email: patsy.bearden@noaa.gov.

Related Information

72 FR 50937, September 5, 2007. Notice of proposed information collection on the Alaska Region BSAI Crab Permits and Crab Economic Data Reports. Comment period through November 5, 2007.

When the public clicked on “Crab Economic Data Reports,” they were transferred to the specific questionnaire which is provided as Appendix B.

NMFS received one public comment through this web site and one public comment to the Federal Register notice for this collection. These comments are provided at question 8 below.

It is anticipated that the information collected will be disseminated in aggregated and non-confidential form to the public or used to support publicly disseminated information about Crab Rationalization. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

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

The EDR may be downloaded from our web site at www.alaskafisheries.noaa.gov, printed, and submitted by mail or FAX to Pacific States Marine Fisheries Commission. The catcher vessel EDR is provided online for participants. All other EDRs must be mailed or faxed. Current reasons for having the online data collection for catcher vessels only: The principal reason is the cost-effectiveness of the web version: out of 114 EDR submitted last year, 96 of them were from catcher vessels, five from catcher/ processors(C/P), and 13 from stationary floating or shoreside processors. Furthermore, the built-in error checking and validation capabilities of the online form are much more useful for the catcher vessel (CV) sector than for the processors. C/P and processing plant EDRs are filled out almost exclusively by professional bookkeepers or accountants and are less prone to error, whereas many of the CV EDR forms are completed by proprietors with more propensity for errors. We have found that many of the accountants prefer to use the fillable .pdf version of the EDR form and would be unlikely to use the online form in any case.

NMFS in the future plans to coordinate efforts with PSMFC in the next year or so to create a data entry system that will allow additional applicants to enter EDR data online. The data will go directly into a database. It is anticipated that this type of system will more efficient, timely, and accurate, though as stated above, some may choose to continue with the fillable .pdf version.

4. Describe efforts to identify duplication.

The information collected as part of this information collection pertains almost exclusively to the cost and employment records of harvesters and processors. Such information is not collected within other data collections. Some of the information on production levels we request from processors has been provided within the Commercial Operator’s Annual Report (COAR), but we are attempting to get more precision on the grade, size and quality of the products and to get that information the submitter must also tell us what kind of crab they are producing. One other type

of information that is somewhat duplicative in nature is the revenue data we collect on production and sales. In many cases the data submitted through Alaska Fish Tickets or in the COAR do not include post-seasonal adjustments and thus are not accurate or true records of revenues received. Because of the timing of the EDR survey process we are able to get more correct and complete data after such adjustments have been made.

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

This information collection does require data from fishing operations that are small entities as identified by the Small Business Administration (SBA). The number of respondents that will be small entities at the time the CR Program was initiated is anticipated to decrease dramatically due to the consolidation of BSAI crab operations, the quota awarded, the 25 vessels eliminated in the BSAI crab buyback program, and from the opportunity to form cooperatives. Most of the historical data was collected during the first year of the program as a one-time submission. Small entities continuing to participate in the crab fisheries are required to submit annual EDRs each year. The number of crab harvesting entities that continue to meet SBA criteria for being small entities is anticipated to be greatly minimized over the pre-quota fisheries. In designing the EDRs we had several meetings with vessel owners and operators (the parties who comprise the small entity component of this collection) to discuss the way in which their financial records are kept. The goal of these discussions was to tailor the EDR so that the information requested closely matched the way in which records were kept. We also held meetings with an accountant that would be filling out the EDRs for much of the crab vessels to discuss the way in which she kept their books. Again, this information was used to define various cost and expenditure categories that match the general structure present in much of the fleet. Obviously there is a fair amount of variation in the way financial records are kept, so some extra work will be encountered by some submitters to report costs according to our selected categories, but for the most part these categories are consistent with the majority of the vessels' financial records.

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

The intent of this collection is to study the impacts of the CR Program; to ensure that the program achieves equity between the harvesting and processing sectors; and to monitor the economic stability for harvesters, processors and coastal communities. Without the specified reporting scheme described in this Supporting Statement, the program would be jeopardized. The consequences of not collecting this information would be that NMFS could not fulfill the intent of the law created under Public Law (P.L.) No. 108-199 and would be unable to provide data to the Council and the State of Alaska to evaluate the CR Program for each of the required review periods. P.L. No. 108-199 also requires that each component of the crab program enacted by Congress must be implemented or the whole program must be withdrawn. Thus, disapproval of this data collection program would threaten all components of P.L. No. 108-199.

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

Each EDR is required to be submitted annually. While the collection requires the EDR to typically be submitted within 90 days, requests for verification of data must be responded to within 20 days of a question transmitted by the data collection agent. This may constitute a

special circumstance that is inconsistent with OMB guideline 2: “Must not require respondents to prepare a written response in fewer than thirty days after they receive the request.”

The reason for the 20-day response period is that there may be EDR verification questions that are sequential based on previous questions. It would be difficult to complete verification in a reasonable period of time, if a longer period were allowed. The verification questions are likely to be small in number, and are often addressed with a telephone call or other short communication. The 20-day response period should not place a significant burden on submitters.

8. Provide a copy of 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, 72 FR 50937 published September 5, 2007, solicited public comment. One comment was received. In addition, one comment was received in response to Public Outreach.

Comment from Online Questionnaire

This commenter from a catcher vessel stated that “Dividing out capital improvements versus repairs--further divided by location of service was time consuming and that bait itemization by category was also very time consuming” In addition, the commenter said the actual personnel cost is \$200 per hour. The commenter said the number of hours needed to train staff is more than 30 hours.

Additional Comments: “The information gathering process takes many hours and required us to revamp our entire accounting system--making it more cumbersome as well. It required the use of a hired accountant to complete, increasing our costs. The EDR comes out in May, but the data requested occurred over a year prior. Otherwise, the EDR time table is different than the NMFS crab year, making it confusing.”

Comment from *Federal Register* Notice.

This commenter from a shoreside processor expressly disagrees that the crab EDR collection of information is necessary for the proper performance of the functions of the agency, and that the information does not have practical utility. The commenter agrees that the management of our national resources is exceptionally vital for the continued wellbeing of the fisheries and ecosystem, but fails to perceive how the amount that a processor spends on hydraulic fuel, as an example, has any bearing on the management of this resource.

The commenter believes that Table 6.1—Costs for BSAI Crab Production Only and Table 6.2—Annual Plant Costs is particularly invasive and again has no bearing on the management of this resource. The commenter processes several products simultaneously and distinguishing between processing, packaging material, equipment and supplies for crab only is a very tedious and

daunting process. Due to the fact that the processor is a small processing plant the office staff consists of four individuals to handle all the office duties. The office staff has been continually further burdened with the ever increasing reports from various organizations requesting further additional information as well as the burden of collecting the NOAA Crab buyback fees and the Registered Crab Receiver (RCR) rationalization fees from the vessels. The annual EDR report for the Crab fisheries request for information far surpasses the request of any other fishery. The crab fishery is the only fishery that requires an EDR. All other fisheries are contented with no more than the annual COAR report that the processor considers fundamental for the management of these fisheries.

The commenter disagrees with the accuracy of the agency's estimate of the burden of the collection-of-information. The commenter contends that the estimated time per response is in actuality far greater and estimates the time allotment to be 24 hours to complete and submit the report.

NMFS Response to Comments

Currently, NMFS is working on a proposed/final rule to improve the EDRs expected to be in regulations by 2009 (reporting for 2008). After receiving and analyzing the first EDR submittals, NMFS economists determined that certain questions on the EDRs could be simplified and the order of questions could be reorganized, which could reduce the amount of time needed to complete the EDR. The two comments above would be incorporated into these EDR revisions. Some data elements would be disaggregated to clarify ambiguities arising from aggregation methods. The regulations at 50 CFR part 680.6 would be revised to reflect the clarification, simplification, and reorganization of the forms. It is expected that the data obtained through application of these changes would be improved.

Regarding the cost to complete an EDR, NMFS anticipated that most quota holders and owners of vessels and processing plants in this fishery would use accounting staff or accounting contractors for tracking and providing this data. The assumption of an hourly rate of \$100/hour is consistent with accounting supply costs in this region of the U.S.

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

No payment or gift will be provided under this program.

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

The information collected is confidential under section 302(i) of the Magnuson-Stevens Act (16 U.S.C. 1852 et seq.) and under NOAA Administrative Order (AO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics. It was last revised in 1994.

NOAA also follows regulatory procedures for data confidentiality found at 50 CFR Sec. 600.405 et seq. The Magnuson-Stevens Act generally prohibits collection of economic data, particularly from processing entities. In the legislation for the CR Program, an exception was created to the prohibition. NMFS was directed to implement a mandatory economic data program and feed the data to prescribed entities, with or without identifiers, depending on the entity.

NMFS will retain control over the information that is supplied, and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information.

System of Records: Routine Uses

The routine uses were described in the COMMERCE/NOAA System-16; Crab Economic Data Report for Bering Sea/Aleutian Islands Management Area (BSAI) off the coast of Alaska, published in 40 FR 28953-28955

1. In the event that a system of records maintained by the Department to carry out its functions indicates or is relevant to a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, or rule, regulation or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records, including individual identifiers, may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department. That agency may disclose such records in the course of conducting its investigation.
2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures during the course of litigation, such as through discovery or to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed without individual identifiers to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552(a).
5. A record in this system of records may be disclosed with individual identifiers to Department of Justice and the Federal Trade Commission when such records are requested by those agencies for anti-trust analyses or enforcement proceedings.

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

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

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

Estimated total respondents: 131, a decrease from 187. Estimated total responses: 262, a decrease from 291. Estimated total burden: 1,478 hr, a decrease from 5,429. Estimated total personnel costs: \$0, a decrease from \$766,950.

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 #12 above).

Estimated total miscellaneous costs: \$150,606, an increase from \$3,289.

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

Estimated total burden: 4 hr, a decrease from 1,388. Estimated total personnel costs: \$200, a decrease from \$71,880. Estimated total miscellaneous costs: \$500,000.

A significant cost of administering the EDR is the cost of the contract with the independent third party. In P.L. No. 108-199, section 801, Congress required that the economic data collection be administered by an independent third party under contract to NMFS. The Pacific States Marine Fishery Commission is the independent agent selected by NMFS to disseminate EDR forms, to be the collection point for the EDR, and to verify the accuracy of the data collected from the BSAI crab fishing industry. The estimated cost of this contract is \$500,000 annually.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Adjustments were made to numbers of participants based on actual numbers of EDRs submitted to PSMFC and due to the one-time historical EDR submissions having been completed. In addition, in response to comments received, the costs to complete and verify the EDRs are removed from personnel costs and added to miscellaneous costs, because generally an accountant is contracted to perform these tasks.

CRAB EDR RESPONDENTS	No. Respondents		No. Responses		Burden Hours		Personnel Cost (\$)		Misc. Cost (\$)	
	2004	2007	2004	2007	2004	2007	2004	2007	2004	2007
Historical catcher vessel	275	0	275	0	4125	0	412500	0	688	0
Annual catcher vessel	275	100	275	100	2063	750	206250	0	413	75139
Historical catcher/processor	12	0	12	0	300	0	30000	0	18	0
Annual catcher/processor	12	10	12	10	150	125	15000	0	18	12515
Historical SFCP	4	0	4	0	80	0	8000	0	6	0
Annual SFCP	4	5	4	5	40	50	4000	0	6	5008
Historical shoreside processor	20	0	20	0	400	0	40000	0	30	0
Annual shoreside processor	20	16	20	16	200	160	20000	0	30	16024
Verification of data	104	131	104	131	312	393	31200	0	2080	41920
TOTAL	311	131	726	262	7670	1478	766950	0	3289	150606

No statistics are given for the historical EDRs, because these EDRs were submitted on a one-time basis.

Verification of data was applied to all participants instead of a select few, because the number of participants has decreased.

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

NMFS is not required by statute to formally publish results or summaries of the data collected in the EDR for public review. P.L. No. 108-199, section 801 does require three-year and five-year reviews of the economic effects of the crab rationalization program. An 18-month review is required as part of proposed Amendment 18 to the BSAI Crab FMP. As part of these reviews, a number of data reports with aggregated and verified EDR data will be made available to the Council and/or Congress. The analysis is anticipated to include some assessment of the change in the benefits and costs of the BSAI crab resource as well as distributional effects of the implementation of Crab Rationalization. Thus, some data regarding costs and revenues of harvesting and processing crab fisheries are likely to be displayed in aggregate to protect individual data. The specific variables or analytical results likely to be displayed in tables or narrative cannot be identified at this time.

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.

In accordance with OMB requirements, the expiration date for OMB approval is shown on the EDRs.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Economic Measures and Models developed with EDR data

Much of the data requested is used to compute total or average values based on a census of plants and vessels in the years before (1998, 2001, and 2004) and after rationalization. To compute many of these totals and averages, econometric models are required. In other cases statistical models may be used; and in some cases, total or average values are reported. Examples of economic variables of interest include the following:

A. Measures not Requiring a Model

1. Measures for Harvesters not Requiring a Model

- a) Distribution of average catch and ex-vessel revenue by vessel class (e.g., length class and type), port of landing, and residence. Changes in ex-vessel prices.

Data Required: Catch and revenue information, vessel information, and vessel owner information

- b) Distribution of average variable vessel costs by vessel class (e.g., length class and type), port of landing, and residence

Data Required: Total variable costs, by vessel, vessel characteristics, landings records

Specific Measure:

Annual Total Variable Costs = CDQ costs + IFQ costs + fuel + lube and hydraulics + bait + food and provisions + freight costs for landed fish + lube and hydraulic fluid + crew share payment + captain's share payment + fish taxes + pot costs

Seasonal Variable Harvesting Costs = fuel costs + captain and crew costs + gear & line costs + bait costs

Freight & Storage Costs = Freight costs of supplies to vessel + freight costs for landed fish + storage costs

- c) Distribution of average quasi-rents by vessel class (e.g., length class and type), port of landing, and residence

Data Required: Total variable costs, by vessel, vessel characteristics, landings records

Specific Measure:

Quasi-rents = Total revenue - (CDQ royalty payments + IFQ costs + fuel + lube and hydraulics + bait + food and provisions + freight costs for landed fish + lube and hydraulic fluid + crew share payment + captain's share payment + fish taxes)

Quasi-rents / pounds landed = QR per pound

Quasi-rents / days fished = QR per day

- d) Seasonality of average catch and ex-vessel revenue by vessel class, port of landing, and residence

Data Required: Catch, ex-vessel revenue, vessel class, port of landing, ownership, and owner residence data

- e) Catcher vessel ownership interest in BSAI crab processors and processing QS/catch history

Data Required: Processor, vessel and QS ownership data

f) Concentration of domestic and foreign ownership in the BSAI crab harvesting sector

Data Required: Vessel ownership data

g) Level and distribution of harvesting and processing sector employment and payments to labor (number of individuals, hours/days worked, and income)

Data Required: Harvesting and processing sector employment and payments to labor data

Specific Measures:

Labor Income = Crew share payment + Captain's share payment + IFQ holder's payments (where applicable), or

Labor Income = Crew share*(Total revenue - CDQ leases - IFQ leases - fuel - lube and hydraulics - bait - food and provisions - freight costs for supplies - freight costs for landed fish - fish taxes)

Labor Income Per Capita = Labor income / # of crew earning shares

Average number of harvesting crew per vessel by season (by geographic region of employee residence)

Average captain's share (%) & wages

Average crew share (%) & wages

Description of typical expenses deducted from crew wages

h) Degree of involvement of BSAI crab harvesters and processors in other AK fisheries

Data Required: Processor and vessel ownership data, as well as total catch, production, and revenue data

i) Value of use right

Data Required: Information on the prices of buying and leasing quota share

j) Regional/community economic impacts (employment and income) of the BSAI crab fisheries

Data Required: Data on expenditures by location and the residence of those involved in harvesting and processing crab, and other regional economic data are required to develop regional economic models.

Specific Measures:

Location of employees

Location of gear purchases

Location of bait purchases

Location of fuel purchases
Location of lube and hydraulic fluid purchases

k) Observer Costs in Pre- and Post-IFQ Fisheries (Impacts of Increased Observer Coverage)

Data Required: Cost per day-at-sea, cost per pound of crab harvested, total observer costs per fishery

l) Vessel Values Pre- and Post-IFQ

Data Required/Specific Measures: Estimated market value of vessel and gear, estimated replacement value of vessel and gear

m) Total fish taxes by harvesting sector

Data Required/Specific Measures: taxes paid by fishermen

n) Changes in Fleet Composition (comparison of cost, revenue and compensation structure of vessels exiting the fleet versus those staying, based on the measures given in this section).

Data Required/Specific Measures: Cost, revenue, labor income, and compensation structure of vessels to construct the measures given in the above section

2. Measures for Processors not Requiring a Model:

a) Distribution of processed product revenue by community and processor or processor category (size, ownership, location)

Data Required: Product revenue information, plant and plant owner information

b) Processor ownership interest in BSAI crab catcher vessels and harvester QS/catch history

Data Required: Processor, vessel and QS ownership data

c) Concentration of domestic and foreign ownership in the BSAI crab processing sector

Data Required: Processor ownership data are required.

d) Labor Income

Specific Measures:

Averaged daily Wage = Labor Payment / # of Processing Days

\$ per Hour = Labor Payment / Total Man-hours

Labor as % of Revenue = labor payment / value of product

Labor as % of variable costs = labor payment / variable costs

e) Product Recovery Rates (PRR) by species

PRR = Finished Pounds / Raw Pounds

f) Production

Production per Day = Finished Pounds / # of Processing Days
Production per Employee = Finished Pounds / # crab positions

g) Production sold to an affiliated company [Note: This is one of the variables specifically requested by DOJ and FTC. The purpose of tracking production by affiliated and non-affiliated entity is to determine the potential for anti-trust or anti-competitive behavior through the use of quota.]

Ratio of affiliated to non-affiliated prices = price per pound sold to affiliated company / price per pound sold to non-affiliated company
% of product sold to affiliated companies = pounds of product sold to affiliated company / total finished pounds

h) Value Added

Specific Measures:

Value Added = Revenue - raw pounds cost

Community Impacts

Changes in crab processing employment = CPs + Floaters + Shorebased
Changes in Taxes Paid

Consolidation

Avg. Production per Plant = total finished pounds / # of plants purchasing crab

Observer costs

Observer cost as percent of revenue = Observer costs / revenue
Observer cost per day = Observer cost / # of processing days

Pre vs Post IFQ

Changes in Products Produced
Changes in grades produced
Changes in box sizes
Changes in product storage costs pre and post IFQ (expected to decline with extended fishing seasons)
Compare processing fees charged for custom processing to variable costs of firms

Labor Income:

Labor payment

Labor Income Per Capita

Labor payment / # crab positions

Variable Costs

(packaging materials, equipment and supplies +
food and provisions +
fuel, electricity, lube and hydraulic fluid +
labor payment + raw pounds cost)

Quasi-rents

= Value of production - (packaging materials, equipment and supplies + food and provisions + fuel, electricity, lube and hydraulic fluid + labor payment + raw pounds cost)

Quasi-rent Measures

Quasi-rents / pounds processed

Quasi-rents / day

Changes in Inventory (by product)

= Total production - total sales - custom processed for others + custom processed for you

We also can compute the *annual* costs of:

taxes

packaging materials, equipment and supplies, and re-packing costs

food and provisions

fuel, electricity, lube and hydraulic fluid

freight -- supplies

freight -- products

storage

water, sewer and waste

Note: We can compute seasonal/fishery specific costs by using information on total days spent processing crab in each fishery.

We also can compute *seasonal* costs of:

Broker's fees and promotions

observer costs

B. Measures Based on Economic Models

Obviously there are various models that analysts can choose among to construct a given measure, and each subtle difference in the approaches often necessitates different types of data. For example, harvesting capacity can be measured in a primal, physical framework or a dual, cost-based framework (there are other choices which we will not elaborate on here), and both models have different data requirements. Therefore, the goal was to consider the general types of models that are typically used to construct the measures of excess harvesting and processing capacity, economic returns, variable costs and revenues. The following discussion outlines the approach that was taken in selecting necessary data elements:

The economic models to be used are based upon the objective measures previously identified by the Council's Scientific and Statistical Committee (SSC) to monitor the success of the crab rationalization program. Here we identify the method or models typically used to construct such measures and the data required to adequately construct them.

The measures identified by the SSC are intended to allow the Council to monitor the success of the crab rationalization program in terms of addressing the five problems currently facing the fishery (as identified in the BSAI crab rationalization problem statement prepared by the Council

in February 2002¹). Those five problems and the summary of the problems facing the Council are as follows:

1. Resource conservation, utilization and management problems;
2. Bycatch and its associated mortalities, and potential landing deadloss;
3. Excess harvesting and processing capacity, as well as low economic returns;
4. Lack of economic stability for harvesters, processors and coastal communities; and
5. High levels of occupational loss of life and injury.

“The problem facing the Council, in the continuing process of comprehensive rationalization, is to develop a management program which slows the race for fish, reduces bycatch and its associated mortalities, provides for conservation to increase the efficacy of crab rebuilding strategies, addresses the social and economic concerns of communities, maintains healthy harvesting and processing sectors, and promotes efficiency and safety in the harvesting sector. Any such system should seek to achieve equity between the harvesting and processing sectors, including healthy, stable and competitive markets.”

The Objective Measures

This section discusses the economic objective measures that will likely need to be computed, and the corresponding economic data that is needed (some of which must be elicited through the Economic Data Reports, or EDRs). For a majority of the measures elaborated on below, the required data is discussed in the context of the vessel or plant (and at times, the firm), depending on the measure. Measures that are primarily production based (capacity utilization, productivity, and efficiency) are best constructed with data from the vessel or plant level. Such a focus allows the analyst to more directly identify the link between inputs used to catch or process fish and the quantity of fish or product forms obtained, respectively. Characterizing this link, and how it changes, is a key part in assessing the changes in economic performance that arise under rationalization. However, because the production process of one vessel or plant is at times only one component of the overall business structure, instances arise in which the firm (which may own one or more vessels, plants, or both) is the natural unit of observation.

Therefore, in addition to the individual measures discussed below, ownership data are required to link each piece of the overall puzzle. This data allows one to assimilate the individual effects into the likely “overall” effect of crab rationalization on the residual claimants of the operations we observe on a piece-by-piece basis. It also allows analysts to monitor structural changes not reflected directly in performance- or profit-based measures, such as changes in the concentration of domestic and foreign ownership in the harvesting and processing sectors, the structure of ownership (including proprietorships, publicly traded corporations and privately held corporations), and the relationships both within firms, (i.e., the amount and nature of vertical and horizontal integration) and among firms.

Although vessel-, plant-, or firm-level detail is needed to adequately construct many of the model-based measures discussed below, there are some simple averages for which aggregate (e.g., sector-level) data can likely provide an adequate representation. One underlying problem

¹ North Pacific Fisheries Management Council, 2002. Minutes of the June, 2002 NPFMC Meeting, Dutch Harbor, Alaska, pp. 22. <http://fakr.noaa.gov/npfmc/minutes/Council602.pdf>.

with using aggregated data for modeling purposes, however, is that the conditions under which the aggregate data accurately represents the individual firms' production technologies and decisions is quite restrictive. The result is a model with unrealistic assumptions which may bias the resulting measures (aggregation issues constitute a large branch of economic theory). Furthermore, if the aggregation is too extreme, the information that can be obtained from a model will not allow the analyst to adequately explain the source or cause of any changes. In other cases, the lack of a sufficient number of observations (i.e., data on each vessel, plant, or firm operating in a given time period) may preclude estimation of the model typically used to construct a particular measure. Finally, aggregate data cannot be used to determine whether most fishermen and processors will have benefited from crab rationalization. For example, aggregate processor profits could increase even though the profits for the majority of the processors decreased.

Note that this discussion does not address the specific data needed to analyze problems 1), 2), and 5) identified by the Council, as the primary data required is not necessarily "economic" in nature and therefore not requested in the EDRs under consideration. However, some of the objective measures discussed for problems 3) and 4), and the data used therein, may be useful in monitoring the success of the crab rationalization program with regard to problems 1), 2), and 5).

Problems, Measures, and Data

Problem #3, Excess Harvesting and Processing Capacity and Low Economic Returns

Measures:

a) Harvesting capacity and capacity utilization

Data Required: Typically, the analysis of capacity and capacity utilization is based upon the cost structure of the vessel, and examines whether the observed level of catch coincides with the least-cost level, given the capital stock. This process requires one to compile information on all significant variable costs (labor, fuel, bait, pots, etc.), including the price of all variable inputs and the quantities used, and estimate a cost function at the vessel level. A measure of the capital stock is also required, and is often expressed as the dollar value of the vessel and equipment onboard, or with proxies such as vessel characteristics [length, tonnage, horsepower, etc.]. One can then model the relationship between output (total catch, by species), input prices, and cost. If production is currently less than the level at which total average costs are minimized, given the existing capital stock, capacity is under utilized (the opposite is true if current output exceeds such a level). Further extensions of the model allow one to directly compute the contribution of the capital stock in production and thus, provide an alternative measure of the extent to which capital is being utilized.

Data Summary: Variable input prices and quantities purchased, capital quantities, and catch quantities (by species) are required.

Model to be estimated: econometric cost function or data envelopment analysis

b) Processing capacity and capacity utilization

Data Required: The same approach and data requirements would apply in assessing processing capacity and capacity utilization (although the specific inputs used and outputs produced are different). It can be more difficult, however, to quantify the capital stock for processors, as is evidenced by conversations with industry. Respondents will be asked to provide the assessed value of plant and equipment, which can be used as a proxy for the capital stock. And, given the panel nature of the data, fixed effects estimators may be used to in part account for the fixed, unobserved differences between plants that may be attributable to the differences in the capital stock.

Data Summary: Variable input prices and quantities purchased, capital quantities, and production quantities by species and product form are required.

Model to be estimated: econometric cost function or data envelopment analysis.

Analyses related to excess capacity and capacity utilization will likely be based on a cost function specification. In this model, total variable costs are regressed upon the outputs, the relevant variable input prices, quasi-fixed inputs, and environmental attributes (such as stock sizes) that may shift or twist the production possibilities frontier (and thus the costs of harvesting or processing a unit of crab).

For harvesting operations, the specification will be $\text{Variable Costs} = f(W, Y; X, \Omega)$, where W is a vector of input prices including bait, fuel, and crew; Y is a vector of outputs including catch levels for the relevant crab species; X is a vector of quasi-fixed inputs including the number of pots, vessel length, vessel tonnage, and vessel horsepower; and Ω is a vector of environmental variables such as stock sizes for the various crab species. This regression will be undertaken using a flexible functional form in order to minimize a priori restrictions on the production technology, recognizing the trade-offs between increased flexibility and approximation capabilities with the requisite degrees of freedom required for reasonable bounds on parameter estimates. Please see the discussion paper “Performance Measures for the Bering Sea and Aleutian Islands Crab Rationalization Programs: Data and Other Considerations” for a further discussion.

c) Harvesting sector quasirent (total revenue - total variable cost)

Data Required: This measure is comprised of total revenues less total variable cost. The Council has restricted us to focus solely on crab operations, which implies that we will not have a complete picture of each vessel’s overall economic activities, and thus cannot adequately apportion all of their fixed costs across fisheries. By focusing on quasirents, we can avoid introducing this potentially significant source of error.

If one wants to understand the source of any change in quasirents at the most basic level, one needs separate measures of total revenues and total variable costs. However, without details on total catch, and the prices and quantities of variable inputs, and quantities of quasi-fixed inputs, one cannot tell if variable costs changed due to changes in catch levels, effort (variable input) levels, or input prices, or quasi-fixed inputs. Furthermore, without detail on the quantities sold and prices received, for each species, one cannot tell if changes in revenue are attributable to changes in price, quality, or total catch.

Thus, without the above information, changes in quasi-rent cannot be explained and increased production or cost efficiency cannot be discerned from exogenous market impacts. The data components described above can also be used to construct predictive models that assess the likely change in production patterns, revenues, and costs in response to market shocks and/or regulations.

Data Summary: Variable input prices and quantities purchased, quasi-fixed inputs, total catch quantities and prices received, by species are required.

Model to be estimated: econometric restricted profit function.

d) Processing sector quasirent

Data Required: essentially the same type of information is required as for harvesters, which is discussed in c) above (with the obvious qualification that the respective variable inputs are likely to be different and revenue data should include product form, by species, quantity produced, and price received).

Data Summary: Variable input prices and quantities purchased (including fish purchases by species), quasi-fixed inputs, total production, by species and product form, and prices received for each product are required.

Model to be estimated: econometric restricted profit function.

e) Processor or Harvester Productivity:

Data Required: The measurement of productivity essentially involves the quantity of inputs required to produce a unit of output. The inputs included in the model should consist of those that directly contribute to the quantity of output one can produce. In the simplest terms, a single-input productivity measure such as labor productivity is computed as the ratio of output to labor hours. These measures are quite limited, however, in that they fail to account for the use of other inputs in production. That is, the ratio of total output to labor hours may have increased over time for a particular plant or vessel, but this may be due to increased use of automation (so the decreased labor use has been offset by increased capital expenditures). Therefore, *total* factor productivity measures are preferred, which account for the use of, and substitution among, all inputs in production. Because the contribution (and cost) of a one-unit change in each factor of production can differ widely, each input's share of the total cost of production is needed as a weight when accounting for the changes in input use. There are other metrics used for productivity measurement, such as Malmquist indices, which do not require the cost data or the associated competitive market assumptions.

Summary: Direct inputs in production (quantities used and for some models, the cost of each), total catch or processed product quantities, by species are required.

Model to be estimated: Tornqvist total factor productivity index, Malmquist index, or econometric transformation function.

f) Technical Harvesting Efficiency

Data Required: The measurement of “efficiency” can be undertaken in several ways to identify different notions of efficiency. *Technical* efficiency is similar to productivity in that it relates to the quantity of inputs used to obtain a given bundle of output(s). Essentially, productivity measurement involves computing how the skill with which inputs are converted to outputs progresses (or regresses) over several periods of time, and technical efficiency measurement involves analyzing each firm’s relative proficiency in production processes within each period.

Data Summary: Direct inputs in production and total catch quantities by species are required.

Model to be estimated: an econometric production frontier model, or a non-parametric data envelopment analysis model may be used to estimate technical harvesting efficiency.

g) Allocative Harvesting Efficiency:

Data Required: The measurement of *input-allocative* efficiency pertains to the degree to which one minimizes costs of producing a given level of output by choosing an optimal proportion of inputs, given their relative costs and contributions to production. In more familiar terms, cost savings afforded by eliminating the race for crab are likely to increase input-allocative efficiency. *Output-allocative* efficiency reflects the degree to which one chooses the optimal mix of outputs (here, catch or finished product, for harvesting and processing models, respectively), given the respective market prices and opportunity costs of targeting (or processing) one species (or product) instead of another. Loosely speaking, measures of input (output) allocative efficiency can be thought of as the extent to which one minimizes (maximizes) the cost of (revenue from) a given level of outputs (inputs). Note that one can be input-allocatively efficient and output-allocatively inefficient, or vice-versa. Similarly, one can be technically efficient and allocatively inefficient. The point here is that each measure captures a different aspect of production, and each can be affected in different ways from changing institutional or regulatory environments.

Data Summary: The quantities of direct inputs in production and their costs, total catch (or processed product, for processing models) quantities and prices by species are required.

Model to be estimated: allocative harvesting efficiency may be assessed by estimating an econometric cost function model or a non-parametric data envelopment analysis model.

h) Processing sector productivity and efficiency

Data Required: The basic data required to measure productivity and efficiency in the processing sector is the same as in the harvesting sector -- only the definition of direct inputs and outputs changes. See e), f) and g) above for a description of the measures, models, and data.

Problem #4, Lack of Economic Stability for Harvesters, Processors and Coastal Communities

Many of the measures listed for Problem 3 (both the model-based measures and simple averages or totals) are well suited to assess the success of the crab rationalization program in increasing economic stability for harvesters and processors. This can be accomplished by examining each vessel or plant's annual profit or quasi-rents, and calculating measures of variation for pre- and post-rationalization periods. The detail afforded in the data used to construct c), d), e) and f) also allows one to account for exogenous market effects (or varying stock levels) that may affect stability. That is, one can ascertain whether economic stability or viability is more likely in the rationalized fishery (relative to pre-rationalization) when market shocks are prevalent. Stability can also be analyzed by designating vessels or plants into strata of interest (based on size, species composition, regional designation, etc.) and presenting the mean values for the group (along with indicators of the variation within that group) for each year. Such an approach will preserve confidentiality, yet allow for the most accurate and informative measures of stability and the distribution of income among and between harvesters and processors.

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

The potential respondent universe will be approximately 100 catcher vessel owners, 10 catcher processors, 16 shoreside processors, and 7 inshore stationary floating processors. For catcher vessel operations on average, two individual persons may collaborate to provide the data to complete an EDR, though in most cases there will only be one party submitting the data.

In past years we collected EDRs from 380 catcher vessel owners, 18 catcher processors, 16 shoreside processors, and 5 inshore stationary floating processors.

This data collection process will take the form of a census. Therefore, all vessel and plant owners are required to fill out the EDRs. The response rate is expected to be 100% as non-compliance carries with it two severe penalties: 1), no ITQ or IPQ will be granted to any vessel or plant owner that does not complete the EDR; 2), enforcement can levy fines against any individual who does not comply with the law.

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.

EDRs will be collected from all vessels and plant owners participating in crab fisheries during each year. Owners of these vessels and plants will be identified through fish tickets, COAR, and crab quota shareholder data. We will not be sampling from these populations, but rather compiling a census for the historical years and a census for all future years.

With the response (produced from completed and verified data forms), Alaska Fisheries Science Center (AFSC) analysts will construct statistical models for estimating key variable cost values

for each strata. This data will also be used to develop cost functions from this data and to estimate average variable costs of operations, average gross earnings, and quasi-rents. Other data on purchases by cost category may be developed to estimate changes in purchases and regional economic impacts before and after the CR Program is implemented. There are several methods that are available to estimate these outputs. The analysts will select the best methods based on an assessment of the response sample, the census data (from mandatory data forms) of other sectors, and other data.

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

Each of the owners and leaseholders in the BSAI crab harvesting and processing sectors is required to submit an annual EDR. Most of these potential respondents will also be applying for one or more crab fishing or processing permits that are required to participate in the CR Program. All persons who are owners and/or leaseholders of vessels and processing operations must submit an EDR to obtain one of these crab fishing or processing permits. The response to mandatory data requirements should be very high, because the continued opportunity to use these permits has substantial value. We are anticipating response rates of 95-100%.

Substantial efforts have been taken to obtain high response rates and to verify that data submitted is accurate and complete. For example, we have prepared (either ourselves or through a contractor) annual reports documenting the accuracy with which the information for each variable collected has been reported. Problems have been pointed out and subsequently addressed by making minor changes to the wording of problematic questions. We have hired an accountant to independently assess the quality of the reported data (through detailed financial audits) and found that the reported data are of sufficient quality to support analysis of the crab rationalization program. We have taken public comment on the data quality at the North Pacific Fishery Management Council meetings as well as other "town hall" style meetings with fishery participants. We have also held meetings with NOAA data quality specialists to make sure we have followed all rules and protocols for ensuring the accuracy and quality of these data.

Enforcement of the data collection program with regard to non-compliance has been different from enforcement programs used to ensure that accurate landings are reported. It is critical that landings data are reported in an accurate and timely manner, especially under an IFQ system, to properly monitor catch and remaining quota. However, because it is unlikely that the economic data will be used for in-season management, it is anticipated that persons submitting the data have been given an opportunity to correct omissions and errors before any enforcement action would be taken. Giving the person submitting data a chance to correct problems is considered important because of the complexities associated with generating these data. Only if the agency and the person submitting the data cannot reach a solution would the enforcement agency be contacted. The intent of this program is to ensure that accurate data are collected without being overly burdensome on industry regarding unintended errors.

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.

The Council appointed an industry technical committee that met in 2001 and 2002 to review and recommend data to be collected in the EDRs. While this did not result in a formal pretest of the data reports, representatives from each fishery and the crab processing sectors participated in seven day-long meetings during that period. Responses from those meetings resulted in draft EDR data forms referenced in the P.L. No. 108-199. Following congressional action on P.L. No. 108-199, a meeting of a focus group consisting of a small number (less than a total of ten) of industry participants was held at the AFSC to evaluate the draft data forms and identify the optimum years between 1998 and 2004 from which to select historical data from each of the four crab sectors. As a result of the review, several data forms were significantly revised.

Since the EDR program has been in place, informal testing has taken place by meeting with EDR submitters to discuss ways in which the forms used to request information could be improved. The accountants that perform the data quality audits, as well as PSMFC (who administers the data collection) also document ways in which the EDRs could be clarified and we have used this information to clarify instructions and variable definitions.

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.

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APPENDIX A

Information Bulletin 07-90
Sustainable Fisheries Division
(907) 586-7228

September 11, 2007
10:30 a.m.

NMFS Alaska Region Seeks Comments on BSAI Crab Rationalization Program Information Collections

The Alaska Region is soliciting public comments on three information collections associated with the Crab Rationalization Program (Program) according to Robert D. Mecum, Acting Administrator, Alaska Region, NMFS.

The information collections are: Crab Permits; Crab Economic Data Reports (EDRs); and Crab Arbitration. Comments must be submitted by November 1, 2007, and will be accepted through the Alaska Region's website at: <http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/pra>.

The Crab Permits collection includes permit applications, transfer applications, and a form and an online site for payment of Program fees. The EDR collection includes forms and an online site requesting information on the economic impacts of the Program. The Arbitration collection is designed to accommodate the varied interests of the parties involved as well as reflect the historical negotiations between harvesters and processors.

The Region is seeking comments on:

- ◆ Whether the information collections are necessary and whether the information has practical utility;
- ◆ The accuracy of the agency's estimates on the burden of collecting the information;
- ◆ Ways to enhance the quality, utility, and clarity of the information collected; and
- ◆ Ways to minimize the burden of collecting the information from respondents.

For more information, contact Patsy A. Bearden at (907) 586-7008, or email patsy.bearden@noaa.gov.

APPENDIX B

Economic Data Report Comment Form

Please let us know:

- whether the Economic Data Report information collection system is necessary and whether the information has practical utility
- the accuracy of the agency's estimates on the burden of collecting the information
- ways to enhance the quality, utility, and clarity of the information collected
- ways to minimize the burden of collecting the information from respondents

Call Patsy Bearden if you have any questions: (907) 586-7008. Thank you.

Contact Information

Name (**required**)

Email Address (optional)

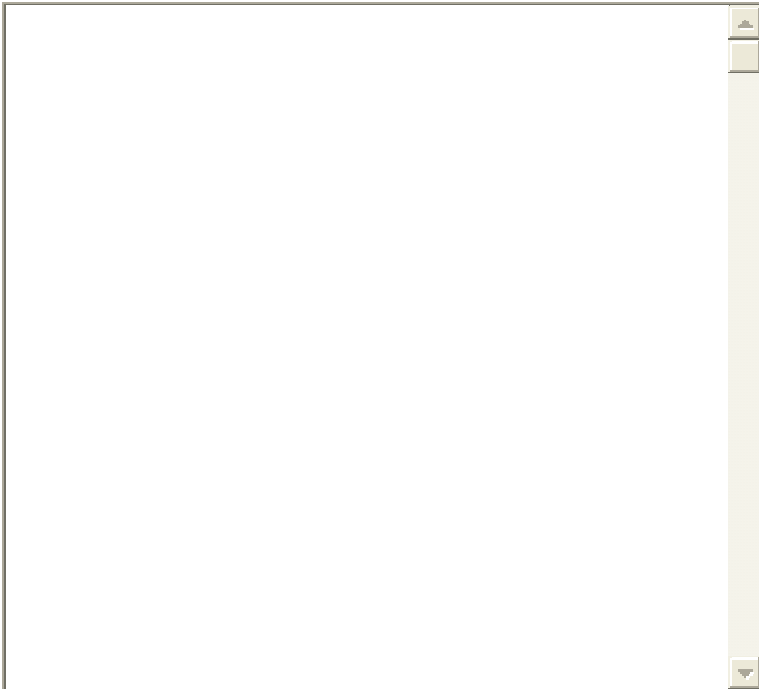
Phone (optional)

1. For catcher vessels, is it less expensive and/or less time consuming to use the online version of the crab EDR rather than a paper copy?

Yes

No

2. Please provide suggestions about how NMFS could save you more time in filling out an Economic Data Report?



3. NMFS established estimates for time and costs to complete an EDR for catcher vessels, catcher/processors, stationary floating crab processors, and shoreside processors. Will you please indicate whether our hour and cost estimates are accurate?

Questions for Catcher Vessels

How long does it take to fill out an EDR?

7.5 hours

No, it takes: hours

What are your costs for filling out EDRs?

Personnel

\$100.00/hour

No, it costs: \$ per hour

Postage

\$.41/pound

No, it costs: \$ per pound

Photocopies

\$.10/page

No, it costs: \$ per page

Questions for Catcher/Processors

How long does it take to fill out an EDR?

12.5 hours

No, it takes: hours

What are your costs for filling out EDRs?

Personnel

\$100.00/hour

No, it costs: \$ per hour

Postage

\$.41/pound

No, it costs: \$ per pound

Photocopies

\$.10/page

No, it costs: \$ per page

Questions for Stationary Floating Crab Processors

How long does it take to fill out an EDR?

10 hours

No, it takes: hours

What are your costs for filling out EDRs?

Personnel

\$100.00/hour

No, it costs: \$ per hour

Postage

\$.41/pound

No, it costs: \$ per pound

Photocopies

\$.10/page

No, it costs: \$ per page

Questions for Shoreside Processors

How long does it take to fill out an EDR?

10 hours

No, it takes: hours

What are your costs for filling out EDRs?

Personnel

\$100.00/hour

No, it costs: \$ per hour

Postage

\$.41/pound

No, it costs: \$ per pound

Photocopies

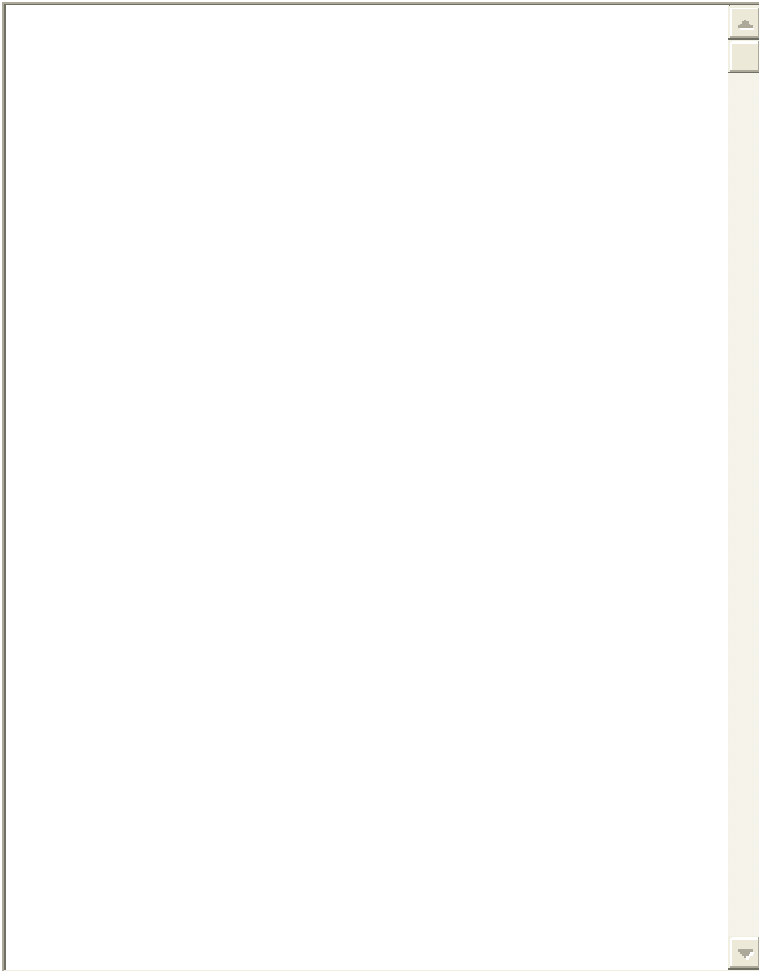
\$.10/page

No, it costs: \$ per page

4. How many hours per year are required for training all staff to complete an EDR?

1- 10 10 - 20 20 - 30 30+

5. Please provide any additional comments you have on any aspect of the crab EDR.



Please enter the numbers displayed below to help us reduce auto-generated spam.

1 9 7 1

Click once to send form.

NOTE: There may be a few second delay and then you will be sent back to the BSAI Crab Rationalization web page.

OMB Control No.: 0648-0518
Expiration Date: 02/28/2008

16 U.S.C. 1852
MSA § 302

104-297

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

109-479

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

109-479

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

(A) establish priorities for 5-year periods;

(B) be updated as necessary; and

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

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

97-453, 99-659, 101-627

(i) PROCEDURAL MATTERS.—

109-479

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

104-297, 109-479

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

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

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

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

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

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

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

109-479

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

16 U.S.C. 1852
MSA § 302

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

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

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

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

99-659, 104-297

(j) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—

104-297

(1) For the purposes of this subsection—

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

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

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

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

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

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

16 U.S.C. 1862
MSA § 313

101-627

SEC. 313. NORTH PACIFIC FISHERIES CONSERVATION

16 U.S.C. 1862

104-297, 109-479

(a) IN GENERAL.—The North Pacific Council may prepare, in consultation with the Secretary, a fisheries research plan for any fishery under the Council’s jurisdiction except a salmon fishery which—

(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council’s jurisdiction; and

(2) establishes a system, or system [sic]²⁴, of fees, which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the plan.

102-582

(b) STANDARDS.—

(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to—

(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

(B) be fair and equitable to all vessels and processors;

(C) be consistent with applicable provisions of law; and

(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

109-479

(2) Any system of fees established under this section shall—

(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers, or electronic monitoring systems, on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

(D) not be used to offset amounts authorized under other provisions of law;

(E) be expressed as a fixed amount reflecting actual observer costs as described in subparagraph (A) or a percentage, not to exceed 2 percent, of the unprocessed ex-vessel value of the fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(F) be assessed against some or all fishing vessels and United States fish processors, including those not required to carry an observer or an electronic monitoring system under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

(H) provide that fees collected will only be used for implementing the plan established under this section;

(I) provide that fees collected will be credited against any fee for stationing observers or electronic monitoring systems on board fishing vessels and United States fish processors and the actual cost of inputting collected data to which a fishing vessel or fish processor is subject under section 304(d) of this Act; and

(J) meet the requirements of section 9701(b) of title 31, United States Code.

(c) ACTION BY SECRETARY.—

(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

(2) During the 60-day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

16 U.S.C. 1862
MSA § 313

(d) **FISHERY OBSERVER FUND.**—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(e) **SPECIAL PROVISIONS REGARDING OBSERVERS.**—

(1) The Secretary shall review—

(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of his section, to provide coverage for vessels and owners against liability from civil suits by observers, and

(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.

104-297

(f) **BYCATCH REDUCTION.**—In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

104-297

(g) BYCATCH REDUCTION INCENTIVES.—

(1) Notwithstanding section 304(d), the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed \$25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, *Provided, That*—

(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

104-297

(h) CATCH MEASUREMENT.—

(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

104-297

(i) FULL RETENTION AND UTILIZATION.—

(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, 'processing waste' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.

108-199

(j) BERING SEA AND ALEUTIAN ISLANDS CRAB RATIONALIZATION.

(1) By not later than January 1, 2005, the Secretary shall approve and hereafter implement by regulation the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands approved by the North Pacific Fishery Management Council between June 2002 and April 2003, and all trailing amendments including those reported to Congress on May 6, 2003. This section shall not preclude the Secretary from approving by January 1, 2005, and implementing any subsequent program amendments approved by the Council.

(2) Notwithstanding any other provision of this Act, in carrying out paragraph (1) the Secretary shall approve all parts of the Program referred to in such paragraph. Further, no part of such Program may be implemented if, as approved by the North Pacific Fishery Management Council, individual fishing quotas, processing quotas, community development quota allocation, voluntary cooperatives, binding arbitration, regional landing and processing requirements, community protections, economic data collection, or the loan program for crab fishing vessel captains and crew members, is invalidated subject to a judicial determination not subject to judicial appeal. If the Secretary determines that a processor has leveraged its Individual Processor Quota shares to acquire a harvesters open-delivery "B shares", the processor's Individual Processor Quota shares shall be forfeited.

(3) Subsequent to implementation pursuant to paragraph (1), the Council may submit and the Secretary may implement changes to or repeal of conservation and management measures, including measures authorized in this section, for crab fisheries of the Bering Sea and Aleutian Islands in accordance with applicable law, including this Act as amended by this subsection, to achieve on a continuing basis the purposes identified by the Council.

(4) The loan program referred to in paragraph (2) shall be carried out pursuant to the authority of sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f, 1279g).

(5) For purposes of implementing this section \$ 1,000,000 shall be made available each year until fully implemented from funds otherwise made available to the National Marine Fisheries Service for Alaska fisheries activities.

(6) Nothing in this Act shall constitute a waiver, either express or implied, of the antitrust laws of the United States. The Secretary, in consultation with the Department of Justice and the Federal Trade Commission, shall develop and implement a mandatory information collection and review process to provide any and all information necessary for the Department of Justice and the Federal Trade Commission to determine whether any illegal acts of anti-competition, anti-trust, or price collusion have occurred among persons receiving individual processing quotas under the Program. The Secretary may revoke any individual processing quota held by any person found to have violated a provision of the antitrust laws of the United States.

(7) An individual processing quota issued under the Program shall be considered a permit for the purposes of sections 307, 308, and 309, and may be revoked or limited at any time in accordance with this Act. Issuance of an individual processing quota under the program shall not confer any right of compensation to the holder of such individual processing quota if it is revoked or limited and shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is purchased from an individual fishing quota holder.

(8) The restriction on the collection of economic data in section 303 shall not apply with respect to any fish processor who is eligible for, or who has received, individual processing quota under the Program. The restriction on the disclosure of information in section 402(b)(1) shall not apply when the information is used to determine eligibility for or compliance with an individual processing quota program.

(9) The provisions of sections 308, 310, and 311 shall apply to the processing facilities and fish products of any person holding individual processing quota, and the provisions of subparagraphs (D), (E), and (L) of section 307(l) shall apply to any facility owned or controlled by a person holding individual processing quota.

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.

Area number	Name	Latitude	Longitude
10	Unalaska I.	53 26.05 N 53 6.92 N 52 55.71 N 53 13.05 N	165 55.55 W 167 19.40 W 167 18.20 W 165 55.55 W

Note: Each area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. Projected coordinate system is North American Datum 1983, Albers.

[71 FR 36703, June 28, 2006]

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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- 680.20 Arbitration System.
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AUTHORITY: 16 U.S.C. 1862.

SOURCE: 70 FR 10241, Mar. 2, 2005, unless otherwise noted.

Subpart A—General

§ 680.1 Purpose and scope.

Regulations in this part implement policies developed by the North Pacific Fishery Management Council and approved by the Secretary of Commerce in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. In addition to part 600 of this chapter, these regulations implement the following:

(a) *Fishery Management Plan (FMP) for Bering Sea and Aleutian Islands King and Tanner Crabs.* Regulations in this part govern commercial fishing for, and processing of, king and Tanner crabs in the Bering Sea and Aleutian Islands Area pursuant to section 313(j) of the Magnuson-Stevens Act, including regulations implementing the Crab Rationalization Program for crab fisheries in the Bering Sea and Aleutian Islands Area, and supersede State of Alaska regulations applicable to the commercial king and Tanner crab fisheries in the Exclusive Economic Zone (EEZ) of the Bering Sea and Aleutian Islands Area that are determined to be inconsistent with the FMP.

(b) *License Limitation Program.* Commercial fishing for crab species not included in the Crab Rationalization Program for crab fisheries of the Bering Sea and Aleutian Islands Area remains subject to the License Limitation Program for the commercial crab fisheries in the Bering Sea and Aleutian Islands Area under part 679 of this chapter.

§ 680.2 Definitions.

In addition to the definitions in the Magnuson-Stevens Act, in 50 CFR part

Fishery Conservation and Management

§ 680.2

600, and §679.2 of this chapter, the terms used in this part have the following meanings:

Adak community entity means the non-profit entity incorporated under the laws of the state of Alaska that represents the community of Adak and has a board of directors elected by the residents of Adak.

Affiliation means a relationship between two or more entities in which one directly or indirectly owns or controls a 10 percent or greater interest in, or otherwise controls, another, or a third entity directly or indirectly owns or controls a 10 percent or greater interest in, or otherwise controls, both. For the purpose of this definition, the following terms are further defined:

(1) *Entity*. An entity may be an individual, corporation, association, partnership, joint-stock company, trust, or any other type of legal entity, any receiver, trustee in bankruptcy or similar official or liquidating agent, or any organized group of persons whether incorporated or not, that holds direct or indirect interest in:

(i) Quota share (QS), processor quota share (PQS), individual fishing quota (IFQ), or individual processing quota (IPQ); or,

(ii) For purposes of the economic data report (EDR), a vessel or processing plant operating in CR fisheries.

(2) *Indirect interest*. An indirect interest is one that passes through one or more intermediate entities. An entity's percentage of indirect interest in a second entity is equal to the entity's percentage of direct interest in an intermediate entity multiplied by the intermediate entity's direct or indirect interest in the second entity.

(3) *Controls a 10 percent or greater interest*. An entity controls a 10 percent or greater interest in a second entity if the first entity:

(i) Controls a 10 percent ownership share of the second entity, or

(ii) Controls 10 percent or more of the voting stock of the second entity.

(4) *Otherwise controls*. (i) A PQS or IPQ holder otherwise controls QS or IFQ, or a QS or IPQ holder, if it has:

(A) The right to direct, or does direct, the business of the entity which holds the QS or IFQ;

(B) The right in the ordinary course of business to limit the actions of or replace, or does limit or replace, the chief executive officer, a majority of the board of directors, any general partner or any person serving in a management capacity of the entity which holds the QS or IFQ;

(C) The right to direct, or does direct, the transfer of QS or IFQ;

(D) The right to restrict, or does restrict, the day-to-day business activities and management policies of the entity holding the QS or IFQ through loan covenants;

(E) The right to derive, or does derive, either directly, or through a minority shareholder or partner, and in favor of a PQS or IPQ holder, a significantly disproportionate amount of the economic benefit from the holding of QS or IFQ;

(F) The right to control, or does control, the management of, or to be a controlling factor in, the entity holding QS or IFQ;

(G) The right to cause, or does cause, the sale of QS or IFQ;

(H) Absorbs all of the costs and normal business risks associated with ownership and operation of the entity holding QS or IFQ; and

(I) Has the ability through any other means whatsoever to control the entity that holds QS or IFQ.

(ii) Other factors that may be indicators of control include, but are not limited to the following:

(A) If a PQS or IPQ holder or employee takes the leading role in establishing an entity that will hold QS or IFQ;

(B) If a PQS or IPQ holder has the right to preclude the holder of QS or IFQ from engaging in other business activities;

(C) If a PQS or IPQ holder and QS or IFQ holder use the same law firm, accounting firm, etc.;

(D) If a PQS or IPQ holder and QS or IFQ holder share the same office space, phones, administrative support, etc.;

(E) If a PQS or IPQ holder absorbs considerable costs and normal business risks associated with ownership and operation of the QS or IFQ holdings;

(F) If a PQS or IPQ holder provides the start up capital for the QS or IFQ

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holder on less than an arm's-length basis;

(G) If a PQS or IPQ holder has the general right to inspect the books and records of the QS or IFQ holder; and

(H) If the PQS or IPQ holder and QS or IFQ holder use the same insurance agent, law firm, accounting firm, or broker of any PQS or IPQ holder with whom the QS or IFQ holder has entered into a mortgage, long-term or exclusive sales or marketing agreement, unsecured loan agreement, or management agreement.

Arbitration IFQ means:

(1) Class A catcher vessel owner (CVO) IFQ held by a person who is not a holder of PQS or IPQ and who is not affiliated with any holder of PQS or IPQ.

(2) Prior to July 1, 2008, catcher vessel crew (CVC) IFQ that the holder has elected to submit to the Arbitration System, and that is held by a person who is not a holder of PQS or IPQ, and who is not affiliated with any holder of PQS or IPQ, and

(3) Beginning July 1, 2008, Class A CVC IFQ held by a person who is not a holder of PQS or IPQ and is not affiliated with any holder of PQS or IPQ.

(4) IFQ held by an FCMA cooperative.

Arbitration QS means:

(1) CVO QS held by a person who is not a holder of PQS or IPQ and is not affiliated with any holder of PQS or IPQ. (2) Prior to July 1, 2008, CVC QS that the holder has elected to submit to the Arbitration System, and that is held by a person who is not a holder of PQS or IPQ and who is not affiliated with any holder of PQS or IPQ and,

(3) Beginning July 1, 2008, CVC QS held by a person who is not a holder of PQS or IPQ and is not affiliated with any holder of PQS or IPQ.

Arbitration System means the system established by the contracts required by § 680.20, including the process by which the Market Report and Non-Binding Price Formula are produced, the negotiation approaches, the Binding Arbitration process, and fee collection.

Assessed value means the most recent value for a vessel and gear provided in a marine survey.

Auditor means an examiner employed by, or under contract to, the data col-

lection agent to verify data submitted in an economic data report.

Blind data means any data collected from the economic data report by the data collection agent that are subsequently amended by removing personal identifiers, including, but not limited to social security numbers, crew permit numbers, names and addresses, Federal fisheries permit numbers, Federal processor permit numbers, Federal tax identification numbers, State of Alaska vessel registration and permit numbers, and by adding in their place a nonspecific identifier.

Box size means the capacity of a crab-packing container in kilograms or pounds.

BSAI crab means those crab species governed under the Fishery Management Plan (FMP) for Bering Sea/Aleutian Islands King and Tanner Crabs.

BSAI Crab Capacity Reduction Program means the program authorized by Public Law 106-554, as Amended by Public Law 107-20 and Public Law 107-117.

BSAI crab fisheries means those crab fisheries governed under the Fishery Management Plan (FMP) for Bering Sea/Aleutian Islands King and Tanner Crabs.

Captain means, for the purposes of the EDR, a vessel operator.

Catcher/processor (CP) means a vessel that is used for catching crab and processing that crab.

Catcher vessel means a vessel that is used for catching crab and that does not process crab on board.

CDQ community means a community eligible to participate in the Western Alaska Community Development Program under subpart C of 50 CFR part 679.

CDQ group means a CDQ group as that term is defined at 50 CFR 679.2.

Committed IFQ means:

(1) Any Arbitration IFQ for which the holder of such IFQ has agreed or committed to delivery of crab harvested with the IFQ to the holder of previously uncommitted IPQ and for which the holder of the IPQ has agreed to accept delivery of that crab, regardless of whether such agreement specifies the price or other terms for delivery, or

(2) Any Arbitration IFQ for which, on or after the date which is 25 days prior

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to the opening of the first crab fishing season in the crab QS fishery for such IFQ, the holder of the IFQ has unilaterally committed to delivery of crab harvested with the IFQ to the holder of previously uncommitted IPQ, regardless of whether the IFQ and IPQ holders have reached an agreement that specifies the price or other terms for delivery.

Committed IPQ means any IPQ for which the holder of such IPQ has received a commitment of delivery from a holder of Arbitration IFQ such that the Arbitration IFQ is committed IFQ, regardless of whether the Arbitration IFQ and IPQ holders have reached an agreement that specifies the price or other terms for delivery.

CP standard price means price, expressed in U.S. dollars per raw crab pound, for all CR crab landed by a CP as determined for each crab fishing year by the Regional Administrator and documented in a CP standard price list published by NMFS.

Crab cost recovery fee liability means that amount of money, in U.S. dollars, owed to NMFS by a CR allocation holder or RCR as determined by multiplying the appropriate ex-vessel value of the amount of CR crab debited from a CR allocation by the appropriate crab fee percentage.

Crab fee percentage means that positive number no greater than 3 percent determined for each crab fishing year by the Regional Administrator and used to calculate the crab cost recovery fee liability for a CR allocation holder or RCR under the Crab Ration-alization Program.

Crab fishing year means the period from July 1 of one calendar year through June 30 of the following calendar year.

Crab grade means a grading system to describe the quality of crab.

(1) Grade 1 means standard or premium quality crab, and

(2) Grade 2 means below standard quality crab.

Crab harvesting cooperative, for the purposes of this part 680, means a group of crab QS holders who have chosen to form a crab harvesting cooperative, under the requirements of §680.21, in order to combine and collectively harvest their crab IFQ through a crab har-

vesting cooperative IFQ permit issued by NMFS.

Crab harvesting cooperative IFQ means the annual catch limit of IFQ crab that may be harvested by a crab harvesting cooperative that is lawfully allocated a harvest privilege for a specific portion of the TAC of a crab QS fishery.

Crab individual fishing quota (crab IFQ) means the annual catch limit of a crab QS fishery that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the TAC of a crab QS fishery with the following designations or with the designation as a crab IFQ hired master:

(1) *Catcher vessel crew (CVC) IFQ* means a permit to annually harvest, but not process, a CR crab on board a vessel.

(2) *Catcher vessel owner (CVO) IFQ* means a permit to annually harvest, but not process, a CR crab on board a vessel.

(i) *Class A IFQ* means IFQ that is required to be delivered to a processor holding unused IPQ.

(ii) *Class B IFQ* means IFQ that is not required to be delivered to a processor holding unused IPQ.

(3) *Catcher/processor owner (CPO) IFQ* means a permit to annually harvest and process a CR crab on a catcher/processor.

(4) *Catcher/processor crew (CPC) IFQ* means a permit to annually harvest and process a CR crab on a catcher/processor.

Crab IFQ hired master means a person who holds a crab IFQ hired master permit issued under §680.4.

Crab IFQ permit holder means the person identified on an IFQ permit.

Crab LLP license history means, for any particular crab LLP license, the legal landings made on the vessel(s) that was used to qualify for that LLP license and any legal landings made under the authority of that LLP license.

Crab quota share (crab QS) means a permit the face amount of which is used as the basis for the annual calculation and allocation of a person's crab IFQ with the following designations:

(1) *Catcher vessel crew (CVC) QS* means a permit that yields CVC IFQ.

(2) *Catcher vessel owner (CVO) QS* means a permit that yields CVO IFQ.

(3) *Catcher/processor owner (CPO) QS* means a permit that yields CPO IFQ.

(4) *Catcher/processor crew (CPC) QS* means a permit that yields CPC IFQ.

Crab QS fishery means those CR fisheries under Table 1 to this part that require the use of QS and PQS, and their resulting IFQ and IPQ, to harvest and receive IFQ crab.

Crab QS program means the program that allocates QS and PQS, and their resulting IFQ and IPQ, for CR crab of the BSAI off Alaska and governed by regulations under this part.

Crab QS regional designation means the designation of QS or PQS and their resulting IFQ and IPQ subject to regional delivery requirements in this part.

Crab Rationalization (CR) allocation means any allocation of CR crab authorized under the CR Program.

Crab Rationalization (CR) crab means those crab species in the crab fisheries subject to management under the Crab Rationalization Program described in Table 1 to this part.

Crab Rationalization (CR) fisheries means those fisheries defined in Table 1 to part 680.

Crab Rationalization (CR) Program means the crab QS program plus the CDQ and the Adak community allocation programs, including all management, monitoring, and enforcement components, for BSAI king and Tanner crabs governed by the regulations of this part.

Crew means:

(1) Any individual, other than the fisheries observers, working on a vessel that is engaged in fishing.

(2) For the purposes of the EDR, each employee on a vessel, excluding the captain and fisheries observers, that participated in any CR fishery.

Custom processing means processing of crab by a person undertaken on behalf of another person.

Data collection agent (DCA) means the entity selected by the Regional Administrator to distribute an EDR to a person required to complete it, to receive the completed EDR, to review and verify the accuracy of the data in the EDR, and to provide those data to authorized recipients.

Days at sea means, for the purposes of the EDR, the number of days spent at sea while fishing for crab, including travel time to and from fishing grounds.

Economic data report (EDR) means the report of cost, labor, earnings, and revenue data for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors participating in CR fisheries.

Eligible community resident means, for purposes of the Crab QS program, any individual who:

- (1) Is a citizen of the United States;
- (2) Has maintained a domicile in the ECC, from which the individual requests to lease crab IFQ, for at least 12 consecutive months immediately preceding the time when the assertion of residence is made and who is not claiming residency in another community, state, territory, or country; and
- (3) Is otherwise eligible to receive crab QS or IFQ by transfer.

Eligible crab community (ECC) means a community in which at least 3 percent of the initial allocation of processor quota share of any crab fishery is allocated. The specific communities are:

- (1) CDQ Communities.
 - (i) Akutan;
 - (ii) False Pass;
 - (iii) St. George; and
 - (iv) St. Paul.
- (2) Non-CDQ Communities.
 - (i) Unalaska/Dutch Harbor;
 - (ii) Kodiak;
 - (iii) King Cove;
 - (iv) Port Moller; and
 - (v) Adak.

Eligible crab community (ECC) entity means a non-profit organization specified under §680.41(j)(2) that is designated by the governing body of an ECC, other than Adak, to represent it for the purposes of engaging in the right of first refusal of transfer of crab PQS or IPQ outside the ECC under contract provisions set forth under section 313(j) of the Magnuson-Stevens Act. For those ECCs that also are CDQ communities, the ECC entity is the CDQ group to which the ECC is a member.

Eligible crab community organization (ECCO) means a non-profit organization that represents at least one ECC, as defined in this part, and that has

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been approved by the Regional Administrator to obtain by transfer and hold crab QS and to lease the resulting IFQ on behalf of an ECC.

Ex-vessel value means:

(1) *For the shoreside processing sector.* The total U.S. dollar amount of all compensation, monetary and non-monetary, including any retroactive payments, received by a CR allocation holder for the purchase of any CR crab debited from the CR allocation described in terms of raw crab pounds.

(2) *For the catcher/processor sector.* The total U.S. dollar amount of CR crab landings as calculated by multiplying the number of raw crab pounds debited from the CR allocation by the appropriate CP standard price determined by the Regional Administrator.

FCMA cooperative, for the purposes of this part 680, means a cooperative formed in accordance with the Fishermen's Collective Marketing Act of 1934 (15 U.S.C. 521).

Finished pounds means the total weight, in pounds, of processed product, not including the container.

IFQ account means the amount of crab IFQ in raw crab pounds that is held by a person at any particular time for a crab QS fishery, sector, region, and class.

IFQ crab means crab species listed in Table 1 to this part subject to management under the crab QS program.

Individual processor quota (IPQ) means the annual amount of crab, in pounds, representing a specific portion of the TAC for a crab QS fishery, that may be received for processing by a person who is lawfully allocated PQS or IPQ.

Initial processor quota share (PQS) pool means the total number of PQS units for each crab QS fishery which is the basis of initial PQS allocations.

Initial quota share (QS) pool means the total number of non-processor QS units for each crab QS fishery which is the basis of initial QS allocations.

IPQ account means the amount of crab IPQ in raw crab pounds that is held by a person at any particular time for a crab QS fishery and region.

Landing means the transfer of raw crab harvested by a vessel prior to that crab being reported on a CR crab landing report.

(1) For catcher/processors, the amount of crab retained during a reporting period constitutes a landing.

(2) For catcher vessels, the amount of crab removed from the boat at a single location/time constitutes a landing.

Lease of QS/IFQ or PQS/IPQ means a temporary, annual transfer of crab IFQ or IPQ without the underlying QS or PQS.

Leaseholder means, for purposes of the EDR, a person who:

(1) Is identified as the leaseholder in a written lease of a catcher vessel, catcher/processor, shoreside crab processor, or stationary floating crab processor, or

(2) Pays the expenses of a catcher vessel, catcher/processor, shoreside crab processor, or stationary floating crab processor, or

(3) Claims expenses for the catcher vessel, catcher/processor, shoreside crab processor, or stationary floating crab processor as a business expense on schedule C of his/her Federal income tax return or on a state income tax return.

Magnuson-Stevens Act means the Magnuson-Stevens Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Mutual Agreement means, for purposes of the Arbitration System, the consent and agreement of Arbitration Organizations that represent an amount of Arbitration QS equal to more than 50 percent of all the Arbitration QS in a fishery, and an amount of PQS equal to more than 50 percent of all the PQS in a fishery based upon the Annual Arbitration Organization Reports.

Newly constructed vessel means, for the purposes of initial QS issuance, a vessel on which the keel was laid by June 10, 2002.

Official crab rationalization record means the information prepared by the Regional Administrator about the legal landings and legal processing by vessels and persons in the BSAI crab fisheries during the qualifying periods specified at § 680.40.

Processing, or to process means the preparation of, or to prepare, crab to render it suitable for human consumption or storage. This includes, but is not limited to: Cooking, canning,

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butchering, sectioning, freezing or icing.

Processor quota share (PQS) means a permit the face amount of which is used as the basis for the annual calculation and allocation of IPQ.

Raw crab pounds means the weight of raw crab in pounds when landed.

Registered crab receiver (RCR) means a person holding an RCR Permit issued by the Regional Administrator.

Retain means to fail to return crab to the sea after a reasonable opportunity to sort the catch.

Right of First Refusal (ROFR) means the civil contract provisions set forth under section 313(j) of the Magnuson-Stevens Act between the holders of PQS and IPQ and ECC entities, other than Adak, for the opportunity of ECCs to exercise the right to purchase or lease PQS or IPQ proposed to be transferred by a holder of PQS or IPQ in an ECC.

Seafood Marketing Association Assessment (SMAA) means the seafood processing assessment collected by processing firms and buyers from fishery harvesters for the State of Alaska.

Share payment means an amount of monetary compensation (not salary or wages) based on gross or net earnings of a BSAI crab fishing vessel.

Shoreside crab processor means any person or vessel that receives, purchases, or arranges to purchase unprocessed crab, except a catcher/processor or a stationary floating crab processor.

Stationary floating crab processor (SFCP) means a vessel of the United States that remains anchored or otherwise remains stationary while receiving or processing crab in the waters of the State of Alaska.

Uncommitted IFQ means any Arbitration IFQ that is not Committed IFQ.

Uncommitted IPQ means any IPQ that is not Committed IPQ.

U.S. Citizen means:

(1) Any individual who is a citizen of the United States; or

(2) Any corporation, partnership, association, or other entity that is organized under Federal, state, or local laws of the United States or that may legally operate in the United States.

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§ 680.3 Relation to other laws.

(a) *King and Tanner crab.* (1) Additional laws and regulations governing the conservation and management of king crab and Tanner crab in the BSAI area are contained in 50 CFR part 679, Alaska Statutes at A.S. 16, and Alaska Administrative Code at 5 AAC Chapters 34, 35, and 39.

(2) The Alaska Administrative Code (at 5 AAC 39.130) governs reporting and permitting requirements using the ADF&G “Intent to Operate” registration form and “Fish Tickets.”

(b) *Sport, personal use, and subsistence.* (1) For State of Alaska statutes and regulations governing sport and personal use crab fishing other than subsistence fishing, see Alaska Statutes, Title 16—Fish and Game; 5 AAC Chapters 47 through 77.

(2) For State of Alaska statutes and regulations governing subsistence fishing for crab, see Alaska Statutes, Title 16—Fish and Game; 5 AAC 02.001 through 02.625.

§ 680.4 Permits.

(a) *General information.* Persons participating in the CR fisheries are required to possess the permits described in this section.

(1) *Approval.* Approval of applications under this part may be conditioned on the payment of fees under § 680.44 or the submission of an EDR as described under § 680.6.

(2) *Issuance.* The Regional Administrator may issue or amend any permits under this section or under § 680.21 annually or at other times as needed under this part.

(3) *Transfer.* Crab QS and PQS permits issued under § 680.40 and Crab IFQ and IPQ permits issued under this section are transferable, as provided under § 680.41. Crab IFQ hired master permits, Federal crab vessel permits, and RCR permits issued under this section are not transferable.

(4) *Inspection.* The holder of a Federal crab vessel permit, crab IFQ permit, crab IPQ permit, or crab IFQ hired master permit, must present a legible copy of the permit on request of any authorized officer or RCR receiving a crab IFQ landing. A legible copy of the

§ 680.6 Crab Economic Data Report (EDR)

§ 680.6 Crab economic data report (EDR).

Persons participating in the CR crab fisheries are required to submit the EDRs described in this section for various permit applications to be considered complete. Use these tables to complete the EDRs described in this section: Table 1, Crab Rationalization (CR) Fisheries; Table 2, Crab Species Codes; Table 3c, Crab Product Codes for the EDRs; Table 4, Crab Process Codes; Table 5, Crab Size Codes; and Table 6, Crab Grade Codes.

(a) Catcher vessel historical EDR.

(1) NMFS will select catcher vessels from a list of known catcher vessels, as determined by NMFS, that made at least one landing from fisheries listed in Table 1 to this part between January 1, 1998, through December 31, 2004, and will publish a *Federal Register* notice identifying vessels whose existing or former owners and leaseholders are required to submit an EDR, as follows:

(i) Owners or leaseholders of catcher vessels that participated in the BSAI crab fisheries between January 1, 1998, through December 31, 2004, and have received an allocation of QS, PQS, IFQ, or IPQ.

(ii) Owners or leaseholders of catcher vessels that participated in the BSAI crab fisheries between January 1, 1998, through December 31, 2004, that did not qualify for and receive QS, PQS, IFQ, or IPQ, but were participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) Time limit.

The owner or leaseholder of the identified vessels must submit the historical EDR to the DCA 90 days after the *Federal Register* notice notifying owners or leaseholders, to the address provided on the form.

(3) Instructions.

Instructions for submitting a catcher vessel historical EDR and certification page are specified in the following table:

If you were ...	And ...	You must complete and submit ...
(i) The catcher vessel owner as described in paragraph (a)(1) of this section	(A) You harvested BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and were notified by NMFS to submit an EDR for selected years.	Entire EDR for each year that BSAI crab was harvested.
	(B) No one harvested BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and you were notified by NMFS to submit an EDR for selected years	EDR certification pages.
	(C) You leased the vessel to another party, and harvested no BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and were notified by NMFS to submit an EDR for selected years.	(1) EDR certification pages. (2) Provide the name, business address, and telephone number of the person to whom you leased the vessel during the NMFS-selected years.
	(D) You leased the vessel for a portion of the year to another party, but harvested some BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and were notified by NMFS to submit an EDR for selected years.	(1) Entire EDR for each year that BSAI crab was harvested. (2) Provide the name, business address, and telephone number of the person to whom you leased the vessel during the NMFS-selected years

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(ii) The leaseholder as described in paragraph (a)(1) of this section	You harvested BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section vessel and were notified by NMFS to submit an EDR for selected years	Entire EDR for each year that BSAI crab was harvested.
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(4) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification pages either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages (see paragraph (a)(3) of this section).

(ii) The owner, leaseholder, or designated representative must submit the following information on the certification pages:

(A) Calendar year of EDR. Calendar year for which the vessel must submit the EDR;

(B) Catcher vessel information. Vessel name, USCG documentation number, ADF&G vessel registration number, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) Owner information. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) Designated representative. Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) Person completing this report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (a)(4)(ii)(C) of this section is the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(5) EDR.

The owner or leaseholder must record the following information on an EDR:

(i) BSAI Crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code, ADF&G Fish ticket number(s), number of days at sea, average crew size (including captain), and number of pots lost (if applicable).

(ii) Crab sales gross revenue. CR fishery code, pounds sold, and gross revenue.

(iii) CDQ crab lease costs. CR fishery code, pounds leased, and total cost of lease. If you did not participate in CDQ fisheries, indicate N/A.

(iv) Crab harvesting labor costs. CR fishery code, number of crew earning shares (excluding captain), total crew share payment, and captain's share payment.

(v) BSAI crab crew residence. For employees that participated in BSAI crab harvesting, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

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(C) If country other than United States, enter primary country of residence.

(vi) BSAI crab-specific vessel costs. For the fishing year being reported, record insurance premiums (for hull, property and indemnity, and pollution), insurance deductible fees, quantity and cost of pots purchased, line, and other crab fishing gear purchases, pounds and cost of bait by species, gallons and cost of fuel, cost of lubrication and hydraulic fluids, cost of food and provisions for crew, other crew costs, freight costs of supplies shipped to you for the vessel, freight costs for landed crab, storage, observer costs, fish taxes, and other crab-specific costs.

(vii) Vessel-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment; repair and maintenance (R&M) expenses for vessel, gear and equipment; and other vessel-specific costs (specify).

(viii) Labor payment details.

(A) Indicate with an "X" in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the

total revenue before calculating the crew payments in BSAI fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, freight, gear loss, and other (specify).

(B) Indicate percentage of the net share that was applied to boat share and crew share (including captain).

(ix) Annual totals for all fisheries. For the calendar year, record the total days at sea, gross revenue, round pounds caught (excluding discards), and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(b) Catcher vessel annual EDR

(1) Requirement.

On or before May 1 of each year, any owner or leaseholder of a catcher vessel that landed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous calendar year. For the year 2005, the annual EDR is due on or before May 1, 2006.

(2) Instructions.

Instructions for submitting a catcher vessel annual EDR and certification page are specified in the following table:

If you are ...	And ...	You must complete and submit ...
(i) The catcher vessel owner	(A) You harvested BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this calendar year.	Entire EDR
	(B) No one harvested BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this year.	EDR certification pages
	(C) You leased the vessel to another party, and harvested no BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this calendar year.	(1) EDR certification pages
		(2) Provide the name, address, and telephone number of the person to whom you leased the vessel during this calendar year.
(D) You leased the vessel for a portion of the year to another party, but harvested some BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this calendar year.	(1) Entire EDR	
	(2) Provide the name, address, and telephone number of the person to whom you leased the vessel during this calendar year.	
(ii) The leaseholder	You harvested BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section vessel during this calendar year.	Entire EDR

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(3) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification pages either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages.

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) Calendar year of EDR. Calendar year of reporting year;

(B) Catcher vessel information. Catcher vessel name, USCG documentation number, ADF&G vessel registration number, Federal crab vessel permit number, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment;

(C) Owner information. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available);

(D) Designated representative. Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) Person completing this report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (b)(3)(ii)(C) of this section are the same as the name and address of the

person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) EDR.

The owner or leaseholder must record the following information on an EDR.

(i) BSAI Crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code, ADF&G Fish ticket number(s), number of days at sea, average crew size (including captain), and number of pots lost (if applicable).

(ii) Crab sales, gross revenue. CR fishery code, species code, pounds sold, and gross revenue;

(iii) CDQ and IFQ crab leases. CR fishery code, species code, pounds leased, and total cost of leasing the quota. If you did not participate in CDQ or IFQ fisheries, indicate N/A.

(iv) Crab harvesting labor costs.

(A) Standard crew payment (shares) for non-IFQ crew and/or captains. CR fishery code, number of crew earning shares, total crew share payment, and captain's share payment;

(B) Payments to IFQ-holding crew and/or captains. CR fishery code, number of crew contributing IFQ shares, pounds of IFQ contributed by crew, total payment to crew for IFQ and shares (for all crab caught, and residual profit on their IFQ), pounds of IFQ contributed by captain, and payment to captain for IFQ and shares (for all fish caught, and residual profit on their IFQ);

(v) BSAI crab crew residence.

(A) Employees with crew license. Record the Alaska Commercial Crew license number or the State of Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number, and location of crew residence (city and state);

(B) Employees without crew license. Record the locations where they reside and the number of employees that are from each residential location as follows:

(1) If Alaska, enter primary city of residence;

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(2) If state other than Alaska, enter primary state of residence; or

(3) If country other than United States, enter primary country of residence.

(vi) BSAI crab-specific vessel costs. Insurance premiums (hull, property and indemnity, and pollution), insurance deductible fees, pots purchased, line and other gear purchases, pounds and cost of bait by species, gallons and cost of fuel, lubrication and hydraulic fluids, food and provisions for crew, other crew costs, freight costs of supplies shipped to you for the vessel, freight costs for landed crab, storage, observer costs, fish taxes, other crab-specific costs (specify), and fishing cooperative costs.

(vii) Vessel-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment (city and state where purchased); R&M expenses for vessel, gear and equipment (city and state where repairs were made); and other vessel-specific costs (specify).

(viii) Labor payment details.

(A) Indicate with an "X" in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the total revenue before calculating the crew payments in BSAI crab fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, IFQ leases, freight, gear loss, and other (specify);

(B) Indicate percentage of the net share that is applied to boat share and crew share (including captain).

(ix) Annual totals for all fisheries. For the calendar year, record the total days at sea, gross revenue, round pounds caught (excluding discards), and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(c) Catcher/processor historical EDR.

(1) Requirement.

Any owner or leaseholder of a catcher/processor that harvested or processed BSAI crab in the calendar years 1998, 2001, or 2004 must submit to the DCA, at the address provided on the form, an EDR for historical data for each of the specified calendar years, if they:

(i) Received an allocation of QS, PQS, IFQ, or IPQ under this program;

(ii) Did not qualify for and receive QS, PQS, IFQ, or IPQ, but are participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) Time limit.

Any owner or leaseholder of the catcher/processor described in paragraph (c)(4)(ii)(B) of this section must submit the historical EDR to the DCA by June 30, 2005, at the address provided on the form.

(3) Instructions.

Instructions for submitting a catcher/processor historical EDR and certification page are specified in the following table:

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If you were ...	And ...	You must complete and submit ...
(i) The catcher/processor owner described in paragraph (c)(1) of this section	(A) You processed BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004.	Entire EDR for each year that BSAI crab was processed.
	(B) No one processed BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004.	EDR certification pages for each year that no one processed BSAI crab.
	(C) You leased your catcher/processor to another party, and processed no BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004.	(1) EDR certification pages.
		(2) Provide the name, business address, and telephone number of the person to whom you leased the catcher/processor during 1998, 2001, or 2004.
(D) You leased your catcher/processor for a portion of the year to another party, but processed some BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004.	(1) Entire EDR for each year that BSAI crab was processed.	
(2) Provide the name, business address, and telephone number of the person to whom you leased the catcher/processor during 1998, 2001, or 2004.	(ii) The leaseholder described in paragraph (c)(1) of this section	You processed BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004.
		Entire EDR for each year that BSAI crab was processed.

(4) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification page either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. If the owner or leaseholder did not process BSAI crab in 1998, 2001, or 2004, he or she must submit the completed EDR certification pages only, and must attest that he or she meets the conditions exempting him or her from submitting the EDR, by signing and dating the certification pages, for each year of 1998, 2001, or 2004 that this applies.

(ii) The owner or leaseholder must submit the following information on the certification pages;

(A) Calendar year of EDR. Calendar year corresponding to 1998, 2001, or 2004;

(B) Catcher/processor information. Catcher/processor name, USCG documentation number, ADF&G processor code, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) Owner information. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) Designated representative. Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

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(E) Person completing this report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (c)(4)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(5) EDR.

The owner or leaseholder must record the following information on an EDR.

(i) BSAI crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code; dates covered (beginning and ending day, month and year); number of days at sea; number of crab processing days, and number of pots lost (if applicable).

(ii) BSAI crab production. CR fishery code, raw crab pounds, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (yes or no).

(iii) Crab harvesting labor costs. CR fishery code, number of crew earning shares, total crew share payment, and captain's share payment.

(iv) Crab processing labor costs. CR fishery code, number of crew with pay determined by processing work, average number of crab processing positions, and total processing labor payment.

(v) BSAI crab crew residence. For employees that participated in BSAI crab harvesting and processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence;

(B) If state other than Alaska, enter primary state of residence;

(C) If country other than United States, enter primary country of residence;

(vi) BSAI crab custom processing done for you. CR fishery code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(vii) Raw crab purchases from delivering vessels. CR fishery code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(viii) CDQ Crab Costs (leases). CR fishery code, pounds leased, and total cost. If you did not participate in CDQ or IFQ fisheries, indicate N/A.

(ix) Annual BSAI crab sales. Record the following information on crab sales to affiliated entities and to unaffiliated entities: species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(x) BSAI crab-specific vessel costs. Insurance premiums (hull, property and indemnity, and pollution); insurance deductible fees; total of fisheries taxes which includes the Alaska fisheries business tax, Alaska fisheries resource landing tax, SMAA taxes, and other local sales tax on raw fish; pots purchased (quantity and cost); line and other crab fishing gear purchases; bait (by each CR fishery code, species, pounds and cost); fuel (by CR fishery code, gallons and cost); lubrication and hydraulic fluids; food and provisions for crew; other crew costs; processing and packaging materials, equipment and supplies; re-packing costs, broker fees and promotions for BSAI crab sales (by CR fishery code); observer costs (by CR fishery code); freight costs for supplies to the vessel; freight and handling costs for processed crab products from the vessel; product storage; gear storage; and other crab-specific costs (specify).

(xi) Vessel-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment; R&M expenses for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers, and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(xii) BSAI crab custom processing performed for others. CR Fishery code, product code, process code, and processing revenue.

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(xiii) Annual totals for all fisheries. For the calendar year, record the total processing days, total days at sea, gross revenue, finished pounds processed, round pounds caught (excluding discards), and labor costs for your fishing and processing activities in all fisheries in which you participated (crab, groundfish, etc.).

(xiv) Labor payment details.

(A) Indicate with an “X” in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the total revenue before calculating the crew payments in BSAI fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, freight, gear loss, and other (specify).

(B) Indicate percentage of the net share that was applied to boat share and harvesting crew share (including captain).

(C) If processing workers were paid on a share system, indicate percentage of the net share (if applicable) that was applied to processing workers based on product value or net share.

(d) Catcher/processor annual EDR.

(1) Requirement.

On or before May 1 of each year, any owner or leaseholder of a catcher/processor that landed or processed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous calendar year. For the year 2005, the annual EDR is due on or before May 1, 2006.

(2) Instructions.

Instructions for submitting a catcher/processor annual EDR and certification page are specified in the following table:

If you are ...	And ...	You must complete and submit ...
(i) The catcher/processor owner	(A) You processed BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year.	Entire EDR
	(B) No one processed BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year.	EDR certification pages
	(C) You leased all of your IPQ to another party, and processed no BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year.	(1) EDR certification pages
		(2) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year.
(D) You leased portions of your IPQ to another party, but processed some BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year.	(1) Entire EDR	
	(2) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year.	
(ii) The leaseholder described in paragraph (d)(1) of this section	You processed BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year.	Entire EDR

(3) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification pages either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must

attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages.

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(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) Calendar year of EDR. Calendar year for the reporting year;

(B) Catcher/processor information.

Catcher/processor name, USCG documentation number, ADF&G processor code, RCR permit number, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) Owner information. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) Designated representative. Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) Person completing this report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (d)(3)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) EDR.

The owner or leaseholder must record the following information on an EDR.

(i) BSAI Crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code, dates covered (beginning and ending day, month and year), number of days at sea, number of crab processing days, and number of pots lost (if applicable).

(ii) BSAI crab production. CR fishery code, species code, raw crab pounds, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(iii) Harvesting labor costs. Record the following information for crew if they harvest crab only, or harvest and process crab.

(A) Standard crew payment (shares) for non-IFQ contributing crew and/or captains. CR fishery code, number of crew earning shares, total crew share payment, and captain's share payment.

(B) Payments to IFQ-holding crew and/or captains. CR fishery code, number of crew contributing IFQ shares, pounds of IFQ contributed by crew, total payment to crew for IFQ and shares, pounds of IFQ contributed by captain, and payment to captain for IFQ and shares.

(iv) Crab processing labor costs. CR fishery code, number of crew with pay determined by processing work, average number of crab processing positions, and total processing labor payment.

(v) BSAI crab crew residence

(A) Employees with crew license. Record the Alaska Commercial Crew license number or the State of Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number, and location of crew residence (city and state);

(B) Employees without crew license. Record the locations where they reside and the number of employees that are from each residential location as follows:

(1) If Alaska, enter primary city of residence;

(2) If state other than Alaska, enter primary state of residence; or

(3) If country other than United States, enter primary country of residence.

(vi) BSAI crab custom processing done for you. CR fishery code, species code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(vii) Raw crab purchases from delivering vessels. CR fishery code, species code, crab size, crab grade, raw crab pounds purchased, and gross payment.

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(viii) CDQ and IFQ crab costs (leases). For CDQ and IFQ leases enter CR fishery code, species code, pounds leased, and total cost. If you did not participate in CDQ or IFQ fisheries, indicate N/A.

(ix) Annual BSAI crab sales. For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(x) BSAI crab-specific vessel costs. Insurance premiums (hull, property and indemnity, and pollution); insurance deductible fees; total of fisheries taxes which include the Alaska fisheries business tax, Alaska fisheries resource landing tax, SMAA taxes, and other local sales tax on raw fish; pots purchased by city and state (quantity and cost); line and other crab fishing gear purchases by city, state, and cost; bait (by each CR fishery code by city and state, species, pounds, and cost); fuel in gallons and cost by CR fishery code, city and state; lubrication and hydraulic fluids by city and state; food and provisions for crew; other crew costs; processing and packaging materials, equipment and supplies by city and state; re-packing costs; broker fees and promotions for BSAI crab sales (by CR fishery code); observer costs (by CR fishery code); freight costs for products to the vessel; freight and handling costs for processed crab products from the vessel; product storage; gear storage; other crab-specific costs (specify), and fishing cooperative costs.

(xi) Vessel-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment (city and state where purchased); R&M expenses for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(xii) BSAI crab custom processing performed for others. CR fishery code, species code, product code, process code, and processing revenue.

(xiii) Annual totals for all fisheries. For the calendar year, record the total processing days, total

days at sea, gross revenue, finished pounds processed, round pounds caught (excluding discards), and labor costs for your fishing and processing activities in all fisheries in which you participated (crab, groundfish, etc.).

(xiv) Labor payment details.

(A) Indicate with an "X" in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the total revenue before calculating the crew payments in BSAI fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, IFQ leases, freight, gear loss, and other (specify).

(B) Indicate percentage of the net share that is applied to boat share and harvesting crew share (including captain).

(C) If processing workers are paid on a share system, indicate percentage of the net share (if applicable) that is applied to processing workers based on product value or net share.

(e) Stationary floating crab processor (SFCP) historical EDR.

(1) Requirement.

Any owner or leaseholder of an SFCP that processed CR crab in the calendar years 1998, 2001, or 2004 must submit to the DCA, at the address provided on the form, an EDR for historical data for each of the specified calendar years, if they:

(i) Received an allocation of QS, PQS, IFQ, or IPQ under this program;

(ii) Did not qualify for and receive QS, PQS, IFQ, or IPQ, but are participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) Time limit.

Any owner or leaseholder of the SFCP described in paragraph (e)(4)(ii)(B) of this section must submit the historical EDR to the DCA by June 30, 2005, at the address provided on the form.

(3) Instructions.

Instructions for submitting an SFCP historical EDR and certification page are specified in the following table:

If you were ...	And ...	You must complete and submit ...
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(i) The SFCP owner described in paragraph (e)(1) of this section	(A) You processed BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, or 2004.	Entire EDR for each year that BSAI crab was processed.
	(B) No one processed BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, or 2004.	EDR certification pages for each year that no one processed BSAI crab.
	(C) You leased your SFCP to another party, and processed no BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, or 2004.	(1) EDR certification pages
		(2) Provide the name, address, and telephone number of the person to whom you leased the SFCP during 1998, 2001, or 2004.
(D) You leased your SFCP a portion of the time to another party, but processed some BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, or 2004.	(1) Entire EDR for each year that BSAI crab was processed.	
	(2) Provide the name, address, and telephone number of the person to whom you leased the SFCP during 1998, 2001, or 2004.	
(ii) The leaseholder described in paragraph (e)(1) of this section	You operated the SFCP described at paragraph (e)(4)(ii)(B) of this section and processed some BSAI crab during 1998, 2001, or 2004.	Entire EDR for each year that BSAI crab was processed.

(4) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification pages either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. If the owner or leaseholder did not process BSAI crab in 1998, 2001, or 2004, he or she must submit the completed EDR certification pages only, and must attest that he or she meets the conditions exempting him or her from submitting the EDR, by signing and dating the certification pages, for each year of 1998, 2001, or 2004 that this applies.

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) Calendar year of EDR. Calendar years corresponding to 1998, 2001, or 2004;

(B) SFCP information. SFCP name, USCG documentation number, ADF&G processor code, current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) Owner information. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) Designated representative. Any owner or leaseholder may appoint a designated representative, who is an individual for responding to questions on the EDR, and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) Person completing this report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (e)(4)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, business telephone number, facsimile number, and e-mail address (if available).

(5) EDR.

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The owner or leaseholder must record the following information on an EDR.

(i) BSAI Crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) Crab processing labor costs. CR fishery code, average number of crab positions, total man-hours, and total labor payment.

(iii) BSAI Crab crew residence. For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) BSAI crab custom processing done for you. CR fishery code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) Raw crab purchases from delivering vessels. CR fishery code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) Annual BSAI crab sales. Record the following information on crab sales to affiliated entities and to unaffiliated entities: species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) BSAI crab-specific vessel data. Total of fisheries taxes which include the Alaska fisheries

business tax, SMAA taxes, and other local sales tax on raw fish; processing and packaging materials, equipment, and supplies; food and provisions; other costs for direct crab labor; insurance deductible fees; re-packing costs; broker fees and promotions for BSAI crab sales (by CR fishery code); observer costs (by CR fishery code); freight costs for supplies to the vessel; freight and handling costs for processed crab products from the vessel; product storage; and other crab-specific costs (specify).

(viii) Vessel-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment; R&M expenses for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(ix) BSAI crab custom processing performed for others. CR fishery code, product code, process code, and processing revenue.

(x) Annual totals for all fisheries. For the calendar year, record the total processing days, gross revenue, finished pounds processed, and processing labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(f) Stationary floating crab processor (SFCP) annual EDR.

(1) Requirement.

On or before May 1 of each year, any owner or leaseholder of an SFCP that processed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous calendar year. For the year 2005, the annual EDR is due on or before May 1, 2006.

(2) Instructions. Instructions for submitting an SFCP annual EDR and certification page are specified in the following table:

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If you are ...	And ...	You must complete and submit ...
(i) The SFCP owner	(A) You processed BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year.	Entire EDR
	(B) No one processed BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year.	EDR certification pages
	(C) You leased all of your IPQ to another party and processed no BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year.	(1) EDR certification pages
		(2) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year.
(D) You leased a portion of your IPQ to another party, but processed some BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year.	(1) Entire EDR	
	(2) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year.	
(ii) The leaseholder described in paragraph (f)(1) of this section	You operated the SFCP described at paragraph (f)(3)(ii)(B) of this section and processed some BSAI crab during this calendar year.	Entire EDR

(3) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification pages either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages (see paragraph (e)(2) of this section).

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) Calendar year of EDR. Calendar year of the reporting year;

(B) SFCP information. SFCP name, USCG documentation number, ADF&G processor code, RCR permit number, current estimated market value of

vessel and equipment, and replacement value of vessel and equipment.

(C) Owner information. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) Designated representative. Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) Person completing the report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (f)(3)(ii)(C) of this section are the same as the name and address of the

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person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) EDR.

The owner or leaseholder must record the following information on an EDR.

(i) BSAI Crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) Crab processing labor costs. CR fishery code, average number of crab processing positions, total man-hours, and total processing labor payment.

(iii) BSAI Crab employee residence. For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) BSAI crab custom processing done for you. CR fishery code, species code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) Raw crab purchases from delivering vessels. CR fishery code, species code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) Annual BSAI crab sales. For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) BSAI crab-specific vessel costs. Total of fisheries taxes which includes the Alaska fisheries business tax, SMAA taxes, and other local sales tax on

raw fish; processing and packaging materials, equipment and supplies by city and state; food and provisions; other costs for direct crab labor; insurance deductible fees; re-packing costs; broker fees and promotions for BSAI crab sales (by CR fishery code); observer costs (by CR fishery code); freight costs for supplies to the vessel; freight and handling costs for processed crab products from the vessel; product storage; and other crab-specific costs (specify).

(viii) Vessel-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate fuel, electricity, lubrication and hydraulic fluids; capitalized expenditures for vessel, gear and equipment (city and state where purchased); R&M for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(ix) BSAI crab custom processing performed for others. CR fishery code, species code, product code, process code, and processing revenue.

(x) Annual totals for all fisheries. For the calendar year, record the total processing days, gross revenue, finished pounds processed, and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(g) *Shoreside processor historical EDR*.

(1) Requirement.

Any owner or leaseholder of a shoreside processor who processed CR crab in the calendar years 1998, 2001, or 2004 must submit to the DCA, at the address provided on the form, an EDR for historical data for each of the specified calendar years, if they:

(i) Received an allocation of QS, PQS, IFQ, or IPQ under this Program;

(ii) Did not qualify for and receive QS, PQS, IFQ, or IPQ, but are participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) Time limit.

Any owner or leaseholder of the shoreside processor described in paragraph (g)(4)(ii)(B) of this

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section must submit the historical EDR to the DCA by June 30, 2005, at the address provided on the form.

(3) Instructions.

Instructions for submitting a shoreside processor historical EDR and certification page are specified in the following table:

If you were ...	And ...	You must complete and submit ...
(i) The shoreside processor owner described in paragraph (g)(1) of this section	(A) You processed BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004.	Entire EDR for each year that BSAI crab was processed
	(B) No one processed BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004.	EDR certification pages for each year that no one processed BSAI crab.
	(C) You leased your shoreside processor to another party, and processed no BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004.	(1) EDR certification pages
		(2) Provide the name, address, and telephone number of the person to whom you leased the shoreside processor during 1998, 2001, or 2004.
(D) You leased your shoreside processor for a portion of the time to another party, but processed some BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004.	(1) Entire EDR for each year that BSAI crab was processed.	
	(2) Provide the name, address, and telephone number of the person to whom you leased the shoreside processor during 1998, 2001, or 2004.	
(ii) The leaseholder described in paragraph (g)(1) of this section	You operated the plant described at paragraph (g)(4)(ii)(B) of this section and processed some BSAI crab during 1998, 2001, or 2004.	Entire EDR for each year that BSAI crab was processed

(4) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification pages either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. If the owner or leaseholder did not process BSAI crab in 1998, 2001, or 2004, he or she must submit the completed EDR certification pages only, and must attest that he or she meets the conditions exempting him or her from submitting the EDR, by signing and dating the certification pages for each year of 1998, 2001, or 2004 that this applies;

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(ii) Required information. The owner or leaseholder must submit the following information on the certification pages:

(A) Calendar year of EDR. Calendar years corresponding to 1998, 2001, or 2004;

(B) Shoreside processor information. Shoreside processor name, ADF&G processor code, physical location of land-based plant (street address, city, state, zip code), borough assessed value of plant and equipment, year assessed, and current estimated market value of plant and equipment;

(C) Owner information. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available);

(D) Designated representative. Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) Person completing the report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing the report, check the correct box. If the name and address of the owner provided in paragraph (g)(4)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(5) EDR.

The owner or leaseholder must record the following information on an EDR.

(i) BSAI crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) Crab processing labor costs. CR fishery code, average number of crab processing positions, total man-hours, and total processing labor payment.

(iii) BSAI Crab crew residence. For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) BSAI crab custom processing done for you. CR fishery code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) Raw crab purchases from delivering vessels. CR fishery code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) Annual BSAI crab sales. For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) BSAI crab-specific plant costs. Total fisheries taxes which include the Alaska fisheries business tax, SMAA taxes, and other local sales tax on raw fish; processing and packaging materials, equipment and supplies; food and provisions; other costs for direct crab labor; insurance deductible fees; re-packing costs, broker fees and promotions for BSAI crab sales by CR fishery code; observer costs by CR fishery code; freight costs for supplies to the plant; freight and handling costs for processed crab products from the plant; product storage; water, sewer, and waste disposal; and other crab specific costs (specify).

(viii) Plant-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all vessel activities: fuel, electricity, lubrication, and hydraulic fluids; capitalized expenditures for plant, and equipment; R&M for existing plant and equipment; number of employees and salaries for foremen, managers and other

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employees not included in direct labor costs; and other plant-specific costs (specify).

(ix) BSAI crab custom processing done for others. CR fishery code, product code, process code, and processing revenue.

(x) Annual totals for all fisheries. For the calendar year, record the total processing days, gross revenue, finished pounds processed, and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(h) Shoreside processor annual EDR.

(1) Requirement.

On or before May 1 of each year, any owner or leaseholder of a shoreside processor that processed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous year. For the year 2005, the annual EDR is due on or before May 1, 2006.

(2) Instructions.

Instructions for submitting a shoreside processor annual EDR and certification page are specified in the following table:

If you are ...	And ...	You must complete and submit ...
(i) The shoreside processor owner	(A) You processed BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year.	Entire EDR
	(B) No one processed BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year.	EDR certification pages
	(C) You leased all of your IPQ to another party, and processed no BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year.	(1) EDR certification pages
		(2) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year.
(D) You leased portions of your IPQ to another party, but processed some BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year.	(1) Entire EDR	
	(2) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year.	
(ii) The leaseholder described in paragraph (h)(1) of this section	You operated the plant described at paragraph (h)(3)(ii)(B) of this section and processed some BSAI crab during this calendar year.	Entire EDR

(3) EDR certification pages.

(i) The owner or leaseholder must submit the EDR certification pages either:

(A) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) As a separate document. The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages.

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) Calendar year of EDR. Calendar year for the reporting year;

(B) Shoreside processor information. Shoreside processor name, RCR permit number, ADF&G processor code, physical location of land-based plant (street address, city, state, zip code), borough assessed value of plant and equipment, current estimated market value of plant and equipment, and year assessed.

(C) Owner information. Name of company, partnership, or sole proprietorship and business

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telephone number, facsimile number, and e-mail address (if available);

(D) Designated representative. Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) Person completing the report.

(1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(2) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (h)(3)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(3) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) EDR.

The owner or leaseholder must record the following information on an EDR.

(i) BSAI Crab activity chart. Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) Crab processing labor costs. CR fishery code, average number of crab processing positions, total man-hours, and total processing labor payment.

(iii) BSAI Crab employee residence. For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) BSAI crab custom processing done for you. CR fishery code, species code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) Raw crab purchases from delivering vessels. CR fishery code, species code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) Annual BSAI crab sales. For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) BSAI crab-specific plant costs. Total of fisheries taxes which include the Alaska fisheries business tax, SMAA taxes, and other local sales tax on raw fish; processing and packaging materials, equipment and supplies by city and state; food and provisions; other costs for direct crab labor; insurance deductible fees; re-packing costs; broker fees and promotions for BSAI crab sales by CR fishery code; observer costs by CR fishery code; freight costs for supplies to the plant; freight and handling costs for processed crab products from the plant; product storage; water, sewer, and waste disposal; and other crab specific costs (specify).

(viii) Plant-specific costs. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an "X" in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all **plant** activities: fuel, electricity, lubrication, and hydraulic fluids; capitalized expenditures for plant and equipment by city and state; R&M for existing plant and equipment by city and state; number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other plant-specific costs (specify).

(ix) BSAI crab custom processing performed for others. CR fishery code, species code, product code, process code, and processing revenue.

(x) Annual totals for all fisheries. For the calendar year, record the total processing days, gross revenue, finished pounds processed, and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

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(i) Verification of data.

(1) The DCA shall conduct verification of information with the owner or leaseholder.

(2) The owner or leaseholder must respond to inquiries by the DCA within 20 days of the date of issuance of the inquiry.

(3) The owner or leaseholder must provide copies of additional data to facilitate verification by the DCA. The DCA auditor may review and request copies of additional data provided by the owner or leaseholder, including but not limited to: previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data.

(j) DCA authorization.

The DCA is authorized to request voluntary submission of economic data specified in this section from persons who are not required to submit an EDR under this section.

Administrative Management and Executive Secretariat

NAO 216-100

PROTECTION OF CONFIDENTIAL FISHERIES STATISTICS Eff: 7/18/94; Iss: 7/26/94

SECTION 1. PURPOSE.

. 01 This Order:

- a. prescribes policies and procedures for protecting the confidentiality of data submitted to and collected by the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) as authorized or required by law;
- b. informs authorized users of their obligations for maintaining the confidentiality of data received by NMFS;
- c. provides for operational safeguards to maintain the security of data; and
- d. states the penalties provided by law for disclosure of confidential data.

SECTION 2. SCOPE.

This Order covers all confidential data received, collected, maintained, or used by NMFS.

SECTION 3. DEFINITIONS.

. 01 **Access to data** means the freedom or ability to use data, conditioned by a statement of nondisclosure and penalties for unauthorized use.

. 02 **Aggregate or summary form** means data structured so that the identity of the submitter cannot be determined either from the present release of the data or in combination with other releases.

. 03 **Agreement** refers to all binding forms of mutual commitment under a stated set of conditions to achieve a specific objective.

. 04 **Assistant Administrator** means the Assistant Administrator for Fisheries, NOAA, or a designee authorized to have access to confidential data.

. 05 **Authorized Use/User.**

a. **Authorized use** is that specific use authorized under the governing statute, regulation, order, contract or agreement.

b. An **authorized user** is any person who, having the need to collect or use confidential data in the performance of an official activity, has read this Order and has signed a statement of nondisclosure affirming the user's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and disclosure.

. 06 **Confidential data** means data that are identifiable with any person, accepted by the Secretary, and prohibited by law from being disclosed to the public. The term "as used" does not convey data sensitivity for national security purposes [See Executive Order (E.O.) 12356 dated April 2, 1982].

. 07 **Data** refers to information used as a basis for reasoning, discussion, or calculation that a person may submit, either voluntarily or as required by statute or regulation.

. 08 **GC** means the Office of General Counsel, NOAA.

. 09 **Person** means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of such governments, including Regional Fishery Management Councils (Councils).

. 10 **Public** means any person who is not an authorized user.

. 11 **Region** means NMFS Regional field offices, Fisheries Science Centers, and associated laboratories.

. 12 **Source document** means the document, paper, or electronic format on which data are originally recorded.

. 13 **State employee** means any member of a State agency responsible for developing and monitoring the State's program for fisheries or Marine Mammal Protection Act (MMPA) program.

. 14 **Submitter** means any person or the agent of any person who provides data to NMFS either

voluntarily or as required by statute or regulation.

SECTION 4. POLICY.

For data subject to this Order, it is NMFS policy that:

- a. confidential data shall only be disclosed to the public if required by the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, or by court order. Disclosure of data pursuant to a subpoena issued by an agency of competent jurisdiction is a lawful disclosure. Disclosure pursuant to a subpoena must be approved by GC;
- b. individual identifiers shall be retained with data, unless the permanent deletion is consistent with the needs of NMFS and good scientific practice [See Section 6.02c]; and
- c. a notice is required on all report forms requesting data and must comply with 5 U.S.C. 552a(e)(3) and Paperwork Reduction Act requirements in NAO 216-8, Information Collections and Requirements Needing Office of Management and Budget Clearance. [See E.O. 12600 of June 23, 1987, for additional information regarding the rights of submitters to designate commercial confidential data at the time of submission.]

SECTION 5. OPERATIONAL RESPONSIBILITIES.

. 01 The Regional Director of each region (or, in the case of headquarters, each Office Director) has the responsibility to maintain the confidentiality of all data collected, maintained, and disclosed by the respective region.

. 02 Each region shall submit to the Assistant Administrator specific procedures governing the collection, maintenance, and disclosure of confidential data. These documents shall be compiled as regional handbooks following the guidelines and standards:

- a. handbooks are to be developed in detail to ensure the maintenance of confidential data on a functional basis in each region; and
- b. handbooks shall be coordinated through the National Data Management Committee (a NMFS group established by the Assistant Administrator to develop data management policies and procedures) and reviewed annually. The regional handbooks will address, at minimum, the contents of Sections 6-7.

SECTION 6. PROCEDURES.

. 01 **Data Collection.** To collect data, the Secretary may use Federal employees, contractor employees, or, pursuant to an agreement, State employees.

a. General Requirements.

1. Personnel authorized to collect Federal data must maintain all documents containing confidential data in secure facilities; and
2. may not disclose confidential data, whether recorded or not, to anyone not authorized to receive and handle such data.

b. Specific Requirements.

1. Each Federal or contractor employee collecting or processing confidential data will be required to read, date, and sign a statement of nondisclosure, that affirms the employee's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and disclosure of the data. Upon signature, the employee's name will be placed on record as an "authorized user," and the employee will be issued certification.
2. Data collected by a contractor must be transferred timely to authorized Federal employees; no copies of these data may be retained by the contractor. NMFS may permit contractors to retain aggregated data. A data return clause shall be included in the agreement. All procedures applicable to Federal employees must be followed by contractor employees collecting data with Federal authority.
3. Under agreements with the State, each State data collector collecting confidential data will sign a statement at least as protective as the one signed by Federal employees, which affirms that the signer understands the applicable procedures and regulations and the penalties for unauthorized disclosure.

.02 Maintenance.

- a. Maintenance is defined as the procedures required to keep confidential data secure from the time the source documents are received by NMFS to their ultimate disposition, regardless of format. [See National Institute of Standards and Technology "Computer Security Publications, List 91" for guidance.]
- b. Specific procedures in regional handbooks must deal with the following minimum security requirements, as well as any others that may be necessary because of the specific data, equipment, or physical facilities:
 1. the establishment of an office or person responsible for evaluating requests for access to data;

2. the identifications of all persons certified as authorized users. These lists shall be kept current and reviewed on an annual basis;
 3. the issuance of employee security rules that emphasize the confidential status of certain data and the consequences of unauthorized removal or disclosure;
 4. the description of the security procedures used to prevent unauthorized access to and/or removal of confidential data;
 5. the development of a catalog/inventory system of all confidential data received including: the type of source document; the authority under which each item of data was collected; any statutory or regulatory restriction(s) which may apply; and routing from the time of receipt until final disposition; and
 6. The development of an appropriate coding system for each set of confidential data so that access to data that identifies, or could be used to identify, the person or business of the submitter is controlled by the use of one or more coding system(s). Lists that contain the codes shall be kept secure.
- c. The permanent deletion of individual identifiers from a database shall be addressed on a case-by-case basis. Identifiers may only be deleted after:
1. future uses of data have thoroughly been evaluated, e.g., the need for individual landings records for allocating shares under an individual transferable quota program;
 2. consultation with the agency(s) collecting data (if other than NMFS), the relevant Council(s), and NMFS Senior Scientist; and
 3. concurrence by the Assistant Administrator has been received prior to deletion.

.03 Access to Data Subject to This Order.

- a. **General Requirements.** In determining whether to grant a request for access to confidential data, the following information shall be taken into consideration:

1. the specific types of data required;
2. the relevance of the data to the intended uses;
3. whether access will be continuous, infrequent, or one-time;
4. an evaluation of the requester's statement of why aggregate or nonconfidential summaries of data would not satisfy the requested needs; and
5. the legal framework for the disclosure, in accordance with GC and this Order.

- b. **Within NMFS.** NMFS employees requesting confidential data must have certification as being authorized users for the particular type of data requested.

- b. **Councils.** Upon written request by the Council Executive Director:

1. "authorized user" status for confidential data collected under the Magnuson Fishery Conservation and Management Act (Magnuson Act) may be granted to a Council for use by the Council for conservation and management purposes consistent with the approval of the Assistant Administrator as described in 50 CFR 603.5;
2. "authorized user" status for confidential data, collected under the Magnuson Act and MMPA, will be granted to Council employees who are responsible for Fishery Management Plan development and monitoring; and
3. Councils that request access to confidential data must submit, on an annual basis, a copy of their procedures for ensuring the confidentiality of data to the region, or in the case of intercouncil fisheries, regions. The procedures will be evaluated for their effectiveness and, if necessary, changes may be recommended. As part of this procedure, an updated statement of nondisclosure will be included for each employee and member who requires access to confidential data.

d. **States.**

1. Requests from States for confidential data shall be directed in writing to the NMFS office that maintains the source data.
2. Each request will be processed in accordance with any agreement NMFS may have with the State:
 - (a) confidential data collected **solely** under Federal authority will be provided to a State by NMFS only if the Assistant Administrator finds that the State has authority to protect the confidentiality of the data comparable to, or more stringent than, NMFS' requirements; and
 - (b) the State will exercise its authority to limit subsequent access and use of the data to those uses allowed by authorities under which the data was collected.

3. If the State has no agreement with NMFS for the collection and exchange of confidential data, the request shall be treated as a public request and disclosure may be denied subject to FOIA or the Privacy Act.

4. Where a State has entered into a cooperative exchange agreement with another State(s), NMFS will facilitate transfer or exchange of State collected data in its possession if:

- (a) NMFS has written authorization for data transfer from the head of the collecting State agency; and
- (b) the collecting State has provided NMFS a list of authorized users in the recipient State(s); and
- (c) the collecting State agrees to hold the United States Government harmless for any suit that may arise from the misuse of the data.

e. Contractors.

1. Pursuant to an agreement with NMFS, a NMFS contractor (including universities, Sea Grant investigators, etc.) may be granted "authorized user" status consistent with this Order if the use furthers the mission of NMFS.

2. The region will notify the contractor of its decision on access in writing within 30 calendar days after receipt of the request.

3. Contingent upon approval, the contractor will be provided with details regarding conditions of data access, any costs involved, formats, timing, and security procedures. If the request is denied, the reason(s) for denial will be given by the NMFS office involved. The denial will not preclude NMFS consideration of future requests from the contractor.

4. If access is granted, language in the agreement specifically dealing with confidentiality of data will be required. The language shall include all of the relevant portions of this Order and shall prohibit the further disclosure of the data. No data may be retained beyond the termination date of the agreement; and any disclosure of data derived from the accessed confidential data must be approved by NMFS.

5. Each agreement shall be reviewed by GC prior to its execution, and shall, to the extent possible, be consistent with the model agreement contained in Appendix D (Not included --WebEd).

f. Submitters. The Privacy Act allows for data to be released back to the submitter upon receipt and verification of a written request stating the data required.

04. Requests for Confidential Data. NMFS is authorized to collect data under various statutes [See Appendix A (Not include --WebEd)]. Two types of statutes govern the disclosure of confidential data collected by the Federal Government, those that contain specific and non-discretionary language within the Act, and those that provide overall guidance to the Federal Government. Sections of these Acts that deal with exceptions to disclosure may be found in Appendix B (Not included -- WebEd).

a. Magnuson Act and MMPA.

1. Data collected under 16 U.S.C. 1853 (a) or (b), and 16 U.S.C. 1383a (c),(d),(e),(f),or (h) will be handled in the following manner:

(a) data will only be disclosed to Federal employees and Council employees who are responsible for management plan development and monitoring; State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person; a Council for conservation and management purposes [not applicable for MMPA data] or when required by court order. [See 50 CFR 229.10 and part 603];

(b) Council advisory groups are not permitted access to such confidential data [See 50 CFR 601.27(b)];

(c) requests from States that do not have an agreement with the Secretary will be processed in accordance with the Privacy Act or FOIA; and

(d) data collected by an observer under 16 U.S.C. 1853 (a) or (b) are not considered to have been "submitted to the Secretary by any person," and therefore are not confidential under Section 6.04.a of this Order. Data collected by an observer may be withheld from disclosure under the Privacy Act, or subsections (b)(3),(4),(5),(6), or (7) of FOIA.

2. Confidential data submitted to the Secretary under other Sections of the Magnuson Act or MMPA may only be disclosed in accordance with the Privacy Act or FOIA. Types of data and the collection authority may include among others:

(a) Processed Product Data -- 16 U.S.C. 1854(e);

(b) Fish Meal and Oil, Monthly -- 16 U.S.C. 1854(e);

(c) Data Collected Under State Authority and Provided to NMFS -- 16 U.S.C. 1854(e); and

(d) Tuna-Dolphin Observer Program -- 16 U.S.C. 1361 et seq.

b. **South Pacific Tuna Act.** Data collected under South Pacific Tuna Act 16 U.S.C. 973j is protected from disclosure to the public in accordance with section 973j(b).

c. **Other Statutes.** Confidential data collected under other NMFS programs as authorized by statutes other than South Pacific Tuna Act (16 U.S.C 973j), MMPA (16 U.S.C. 1361 et seq.), and Magnuson Act (16 U.S.C. 1801 et seq.), may only be disclosed to the public in accordance with the Privacy Act and FOIA. Types of data and the collection authority may include among others:

- (1) Monthly Cold Storage Fish Report -- 16 U.S.C. 742(a);
- (2) Market News Data -- 16 U.S.C. 742(a); and
- (3) Seafood Inspection Data -- 7 U.S.C. 1621 et seq.

d. Special Procedures.

1. **Cold Storage Summary Reports.** NMFS publishes monthly cold storage holdings of fishery products. Advance knowledge of the content of these reports could give those who trade in the products an opportunity to gain competitive advantage. Therefore, in addition to the confidential protection provided to individual reports, the monthly summary report will not be disclosed to the public until 3:00 p.m. Eastern Time of the official release date. Release dates for these data are published 1 year in advance in November, and can be obtained from the NMFS Fisheries Statistics Division.

2. **Surplus commodity purchases by USDA.** NMFS and the Department of Agriculture (USDA) have an interagency agreement relating to the purchase of surplus fishery products. NMFS is responsible for providing confidential data and recommendations to the USDA regarding these purchases. Advance knowledge of these data could cause a competitive advantage or disadvantage to the general public, fishing industry, and the program. Therefore, all NMFS personnel engaged in the surplus commodity purchase program will be required to sign a specific "USDA Responsibility Statement." A copy will be maintained in the Office of Trade Services.

3. **Agreements for Disclosure of Confidential Data.** A letter of agreement may authorize the disclosure of confidential data when both the Government and the submitter agree to disclosure of the data. The need to provide security for the data will vary depending on the type of data collected and the form of the disclosure. Disclosure can be undertaken if all the following conditions are met:

- (a) the person has agreed in writing to the disclosure and is aware that disclosure is irrevocable;
- (b) the recipient has been informed in writing of the sensitivity of the data; and
- (c) the wording of the agreement has been approved by GC.

.05 Disposal. NAO 205-1, NOAA Records Management Program, shall govern the disposition of records covered under this Order.

SECTION 7. PENALTIES.

.01 **Civil and Criminal.** Persons who make unauthorized disclosure of confidential data may be subject to civil penalties or criminal prosecution under:

- a. Trade Secrets Act (18 U.S.C. 1905);
- b. Privacy Act (5 U.S.C. 552a(i)(1));
- c. Magnuson Act (16 U.S.C. 1858); and
- d. MMPA (16 U.S.C. 1375).

.02 **Conflict of Interest.** Employees are prohibited by Department of Commerce employee conduct regulations [15 CFR part 0] and by ethics regulations applicable to the Executive Branch [5 CFR 2635.703] from using nonpublic information subject to this Order for personal gain, whether or not there is a disclosure to a third party.

.03 **Disciplinary Action.** Persons may be subject to disciplinary action, including removal, for failure to comply with this Order. Prohibited activities include, but are not limited to, unlawful disclosure or use of the data, and failure to comply with implementing regulations or statutory prohibitions relating to the collection, maintenance, use and disclosure of data covered by this Order.

SECTION 8. EFFECT ON OTHER ISSUANCES. None.

SECTION 515 PRE-DISSEMINATION REVIEW & DOCUMENTATION GUIDELINES

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554, aka the Data Quality Act or Information Quality Act) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies.” OMB complied by issuing guidelines which direct each federal agency to 1) issue its own guidelines; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with the OMB 515 Guidelines or the agency guidelines; and 3) report periodically to OMB on the number and nature of complaints received by the agency and how the complaints were handled. The OMB Guidelines can be found at:

<http://www.whitehouse.gov/omb/fedreg/reproducible2.pdf>

The Department of Commerce Guidelines can be found at: <http://www.osec.doc.gov/cio/oipr/iqg.htm>

The NOAA Section 515 Information Quality Guidelines, created with input and reviews from each of the components of NOAA Fisheries, went into effect on October 1, 2002. **The NOAA Information Quality Guidelines are posted on the NOAA home page under “Information Quality.”** <http://www.noaanews.noaa.gov/stories/iq.htm>

The guidelines apply to a wide variety of government information products and all types of media, including printed, electronic, broadcast or other. The guidelines define “Information” as, “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.” For example, this definition includes information that an agency disseminates from a web page. The guidelines define “Dissemination” as, “agency initiated or sponsored distribution of information to the public.” Explicitly **not** included within this term is distribution limited to “government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law.” It also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes. (See the NOAA IQ Guidelines, pgs 5-6).

To assist in Data Quality Act compliance, NOAA Fisheries has established a series of actions that should be completed for each new information product subject to the Data Quality Act. (See “Information Generation and Compliance Documentation” and “Pre-Dissemination Review” below.) **In addition to the information contained in this document, familiarity with the NOAA Section 515 Information Quality Guidelines (<http://www.noaanews.noaa.gov/stories/iq.htm>) is crucial for NOAA Fisheries employees who engage in the generation and dissemination of information.**

Information Generation and Compliance Documentation

- The fundamental step in the process is to create a Sec. 515 Information Quality file for each new information product. To aid in this process, a Section 515 Pre-Dissemination Review and Documentation form has been created. These guidelines are intended to serve as a supplement to the Pre-Dissemination Review and Documentation Form. The basic steps to the documentation process are outlined below.
- Complete general information (e.g., author/responsible office, title/description) section of the form.
- Determine the information category (i.e., original data; synthesized products; interpreted products; hydrometeorological, hazardous chemical spill, and space weather warnings, forecasts, and advisories; experimental products; natural resource plans; corporate and general information). **For most information products, you will only need to check one box.** More complex documents may be an “aggregate” of different categories of information products.
- Generate the information in a way that meets each of the applicable standards for the appropriate information category. See the NOAA Information Quality Guidelines.
- Document how the standards for **utility, integrity and objectivity** are met for each information product, describing what measures were taken to meet each of the applicable standards. Use the 2 page Pre-Dissemination Review & Documentation Form to document compliance with the Utility and Integrity standards contained in NOAA’s Information Quality Guidelines. The Utility and Integrity standards pertain to all categories of information disseminated by NOAA. Use these guidelines (pgs 4-11) to document compliance with the applicable objectivity standards for your information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.
- Maintain the Sec. 515 Information Quality file in a readily accessible place. [Pre-Dissemination Review](#)
- Before information is disseminated, it must be reviewed for compliance with the NOAA Sec. 515 Information Quality Guidelines. This is accomplished by reviewing the information and the Sec. 515 Information Quality file.
- The Pre-Dissemination Review should be conducted during the normal course of clearing the information product for release. The person conducting the Pre-Dissemination Review will sign and date the Pre-Dissemination Review & Documentation Form. The reviewing official must be at least one level above the person generating the information product.
- The Pre-Dissemination Review form and the supporting information quality documentation must accompany the information product through the clearance process and be maintained on file.

Completing the Section 515 Pre-Dissemination Review & Documentation Form

Using the Section 515 Pre-Dissemination Review & Documentation Form and these guidelines, document how the information product meets the

following standards for **Utility, Integrity and Objectivity**. **Please note:** Use the Pre-Dissemination Review & Documentation Form to document how the information product complies with the Utility and Integrity standards that pertain to all categories of information products. The Utility and Integrity standards are presented here for your convenience. Use these guidelines to explain how the information product meets the applicable Objectivity standards for the information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.

I. Utility of Information Product

Utility means that disseminated information is useful to its intended users. "Useful" means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use.

- A. Is the information helpful, beneficial or serviceable to the intended user? Explain.
- B. Who are the intended users of the data or information product? (e.g., the American public; other federal agencies; state and local governments; recreational concerns; national and international organizations). Is this data or information product an improvement over previously available information? Is it more detailed or current? Is it more useful or accessible to the public? Has it been improved based on comments or interactions with users?
- C. What media are used in the dissemination of the information? Printed publications? CD-ROM? Internet?
Is the product made available in a standard data format?
Does it use consistent attribute naming and unit conventions to ensure that the information is accessible to a broad range of users with a variety of operating systems and data needs?

II. Integrity of Information Product

Integrity refers to security - the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. Prior to dissemination, NOAA information, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. **Please note: all electronic information disseminated by NOAA adheres to the standards set forth in paragraph A below. If the information product is disseminated electronically, simply circle paragraph II(A) on the form.** You may also contact your IT Manager for further information.

Explain (circle) how the information product meets the following standards for integrity:

- A. All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, "Security of Automated Information Resources," OMB Circular A-130; the Computer Security Act; and the Government Information Security Reform Act.
- B. If information is confidential, it is safeguarded pursuant to the Privacy Act and Titles 13, 15, and 22 of the U. S. Code (confidentiality of census, business and financial information).
- C. Other/Discussion
(e.g., 50 CFR 600, Subpart E, Confidentiality of Statistics of the Magnuson-Stevens Fishery Conservation and Management Act; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act.)

III. Objectivity of Information Product

(1) Indicate which one of the following categories of information products apply for this product (check one):

- Original Data - go to Section A
- Synthesized Products - go to Section B
- Interpreted Products - go to Section C
- Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories - go to Section D
- Experimental Products - go to Section E
- Natural Resource Plans - go to Section F
- Corporate and General Information - go to Section G

(2) Describe how this information product meets the applicable objectivity standards.

General Standard: Information is presented in an accurate, clear, complete, and unbiased manner, and in proper context. The substance of the information is accurate, reliable, and unbiased; in the scientific, financial or statistical context, original and supporting data are generated and the analytical results are developed using sound, commonly accepted scientific and research methods. "Accurate" means that information is within an acceptable degree of imprecision or error appropriate to the particular kind of information at issue and otherwise meets commonly accepted scientific, financial and statistical standards.

If the information is "influential," that is, it is expected to have a genuinely clear and substantial impact on major public policy and private sector decisions, it is noted as such and it is presented with the highest degree of transparency. If influential information constitutes an assessment of risks to human health, safety or the environment, indicate whether the risk assessment was qualitative or quantitative, and describe which SDWA-adapted quality standards at page 9 of NOAA's Section 515 Information Quality Guidelines were applied to the information product.

Use of third party information in the product (information not collected or generated by NOAA) is only done when the information is of known quality and consistent with NOAA's Section 515 Guidelines; any limitations, assumptions, collection methods, or uncertainties concerning the information are taken into account and disclosed.

Specific Standards: Specific objectivity standards for categories of information products disseminated by NOAA are listed below. Document how the general and specific objectivity standards for the particular information product were met.

A. Original Data

Original Data are data in their most basic useful form. These are data from individual times and locations that have not been summarized or processed to higher levels of analysis. While these data are often derived from other direct measurements (e.g., spectral signatures from a chemical analyzer, electronic signals from current meters), they represent properties of the environment. These data can be disseminated in both real time and retrospectively. Examples of original data include buoy data, survey data (e.g., living marine resource and hydrographic surveys), biological and chemical properties, weather observations, and satellite data.

Objectivity of original data is achieved using sound quality control techniques.

Detail how the data collection methods, systems, instruments, training, and/or tools are appropriate to meet the requirements of the intended users.

Were the methods, systems, instruments, etc., validated before use?

Were standard operating procedures (SOPs) followed for time series data collections? If not, document the valid scientific reasons for the deviation.

Document the quality control techniques used, for example:

- Gross error checks for data that fall outside of physically realistic ranges (e.g., a minimum, maximum or maximum change)
- Comparisons made with other independent sources of the same measurement
- Examination of individual time series and statistical summaries
- Application of sensor drift coefficients determined by a comparison of pre- and post-deployment calibrations
- Visual inspection of data

Describe any evolution and/or improvements in survey techniques, instrument performance and/or data processing.

Have metadata record descriptions and explanations of the methods and quality controls to which original data are subjected been included in the disseminated product? If not, they must be made available upon request.

B. Synthesized Products

Synthesized Products are those that have been developed through analysis of original data. This includes analysis through statistical methods; model interpolations, extrapolations, and simulations; and combinations of multiple sets of original data.

While some scientific evaluation and judgment is needed, the methods of analysis are well documented and relatively routine.

Examples of synthesized products include summaries of fisheries landings statistics, weather statistics, model outputs, data display through Geographical Information System techniques, and satellite-derived maps.

The objectivity of synthesized products is achieved by using data of known quality, applying sound analytical techniques, and reviewing the products or processes used to create them before dissemination. For synthesized products, please document the following:

Identify data sources (preferred option) or be prepared to make them available upon request.

Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities?

Are the methods used to create the synthesized product published in standard methods manuals or generally accepted by the relevant scientific and technical communities? Are the methods documented in readily accessible formats by the disseminating office?

Describe the review process used to ensure the validity of the synthesized product or the procedures used to create them, e.g., statistical procedures, models, or other analysis tools.

If the synthesized product is unique or not regularly produced, was this product reviewed by internal and/or external experts?

If this is a routinely produced synthesized product, was the process for developing the product reviewed by internal and/or external experts?

Does the synthesized product include information about the methods used to create the product? If not, the methods must be made available upon request.

C. Interpreted Products

Interpreted Products are those that have been developed through interpretation of original data and synthesized products. In many cases, this information incorporates additional contextual and/or normative data, standards, or information that puts original data and synthesized products into larger spatial, temporal, or issue contexts. This information is subject to scientific interpretation, evaluation, and judgment. Examples of interpreted products include journal articles, scientific papers, technical reports, and production of and contributions to integrated assessments.

Objectivity of interpreted products is achieved by using data of known quality or from sources acceptable to the relevant scientific and technical communities and reliable supporting products, applying sound analytical techniques, presenting the information in the proper context, and reviewing the products before dissemination.

Are all data and information sources identified or properly referenced?

Are the methods used to create the interpreted product generally accepted by the relevant scientific and technical communities?

Is information concerning the quality and limitations of the interpreted product provided to help the user assess the suitability of the product for the user's application?

Describe the review process used to ensure that the product is valid, complete, unbiased, objective and relevant. For example, peer reviews, ranging from internal peer review by staff who were not involved in the development of the product to formal, independent, external peer review. The review should be conducted at a level commensurate with the importance of the interpreted product.

Does the interpreted product include a description of the methods used to create the product? If not, they must be made available upon

request.

D. Hydrometeorological, Hazardous Chemical Spill, and Space Weather

Warnings, Forecasts, and Advisories

Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories are time-critical interpretations of original data and synthesized products, prepared under tight time constraints and covering relatively short, discrete time periods. As such, these warnings, forecasts, and advisories represent the best possible information in given circumstances. They are subject to scientific interpretation, evaluation, and judgment. Some products in this category, such as weather forecasts, are routinely prepared. Other products, such as tornado warnings, hazardous chemical spill trajectories, and solar flare alerts, are of an urgent nature and are prepared for unique circumstances.

Objectivity of information in this category is achieved by using reliable data collection methods and sound analytical techniques and systems to ensure the highest possible level of accuracy given the time critical nature of the products.

What is the source of the data or information used in the product? Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities? Are the sources included in the information product? If not, they must be made available upon request. Are the methods used to create the product generally accepted by the relevant scientific and technical communities?

Please note if individual best judgment was used due to the time-critical nature of the product.

What mechanisms were used to evaluate the accuracy of the information product? Statistical analysis may be carried out for a subset of products for verification purposes.

E. Experimental Products

Experimental products are products that are experimental (in the sense that their quality has not yet been fully determined) in nature, or are products that are based in part on experimental capabilities or algorithms. Experimental products fall into two classes.

They are either (1) disseminated for experimental use, evaluation or feedback, or (2) used in cases where, in the view of qualified scientists who are operating in an urgent situation in which the timely flow of vital information is crucial to human health, safety, or the environment, the danger to human health, safety, or the environment will be lessened if every tool available is used. Examples of experimental products include imagery or data from non-NOAA sources, algorithms currently being tested and evaluated, experimental climate forecasts, and satellite imagery processed with developmental algorithms for urgent needs (e.g., wildfire detection).

Objectivity of experimental products is achieved by using the best science and supporting studies available, in accordance with sound and objective scientific practices, evaluated in the relevant scientific and technical communities, and peer-reviewed where feasible.

Describe the science and/or supporting studies used, the evaluation techniques used, and note any peer-review of the experimental product. Were the results of initial tests or evaluations made available where possible? Describe the review, by the appropriate NOAA unit, of the experimental products and capabilities documentation, along with any tests or evaluations.

Are explicit limitations provided concerning the quality of the experimental product? Is the degree of uncertainty indicated?

Describe the testing process used, e.g., the experimental product or capabilities are used only after careful testing, evaluation, and review by NOAA experts, and then are approved for provisional use only by selected field offices or other NOAA components. This process is repeated as needed to ensure an acceptable and reliable level of quality.

F. Natural Resource Plans

Natural Resource Plans are information products that are prescribed by law and have content, structure, and public review processes (where applicable) that will be based upon published standards, e.g., statutory or regulatory guidelines. Examples of such published standards include the National Standard Guidelines (50 CFR Part 600, Subpart D), Essential Fish Habitat Guidelines, and Operational Guidelines - Fishery Management Plan Process, all under the Magnuson-Stevens Fishery Conservation and Management Act; and the National Marine Sanctuary Management Plan Handbook (16 U.S.C. section 1434) under the National Marine Sanctuary Act. These Natural Resource Plans are a composite of several types of information (e.g., scientific, management, stakeholder input, and agency policy) from a variety of internal and external sources. Examples of Natural Resources Plans include fishery, protected resource, and sanctuary management plans and regulations, and natural resource restoration plans.

Objectivity of Natural Resource Plans will be achieved by adhering to published standards, using information of known quality or from sources acceptable to the relevant scientific and technical communities, presenting the information in the proper context, and reviewing the products before dissemination.

What published standard(s) governs the creation of the Natural Resource Plan? Does the Plan adhere to the published standards? (See the NOAA Sec. 515 Information Quality Guidelines, Section II(F) for links to the published standards for the Plans disseminated by NOAA.)

Was the Plan developed using the best information available? Please explain.

Have clear distinctions been drawn between policy choices and the supporting science upon which they are based? Have all supporting materials, information, data and analyses used within the Plan been properly referenced to ensure transparency?

Describe the review process of the Plan by technically qualified individuals to ensure that the Plan is valid, complete, unbiased, objective and relevant. For example, internal review by staff who were not involved in the development of the Plan to formal, independent, external peer review. The level of review should be commensurate with the importance of the Plan and the constraints imposed by legally enforceable deadlines.

G. Corporate and General Information

Corporate or general information includes all non-scientific, non-financial, non-statistical information. Examples include program and organizational descriptions, brochures, pamphlets, education and outreach materials, newsletters, and other general descriptions of NOAA operations and capabilities.

Corporate and general information disseminated by NOAA must be presented in a clear, complete, and unbiased manner, and in a context that enhances usability to the intended audience. To the extent possible, identify the sources of the disseminated information, consistent with confidentiality, privacy and security considerations and protections, and taking into account timely presentation, the medium of dissemination, and the importance of the information, balanced against the resources required and the time available.

Information disseminated by NOAA is reliable and accurate to an acceptable degree of error as determined by factors such as the importance of the information, the intended use, time sensitivity, expected degree of permanence, relation to the primary mission(s) of the disseminating office, and the context of the dissemination, balanced against the resources required and the time available.

For non-scientific, non-statistical information, has the information product been reasonably determined to be factually correct in the view of the disseminating office as of the time of dissemination?

Describe the review process for the information product. Review can be accomplished in a number of ways, including but not limited to combinations of the following:

- Active personal review of information by supervisory and management layers, either by reviewing each individual dissemination, or selected samples, or by any other reasonable method.
- Use of quality check lists, charts, statistics, or other means of tracking quality, completeness, and usefulness.
- Process design and monitoring to ensure that the process itself imposes checks on information quality .
- Review during information preparation.
- Use of management controls.
- Any other method, which serves to enhance the accuracy, reliability and objectivity of the information.

COMMUNITY ORIENTED POLICING SERVICES

(RESCISSION)

Of the unobligated balances available under this heading, \$6,378,000 are rescinded.

JUVENILE JUSTICE PROGRAMS

(RESCISSION)

Of the unobligated balances available under this heading, \$15,900,000 are rescinded.

DEPARTMENT OF COMMERCE AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

(RESCISSION)

Of the appropriations made available for travel and tourism by section 210 of Public Law 108–7, \$40,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

COASTAL AND OCEAN ACTIVITIES

(RESCISSION)

Of the appropriations made available for coastal and ocean activities by Public Law 106–553, \$2,500,000 are rescinded.

TITLE VIII—ALASKAN FISHERIES

SEC. 801. BERING SEA AND ALEUTIAN ISLANDS CRAB RATIONALIZATION. Section 313 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as amended, is further amended by adding at the end thereof the following:

16 USC 1862.

“(j) BERING SEA AND ALEUTIAN ISLANDS CRAB RATIONALIZATION.—

Deadline.

“(1) By not later than January 1, 2005, the Secretary shall approve and hereafter implement by regulation the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands approved by the North Pacific Fishery Management Council between June 2002 and April 2003, and all trailing amendments including those reported to Congress on May 6, 2003. This section shall not preclude the Secretary from approving by January 1, 2005, and implementing any subsequent program amendments approved by the Council.

“(2) Notwithstanding any other provision of this Act, in carrying out paragraph (1) the Secretary shall approve all parts of the Program referred to in such paragraph. Further, no part of such Program may be implemented if, as approved by the North Pacific Fishery Management Council, individual fishing quotas, processing quotas, community development

quota allocation, voluntary cooperatives, binding arbitration, regional landing and processing requirements, community protections, economic data collection, or the loan program for crab fishing vessel captains and crew members, is invalidated subject to a judicial determination not subject to judicial appeal. If the Secretary determines that a processor has leveraged its Individual Processor Quota shares to acquire a harvesters open-delivery “B shares”, the processor’s Individual Processor Quota shares shall be forfeited.

“(3) Subsequent to implementation pursuant to paragraph (1), the Council may submit and the Secretary may implement changes to or repeal of conservation and management measures, including measures authorized in this section, for crab fisheries of the Bering Sea and Aleutian Islands in accordance with applicable law, including this Act as amended by this subsection, to achieve on a continuing basis the purposes identified by the Council.

“(4) The loan program referred to in paragraph (2) shall be carried out pursuant to the authority of sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f, 1279g).

“(5) For purposes of implementing this section \$1,000,000 shall be made available each year until fully implemented from funds otherwise made available to the National Marine Fisheries Service for Alaska fisheries activities.

“(6) Nothing in this Act shall constitute a waiver, either express or implied, of the antitrust laws of the United States. The Secretary, in consultation with the Department of Justice and the Federal Trade Commission, shall develop and implement a mandatory information collection and review process to provide any and all information necessary for the Department of Justice and the Federal Trade Commission to determine whether any illegal acts of anti-competition, anti-trust, or price collusion have occurred among persons receiving individual processing quotas under the Program. The Secretary may revoke any individual processing quota held by any person found to have violated a provision of the antitrust laws of the United States.

“(7) An individual processing quota issued under the Program shall be considered a permit for the purposes of sections 307, 308, and 309, and may be revoked or limited at any time in accordance with this Act. Issuance of an individual processing quota under the program shall not confer any right of compensation to the holder of such individual processing quota if it is revoked or limited and shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is purchased from an individual fishing quota holder.

“(8) The restriction on the collection of economic data in section 303 shall not apply with respect to any fish processor who is eligible for, or who has received, individual processing quota under the Program. The restriction on the disclosure of information in section 402(b)(1) shall not apply when the information is used to determine eligibility for or compliance with an individual processing quota program.

“(9) The provisions of sections 308, 310, and 311 shall apply to the processing facilities and fish products of any person

Applicability.

holding individual processing quota, and the provisions of subparagraphs (D), (E), and (L) of section 307(l) shall apply to any facility owned or controlled by a person holding individual processing quota.”

Establishment.
16 USC 1851
note.

SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM. The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall: (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; and (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

16 USC 1851
note.
Effective date.

SEC. 803. ALEUTIAN ISLANDS FISHERIES DEVELOPMENT. (a) ALEUTIAN ISLANDS POLLOCK ALLOCATION.—Effective January 1, 2004 and thereafter, the directed pollock fishery in the Aleutian Islands Subarea [AI] of the BSAI (as defined in 50 CFR 679.2) shall be allocated to the Aleut Corporation (incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)). Except with the permission of the Aleut Corporation or its authorized agent, the fishing or processing of any part of such allocation shall be prohibited by section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857), subject to the penalties and sanctions under section 308 of such Act (16 U.S.C. 1858), and subject to the forfeiture of any fish harvested or processed.

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

(c) GROUND FISH OPTIMUM YIELD LIMITATION.—The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. For the purposes of implementing subsections (a) and (b) without adversely affecting current fishery participants, the allocation under subsection (a) may be in addition to such optimum yield during the years 2004 through 2008 upon recommendation by the North Pacific Council

and approval by the Secretary of Commerce (if consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)).

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

SEC. 804. A Council or the Secretary may not consider or establish any program to allocate or issue an individual processing quota or processor share in any fishery of the United States other than the crab fisheries of the Bering Sea and Aleutian Islands.

This division may be cited as the “Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004”.

DIVISION C—DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004

District of
Columbia
Appropriations
Act, 2004.

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, \$17,000,000, to remain available until expended: *Provided*, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to \$2,500 each year at eligible private institutions of higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident’s academic merit, the income and need of eligible students and such other factors as may be authorized: *Provided further*, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: *Provided further*, That the account shall be under the control of the District of

Administrative Procedure Act

The Freedom of Information Act

5 U.S.C. § 552

- UNITED STATES CODE
 - TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES
 - PART I - THE AGENCIES GENERALLY
 - CHAPTER 5 - ADMINISTRATIVE PROCEDURE
 - SUBCHAPTER II - ADMINISTRATIVE PROCEDURE

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public--

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying--

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;

(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if--

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the

operation of the agency's automated information system.

(D) For purposes of this paragraph, the term "search" means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that--

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section--

(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

(II) for any request described in clause (ii)(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a

statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

[(D) Repealed. Pub.L. 98-620, Title IV, § 402(2), Nov. 8, 1984, 98 Stat. 3357]

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall--

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such

request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B)(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular requests--

(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.

(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative

remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term "exceptional circumstances" does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.

(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records--

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure--

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under

paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term "compelling need" means--

(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

(b) This section does not apply to matters that are--

(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E)

would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or (9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information shall be indicated at the place in the record where such deletion is made.

(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and--

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e)(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include--

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(ii) a complete list of all statutes that the agency relies upon to authorize the

agency to withhold information under subsection (b)(3), a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests;

(F) the total amount of fees collected by the agency for processing requests; and

(G) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means.

(3) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(4) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(5) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term--

(1) "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

and

(2) "record" and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including--

- (1) an index of all major information systems of the agency;
- (2) a description of major information and record locator systems maintained by the agency; and
- (3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.

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Page URL: <http://www.archives.gov/federal-register/laws/administrative-procedure/552.html>

The U.S. National Archives and Records Administration
8601 Adelphi Road, College Park, MD 20740-6001 • Telephone: 1-86-NARA-NARA or 1-866-272-6272

Dated: August 30, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-17531 Filed 9-4-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Crab Economic Data Reports (EDRs)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before November 5, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th St. 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 instruments and instructions should be directed to Patsy A. Bearden, 907-586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

National Marine Fisheries Service, Alaska Region (NMFS) manages the crab fisheries in the waters off the coast of Alaska through the Crab Rationalization (CR) Program. The CR Program reallocates Bering Sea and Aleutian Islands (BSAI) crab resources among harvesters, processors, and coastal communities. Section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act authorizes a mandatory data collection program for the fisheries of the CR Program. According to section 313(j)(1), the data from the economic data report (EDR) will be used "to study the impacts of the crab rationalization program," to ensure that the program will achieve "equity between the

harvesting and processing sectors," and to monitor the "economic stability for harvesters, processors and coastal communities."

An EDR is required from any owner or leaseholder of a vessel or processing plant that harvested or processed crab in specified BSAI crab fisheries during the prior calendar year.

II. Method of Collection

The EDRs may be completed on-screen, printed, and submitted by mail, fax, or hand delivery. Four versions of the EDR exist, one each for catcher vessels, catcher/processors, stationary floating crab processors, and shoreside processors. In addition, a Web-based system is available for catcher vessels.

III. Data

OMB Number: 0648-0518.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 187.

Estimated Time per Response: 7 hours and 30 minutes to complete and submit an Annual Catcher Vessel EDR; 12 hours and 30 minutes to complete and submit an Annual Catcher/Processor EDR; 10 hours to complete and submit an Annual Stationary Floating Crab Processor EDR; and 10 hours to complete and submit an Annual Shoreside Processor EDR.

Estimated Total Annual Burden Hours: 5,429.

Estimated Total Annual Cost to Public: \$ 3,307.

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: August 30, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-17534 Filed 9-4-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Region BSAI Crab Permits

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before November 5, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th St. 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 instruments and instructions should be directed to Patsy A. Bearden, 907-586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, National Marine Fisheries Service (NMFS), Alaska Region manages the crab fisheries, in the waters off the coast of Alaska, under the Fishery Management Plan for Bering Sea and Aleutian Islands Management Area (BSAI) Crab through the Crab Rationalization Program (Program). BSAI crab resources are allocated among harvesters, processors, and coastal communities. This collection-of-information addresses the permits, transfers, and cost recovery procedures for the Program. Implementing regulations may be found at 50 CFR part 680.