

INITIAL REVIEW DRAFT

Regulatory Impact Review for Proposed Amendments to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) and Proposed Amendments to Federal Regulations Implementing Economic Data Reporting Requirements for the Groundfish and Crab Fisheries off Alaska

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Abstract:

This Regulatory Impact Review (RIR) examines the benefits and costs of proposed fishery management plan and regulatory amendments affecting Economic Data Reporting (EDR) programs in the Bering Sea and Aleutian Islands management area (BSAI) crab fisheries, the BS American Fisheries Act (AFA) pollock fishery, the BSAI Amendment 80 fisheries, and the GOA trawl fisheries. The action Alternatives, analyzed in this RIR would potentially (1) revise authorizations for third party data verification audits, (2) eliminate blind data formatting, (3) standardize data aggregation procedures, and (4) remove the GOA Trawl EDR requirements. These potential actions are all amendments to mandatory annual census reporting requirements intended to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government.

List of Acronyms and Abbreviations

Acronym or Abbreviation	Meaning	Acronym or Abbreviation	Meaning
ADF&G	Alaska Department of Fish and Game	NOAA	National Oceanic and Atmospheric Administration
AFA	American Fisheries Act	NPFMC	North Pacific Fishery Management Council
AFSC	Alaska Fisheries Science Center	NPPSD	North Pacific Pelagic Seabird Database
AKFIN	Alaska Fisheries Information Network	Observer Program	North Pacific Observer Program
AKRO	Alaska Regional Office of NMFS	OLE	NMFS Office of Law Enforcement
BSAI	Bering Sea and Aleutian Islands	OMB	Office of Management and Budget
CFR	Code of Federal Regulations	PSMFC	Pacific States Marine Fisheries Commission
CFEC	Alaska Commercial Fisheries Entry Commission	PQS	Processor Quota Share
COAR	Commercial Operators Annual Report	PSC	prohibited species catch
CDQ	Community Development Quota	PPA	Preliminary preferred alternative
Council	North Pacific Fishery Management Council	PRA	Paperwork Reduction Act
CP	catcher/processor	PSEIS	Programmatic Supplemental Environmental Impact Statement
CV	catcher vessel	QS	Quota Share
CPA	Certified Public Accountant	RCR	Registered Crab Receiver
CTR	Compensated Transfer Report	RFA	Regulatory Flexibility Act
CR	Crab Rationalization	RIR	Regulatory Impact Review
DCA	Data Collection Agent	SSPT	Social Sciences Planning Team
DDCA	Designated Data Collection Auditor	SAFE	Stock Assessment and Fishery Evaluation
EDR	Economic Data Report	SAR	stock assessment report
E.O.	Executive Order	SBA	Small Business Act
EEZ	Exclusive Economic Zone	Secretary	Secretary of Commerce
EFH	essential fish habitat	SOW	Statement of Work
EIS	Environmental Impact Statement	TAC	total allowable catch
FMA	Fisheries Monitoring and Analysis	U.S.	United States
FMP	fishery management plan	USCG	United States Coast Guard
FONSI	Finding of No Significant Impact		
FR	<i>Federal Register</i>		
FRFA	Final Regulatory Flexibility Analysis		
ft	foot or feet		
GOA	Gulf of Alaska		
	Individual Processor Quota		
IRFA	Initial Regulatory Flexibility Analysis		
IPA	Incentive Plan Agreement		
lb(s)	pound(s)		
LLP	license limitation program		
LOA	length overall		
m	meter or meters		
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act		
t	tonne, or metric ton		
NAICS	North American Industry Classification System		
NAO	NOAA Administrative Order		
NEPA	National Environmental Policy Act		
NMFS	National Marine Fishery Service		

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Executive Summary

Currently, four Economic Data Report (EDR) data collection programs are in place under regulations published by NMFS Alaska Region Office (AKRO). These programs represent mandatory annual data reporting requirements for regulated entities participating in the BSAI Crab Rationalization (CR) fisheries, the BSAI American Fisheries Act (AFA) pollock fishery, the BSAI Amendment 80 fisheries, and the GOA Trawl fisheries. The purpose of the EDR program is to gather data and information to improve the North Pacific Fishery Management Council's (Council's) ability to analyze the social and economic effects of the catch share or rationalization programs, to understand the economic performance of participants in these programs, and to help estimate impacts of future issues, problems, or proposed revisions to the programs covered by the EDRs.

The action Alternatives, analyzed in this RIR would potentially (1) revise authorizations for third party data verification audits, (2) eliminate blind data formatting, (3) standardize data confidentiality procedures, and (4) remove the GOA Trawl EDR requirements. These potential actions are all amendments to mandatory annual census reporting requirements intended to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government.

The third party data verification audits refer to the audits that the Council recommended as part of the crab EDR program and that NMFS directed Pacific States Marine Fisheries Commission (PSMFC) to conduct in its role as the Data Collection Agent (DCA) in all EDR Programs through mid-2019.

Standardizing data confidentiality procedures refers to revising EDR program regulatory requirements and administrative and analytical protocols related to data confidentiality¹ that are uniquely applied to EDR data, while maintaining the same non-disclosure requirements under federal statutes and administrative rules applied by NMFS Alaska Region for authorized access and use of all confidential fisheries data. Unique requirements currently applied to EDR data include:

Blind data formatting: regulatory restrictions and administrative procedures limiting NMFS personnel and other authorized data users access to information identifying reporting entities in EDR data records, and requiring the DCA to anonymize EDR data records provided to NMFS and other authorized data users by replacing all unique identifiers associated with a data submitter with identifiers that do not reveal the identity of the submitter.

¹ The Council's guideline aggregation standard: requires a minimum of five EDR data records (submitted by unique data submitters) for public release of statistical aggregates (e.g., sums or averages) calculated from EDR data. The standard was endorsed by the Council as informal guidance for analytical users of Crab EDR data, and been applied to all public release of statistical summaries of all EDR data. This is in contrast to the three record minimum standard commonly applied by analysts to other confidential federal fisheries data, noting that a variety of other statistical criteria and minimum thresholds are considered in determinations regarding confidentiality suppression of statistical aggregates.

Purpose and Need

The current EDRs provide valuable information for program evaluation and analysis of proposed conservation and management measures. However, after over ten years of operating the EDR programs, some revisions are needed to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government. Several revisions could be made to EDRs, specifically on the use of third-party audits and “blind-data” protocols that could reduce the cost of the data collection program to the industry and government while still maintaining the integrity and confidentiality of the data collection program.

Several provisions were implemented to provide a higher standard of confidentiality for proprietary business information reported in EDRs, above those that apply to all other confidential fisheries information. In practice, these provisions have proven to reduce the usability of the data for analysis and increase the cost of the data collection programs without providing additional practical protections. In addition, confidentiality requirements that apply to all data collections provide sufficient protections for the EDR data.

The GOA Trawl EDR program implemented in 2015 was designed to collect baseline information to assess the impacts of a future catch share program. Data has been collected under this program for 4 years and another year of data will be submitted in June 2020. The Council should re-evaluate the purpose and need for the GOA trawl EDR, and make adjustments as necessary in either the purpose and need for the program or in the data collection program itself.

Alternatives

The Council adopted the following alternatives for analysis in April of 2019.

Alternative 1: Status Quo

Alternative 2: Make revisions, where needed, in the EDR sections of the crab or groundfish FMPs and in the EDR regulations.

Component 1: Remove any requirements for third party data verification audits under the existing programs and reduce burdens associated with this process.

Component 2: Revise requirements for aggregation of data across submitters and blind formatting in the crab data collection program to make those data aggregation and confidentiality protections comparable to the requirements under other data collection programs.

Component 3: Revise or remove the GOA trawl EDR requirements.

Implications of the Alternatives

Alternatives 1: No Action

EDR language contained in the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (crab FMP), the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) would be unchanged (see appendix A). Regulations implementing the BSAI Crab EDR (680.6), the Amendment 80 EDR (679.94), Chinook salmon bycatch management EDR (679.65), and the Gulf of Alaska Trawl EDR (679.110) would remain unchanged.

Alternative 2: Component 1

Alternative 2, Component 1 would remove the EDR data verification audit authorizations in 50 CFR 679 and 680 and the Crab FMP text of section 14.7 as shown in Appendix A. The regulations define the roles of the Data collection agent (DCA) and the Dedicated data collection auditor (DDCA) and state that “the DCA shall...” (680.6), or “NMFS, the DCA, or the DDCA will...” (679 subsections 65, 94, and 110) “conduct verification of information with [a person required to submit the applicable EDR or a designated representative]”. In the subsections that follow this *shall* direction to the DCA, the regulations require the EDR submitter to respond to inquiries from the DCA within 20 days, require the submitter to provide supporting records to the DCA as requested, and authorize the DCA *auditor* to review the records for the purpose of substantiating values reported in the EDR.² The Council’s intent for the verification process, and of the third-party audit in that process, is not explicitly stated in the regulations, and authorizes rather than directs that data verification is accomplished by auditor review of supporting records.

Alternative 2 Component 2

In addition to data confidentiality requirements that apply to other categories of confidential fisheries Alternative 2, Component 1 would remove the EDR data verification audit authorizations in 50 CFR 679 and 680 and the Crab FMP text of section 14.7 as shown in Appendix A. The regulations state that “the DCA shall...” (680.6), or “NMFS, the DCA, or the DDCA will...” (679 subsections 65, 94, and 110) “conduct verification of information with [a person required to submit the applicable EDR or a designated representative]”. In the subsections that follow this *shall* direction to the DCA, the regulations require the EDR submitter to respond to inquiries from the DCA within 20 days, require the submitter to provide supporting records to the DCA as requested, and authorize the DCA *auditor* to review the records for the purpose of substantiating values reported in the EDR. The Council’s intent for the verification process, and of the third-party audit in that process, is not explicitly stated in the regulations, and authorizes rather than directs that data verification is accomplished by auditor review of supporting records.

In addition to data confidentiality requirements that apply to other categories of confidential fisheries data, the Council has specified additional protocols for EDR data. Implementing regulations in 50 CFR 679 and 680 for GOA Trawl and Crab EDRs, respectively, presently require that the data collection be conducted by a DCA, and presently limits release of un-aggregated EDR data in blind format only.³ Alternative 2, Component 2, as originally composed, would apply only to the Crab EDR program. Thus Alternative 2, Component 2 would revise regulations to eliminate the requirements of blind data formatting in the Crab EDR programs as identified in Appendix A; however, it would not revise regulations to eliminate the requirements of blind data formatting in the GOA Trawl EDR program.

Under Alternative 2, Component 2 NMFS would also revise data aggregation procedures for EDR data. Due to concerns regarding the sensitivity of proprietary cost data collected in EDRs, the Council requested AFSC to develop enhanced confidential data protocols for EDR data following the initial collection of annual Crab EDRs in 2006. Based on a review of OMB guidance and best practices for nondisclosure control, and after consulting with ADF&G and AKRO staff, it was determined that a

² Under 680.2, “Auditor means an examiner employed by, or under contract to, the data collection agent to verify data submitted in an economic data report.” There is some inconsistency between the 679 and 680 regulations pertaining to NMFS’ access to supporting records and roles of NMFS, the DCA, and the third-party auditor (DDCA) in verification audits; 680.6(f) states the clearest differentiation between the role of the DCA versus the DDCA, and PSMFC’s audit procedures have been developed by AFSC based on the 680.6 specification.

³ Defined in 679.2 and 680.2 as “Blind data means any data collected from an 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, and State of Alaska vessel registration and permit numbers, and by adding in their place a nonspecific identifier.”

minimum aggregation standard of 5 data records would be employed for public disclosure of aggregate statistics reporting EDR results. This is in contrast to the minimum of three records required for all other federal and state sources of North Pacific fishery data. The enhanced protocol has subsequently been applied by the Pacific States Marine Fisheries Commission (PSMFC/AKFIN) and the Alaska Fisheries Science Center (AFSC) to all public release of statistics derived from EDR Program data. In addition, the Alaska Fisheries Information Network (AKFIN) and AFSC follow federal guidelines for primary and secondary cell suppression described in FCSM (2005).

The Council recommended the enhanced protocol as a guideline rather than a formal requirement implemented in EDR regulations, and AFSC has subsequently applied this standard to all public release of statistical summaries using any EDR program data. Under Alternative 2, Component 2, the Council could effectively rescind the previous Council guideline and recommend that the standards applied to other confidential commercial fisheries data be applied to all EDR programs. As this practice is presently a guideline rather than a rule, this action would not require specific regulatory or FMP amendments and the standard data handling procedures are presently authorized under NMFS and Council reciprocal access agreements, MOAs with ADFG and CFEC, and respective agency administrative rules concerning confidential data.⁴

Alternative 2, Component 3

Alternative 2, Component 3 in the Council's April 2019 motion would consider revisions to or complete removal of the GOA Trawl EDR program. The April 2019 Council motion identifies the alternatives considered here as being within Issue 1, FMP and regulatory amendment analysis, and are considered to be straightforward adjustments that can be implemented fairly quickly. The motion also includes a more extensive treatment of Issue 2, review of EDR programs. Issue 2 has been assigned to the Council's Social Sciences Planning Team (SSPT), and the SSPT has begun work on that comprehensive review of the EDR program, which will include consideration of program revisions. Given the ongoing review by the SSPT, the analysts recommend that the Council consider only complete removal of the GOA Trawl EDR program as Alternative 2, Component 3 and consider program revisions in the analysis of any proposed FMP and/or regulatory amendments that may be developed through the SSPT and further Council processes under Issue 2.

Comparison of Alternatives for Decision-making

Each Component would potentially amend FMP text, regulatory text, EDR data collection forms, and operational procedures. The following table identifies what the action would functionally accomplish and then identifies the FMP that would be amended, the regulations that would be amended, whether forms would need to be revised, and what operational procedures would be expected to change. As is shown in the table, removing audit authorizations will require amendment to the Crab FMP, crab regulations (part 680), groundfish regulations (part 679), several forms, and would eliminate the audit process. Eliminating blind data formatting also amends the Crab FMP, crab regulations, and groundfish regulations but does not affect EDR forms and procedurally retains respondent identifiers within the EDR data. Applying existing data handling standards would only affect the Council's guideline and its application in data aggregation but would not require either FMP or regulatory amendments. Eliminating the GOA Trawl EDR would require groundfish regulatory amendments (part 679), eliminate forms, and

⁴ See Confidentiality Of Fisheries Information, Divisional Operating Procedure (DOP) CF-008, ADF&G Division of Commercial Fisheries. <https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+DOP>, NAO 216-100 Protection of Confidential Fisheries Statistics. https://www.corporateservices.noaa.gov/ames/administrative_orders/chapter_216/216-100.html

end the PSMFC data collection process for GOA Trawl EDR; however, groundfish FMP language generally authorizes a data collection program and would be retained.

Table 1 Comparison of the Effects of the Alternatives

	Alternative 1	Alternative 2 Component 1	Alternative 2 Component 2	Alternative 2 Component 2	Alternative 2 Component 3
Action	Status quo. No action.	Remove independent third party audit authorizations	Eliminate blind formatting of EDR data	Apply existing data handling standards to EDR data	Eliminate the GOA Trawl EDR
Crab FMP		✓	✓		
BSAI Groundfish FMP					
GOA Groundfish FMP					
Crab regulations (part 680)		✓	✓		
Groundfish regulations (part 679)		✓	✓		✓
Forms and instructions		✓			✓
Operational procedures	Audits now only in cases of noncompliance	No audits, data verification continues/suspension of audit reports	DCA retains identifiers in EDR data provided to NMFS	Change in Council guidelines	End data collection/PRA process/PSMFC process

Table 2 provides a qualitative comparison of the potential effects of the alternatives on industry costs, programmatic costs, data usage and availability, incentives for compliance, and enforceability of EDR program regulations. Direct cost to industry of independent third party audits has been procedurally reduced to zero under the status quo, as audits will now only occur in cases of noncompliance.

Alternative 2, Component 1 eliminates the authorization for third party audits and, thus, removes the incentive for accurate and timely reporting. Given that the agencies have acted to minimize the burden of independent third party audits, Alternative 2, Component 1 may have negative implications for net national benefits dependent on whether misreporting becomes a problem absent the compliance incentive of independent third party audits.

Alternative 2, Component 2 would eliminate blind formatting of data and the Council guideline of use of the five record confidentiality standard both of which have effectively diminished the usefulness and practical application of the data for analysis of fishery management issues. In addition, by authorizing NMFS personnel to access identifiers in EDR records, eliminating blind formatting under Component 2 Option 1 would facilitate more effective oversight of EDR data verification processes by NMFS staff, particularly if independent third party audits are reduced or eliminated as under Alternative 2, Component 1, and would improve effective enforcement of EDR submission requirements. Thus, Alternative 2, Component 2 provides net benefits to the nation in terms of improving data use and application in the fishery management and Council process as well as improving the potential for effective enforcement.

Alternative 2, Component 3 would eliminate the GOA Trawl EDR. The GOA trawl EDR was established to create a baseline data set intended to be used in developing a bycatch management program; however, bycatch management program development in the GOA trawl fishery has been subsequently suspended by the Council. Thus, the original purpose of and need for this data collection program is not clearly existent and the program does impose compliance costs on industry and programmatic costs generally born by taxpayers. However, the data collected in the GOA Trawl EDR has been used to develop analyses of Council actions and has demonstrated practical value in the fisheries management and Council process. Whether elimination of the GOA Trawl EDR would create net national benefits will be further addressed following review of this analysis by the Council's Scientific and Statistical Committee, the public, and the Council.

Table 2 Summary of Effects of the Alternatives

	Alternative 1	Alternative 2 Component 1	Alternative 2 Component 2	Alternative 2 Component 2	Alternative 2 Component 3
Action	Status quo. No action.	Remove independent third party data audit authorizations	Eliminate blind formatting of EDR data)	Apply existing data handling standards to EDR data	Eliminate the GOA Trawl EDR
Impacts					
Industry cost-direct cost	Procedurally reduced to ease burden	Potential for audit related cost burden eliminated	No change	No change	Reduced
Industry costs-Cost recovery	Procedurally reduced/taxpayer burden remains	Reduced by elimination of programmatic costs	No change	No change	Taxpayer burden reduced
Programmatic cost (NMFS/PSMFC)	Procedurally reduced	reduced	No change	No change	Reduced
Data use and availability	No change	No change	Improved	Improved	Data eliminated
Compliance incentive	Maintained	Eliminated	No change	No change	Compliance need eliminated
Enforceability	Procedurally reduced audits/enforceability inhibited by blind formatting	Potentially reduced	Improved, especially if audits are eliminated or amended	No change	Enforcement need eliminated

1. Introduction

This Regulatory Impact Review (RIR) examines the benefits and costs of proposed fishery management plan and regulatory amendments affecting Economic Data Reporting (EDR) programs in the Bering Sea and Aleutian Islands management area (BSAI) crab fisheries, the BS American Fisheries Act (AFA) pollock fishery, the BSAI Amendment 80 fisheries, and the GOA trawl fisheries. The action Alternatives, Components, and Options analyzed in this RIR would potentially (1) revise authorizations for third party data verification audits, (2) eliminate blind data formatting, (3) standardize data aggregation procedures, and (4) remove the GOA Trawl EDR requirements. These potential actions are all amendments to administrative reporting requirements intended to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government.

The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following Statement from the E.O.:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in E.O. 12866.

This RIR also addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act and some of the requirements of the Regulatory Flexibility Act.⁵

1.1. Statutory Authority

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq.*), the United States has exclusive fishery management authority over all marine

⁵ NMFS Alaska Region has preliminarily determined that none of the alternatives have the potential to have an effect individually or cumulatively on the human environment. This determination is subject to further review and public comment. If this determination is confirmed when a proposed rule is prepared, the proposed action will be categorically excluded from the need to prepare an Environmental Assessment under the National Environmental Policy Act.

fishery resources found within the exclusive economic zone (EEZ). The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the North Pacific Fishery Management Council (Council) has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, the National Marine Fisheries Service (NMFS) is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish.

The groundfish fisheries in the EEZ off Alaska are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). The King and Tanner crab fisheries in the EEZ off Alaska are managed under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). The proposed action under consideration would amend these FMPs and Federal regulations at 50 CFR 679 and 50 CFR 680. Actions taken to amend FMPs or implement regulations governing these fisheries must meet the requirements of applicable Federal laws, regulations, and Executive Orders.

1.2. Purpose and Need

The current EDRs provide valuable information for program evaluation and analysis of proposed conservation and management measures. However, after over ten years of operating the EDR programs, some revisions are needed to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government. Several revisions could be made to EDRs, specifically on the use of third-party audits and “blind-data” protocols that could reduce the cost of the data collection program to the industry and government while still maintaining the integrity and confidentiality of the data collection program.

Several provisions were implemented to provide a higher standard of confidentiality for proprietary business information reported in EDRs, above those that apply to all other confidential fisheries information. In practice, these provisions have proven to reduce the usability of the data for analysis and increase the cost of the data collection programs without providing additional practical protections. In addition, confidentiality requirements that apply to all data collections provide sufficient protections for the EDR data.

The GOA Trawl EDR program implemented in 2015 was designed to collect baseline information to assess the impacts of a future catch share program. Data has been collected under this program for 4 years and another year of data will be submitted in June 2020. The Council should re-evaluate the purpose and need for the GOA Trawl EDR, and make adjustments as necessary in either the purpose and need for the program or in the data collection program itself.

1.3. History of this Action

The Council and the NMFS have implemented four programs in the federally managed groundfish and crab fisheries off Alaska. The EDRs gather various levels of ownership, revenue, cost, vessel operations, and employment information from vessel owners, vessel operators, processors, permit holders, and leaseholders who participate in several of the catch share programs in the North Pacific fisheries. The catch share programs that are subject to some form of EDR requirements are the BSAI Crab Rationalization Program, BSAI Amendment 80, and the Bering Sea (BS) pollock fisheries managed under the American Fisheries Act. In addition, the Council and NMFS also implemented EDR requirements for

the GOA trawl catcher vessels and processors in fisheries not yet managed under a catch share program. For the sake of brevity, the individual EDRs are referred to hereafter as the Crab EDR, A80 EDR, A91 EDR, and GOA Trawl EDR, and are collectively termed the EDR Program.

The following four EDRs are addressed in this RIR:

- BSAI Crab EDR, implemented in 2005 (*Crab EDR*);
- Trawl Catcher/Processor (CP) EDR implemented in 2007 for Amendment 80, and in 2015 for CPs operating in the GOA groundfish fisheries (*A80 EDR*);
- BS Chinook salmon bycatch management program EDR for participants in the BS pollock fishery, implemented in 2012 (*A91 EDR*); and
- GOA trawl EDRs for trawl catcher vessels operating in the GOA and processors taking deliveries from these vessels, implemented in 2015 (*GOA Trawl EDR*).

In general, the purpose of the EDR requirements are to gather information to improve the Council's ability to analyze the economic effects of the catch share or rationalization programs, to understand the economic performance of participants in these programs, and to help estimate impacts of future issues, problems, or proposed revisions to the programs covered by the EDRs. For example, the EDR implemented for GOA trawl catcher vessels and processors not managed under a catch share program was implemented to collect relevant baseline information that could be used to assess the impacts of a future catch share program on affected harvesters, processors, and communities in the GOA (NPFMC, 2014 and 79 FR 71313; December 2, 2014). The BS Chinook salmon bycatch EDR was implemented to provide additional data to assess the effectiveness of the Chinook salmon bycatch management measures in the BS pollock fishery (77 FR 5389; February 3, 2012).

The Council has discussed the current EDR programs since development of the Crab Rationalization Program in the early 2000s. Additional history of the EDRs is in section 3.1 of this RIR. More recently, the Council discussed the EDRs in several meetings during 2018. Public testimony at the February 2018 Council meeting noted that the EDR programs had been in effect for some time, and industry was spending time and money to complete the reports, in some cases reimbursing NMFS for the administrative costs of the EDR programs through catch share cost recovery programs. The testifier suggested that the Council review the EDR requirements to determine whether and how the data was being used, whether it was being collected efficiently, and whether the data collection programs were meeting the Council's needs.

In April 2018, the Council reviewed a discussion paper prepared by NMFS that provided information related to NMFS's request that the Council review all its regulations to identify any that were outdated, unnecessary, ineffective or could be further streamlined (NMFS, 2018a). This discussion paper included reference to the Council's February 2018 discussion of the EDR requirements as a possible area of regulations for future Council review. In addition, at the April 2018 meeting, the Council also heard public testimony raising the question of whether the EDR requirements for the GOA trawl catcher vessels and processors had met Council's purpose and need to collect baseline information to assess the impacts of a potential future catch share program in those fisheries.

Later in the April 2018 meeting, in response to this public comment and further discussion among Council members, the Council requested that NMFS prepare a discussion paper that describes the EDR requirements for all programs, explains how the data are used, and provides estimates of the costs of complying with the EDR requirements. The Council's motion stated that the Council could then use the information in the discussion paper to determine if revisions to EDR requirements are needed and, if so, the priority and process for analysis of proposed revisions.

NMFS presented this discussion paper to the Council in April 2019. The EDR discussion paper included, in Chapter 6, an EDR Program Assessment and Recommendations. Within that chapter NMFS provided the following set of shorter term practical recommendations aimed at reducing costs and burdens as well as improving data utility by streamlining data access.

- Reduce costs and burden
 - Eliminate routine third-party data verification audits and limit the audit requirement to instances of gross noncompliance with EDR submission requirements or where intentional strategic misreporting is indicated or suspected. NMFS will continue to research the degree of flexibility we have to minimize requirements under existing regulations, and which types of modifications will require FMP and regulatory amendments to implement.
 - Review duplication of reporting requirements in EDR Program.
- Improve data utility by streamlining data access
 - Re-assess EDR-specific data protocols to improve utility and efficiency while maintaining confidential data protections: specify blind-data rule on the basis of a) analytical users, and b) EDR administration users, and reconsider rule-of-5 aggregation standard.

In addition to the shorter term practical recommendations the analysts provided a set of longer term recommendations as follows.

- Develop a systematic approach to identifying and prioritizing the Council's needs for economic and social science information. This includes identifying relevant analytical and performance metrics, minimum requirements for accuracy and precision of information outputs, and a framework for balancing tradeoffs between all relevant dimensions of information quality and system costs.
 - Review survey population and survey frequency for EDR variables and consider survey administration alternatives, including changes in the method, frequency, and respondent population of data collections to achieve the Council's analytical objectives.
 - Improve application of National Standard 2 Guidelines to information *processes* in EDR program oversight and ensure clearer distinctions between *scientific information* from other information content.
 - Minimize disincentives for voluntary industry cooperation with data collection efforts and address concerns regarding confidentiality, cumulative reporting burden, and negative consequences of revealing profitability and other financial information to the federal government.

The Council reviewed the requested EDR discussion paper during its April 2019 meeting and requested further analysis under two issues.

Under Issue 1, the Council adopted a purpose and need statement (see above) and the set of alternatives that are addressed in this RIR.

Under Issue 2, the Council recommended that the staff undertake a process to propose revisions to the current EDR programs, including the GOA trawl EDR, with specific consideration for the following.

- 1) The Council's previously stated needs for economic and social science information and the utility of data for analysis of impacts of Council actions and for research that provides a better understanding of the impacts of future actions;
- 2) Data that are also collected in other data collection programs (such as the Commercial Operators Annual Reports) which may be duplicative and unnecessary to collect as a part of EDRs;
- 3) Alternatives for creating more consistency across EDRs to increase the utility of economic and social information in analyses of Council actions and management program reviews and to support research that provides a better understanding of the impacts of future actions; and
- 4) Tradeoffs between aggregation of elements used to reduce reporting burden by streamlining collection and the effects of the loss of detail from that aggregation on the accuracy of resulting analyses.

The comprehensive review of EDR programs (Issue 2) is under development by the Council's Social Sciences Planning Team (SSPT). The SSPT will report to the Council about its progress on this issue at the February 2020 meeting.

2. Description of Alternatives

The Council adopted the following alternatives for analysis in April of 2019.

Alternative 1: Status Quo

Alternative 2: Make revisions, where needed, in the EDR sections of the crab or groundfish FMPs and in the EDR regulations.

Component 1: Remove any requirements for third party data verification audits under the existing programs and reduce burdens associated with this process.

Component 2: Revise requirements for aggregation of data across submitters and blind formatting in the crab data collection program to make those data aggregation and confidentiality protections comparable to the requirements under other data collection programs.

Component 3: Revise or remove the GOA trawl EDR requirements.

2.1. Alternative 1, No Action

EDR language contained in the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (crab FMP), the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) would be unchanged (see appendix A). Regulations implementing the BSAI Crab EDR (680.6), the Amendment 80 EDR (679.94), Chinook salmon bycatch management EDR (679.65), and the Gulf of Alaska Trawl EDR (679.110) would remain unchanged.

2.2. Alternative 2

Alternative 2, Component 1 would remove the EDR data verification audit authorizations in 50 CFR 679 and 680 and the Crab FMP text of section 14.7 as shown in Appendix A. The regulations define the roles of the Data collection agent (DCA) and the Dedicated data collection auditor (DDCA) and state that “the DCA shall...” (680.6), or “NMFS, the DCA, or the DDCA will...” (679 subsections 65, 94, and 110) “conduct verification of information with [a person required to submit the applicable EDR or a designated representative]”. In the subsections that follow this *shall* direction to the DCA, the regulations require the EDR submitter to respond to inquiries from the DCA within 20 days, require the submitter to provide supporting records to the DCA as requested, and authorize the DCA *auditor* to review the records for the purpose of substantiating values reported in the EDR.⁶ The Council’s intent for the verification process, and of the third-party audit in that process, is not explicitly stated in the regulations, and authorizes rather than directs that data verification is accomplished by auditor review of supporting records.

In addition to data confidentiality requirements that apply to other categories of confidential fisheries data, the Council has specified additional protocols for EDR data. Implementing regulations in 50 CFR 679 and 680 for GOA Trawl and Crab EDRs, respectively, presently require that the data collection be

⁶ Under 680.2, “Auditor means an examiner employed by, or under contract to, the data collection agent to verify data submitted in an economic data report.” There is some inconsistency between the 679 and 680 regulations pertaining to NMFS’ access to supporting records and roles of NMFS, the DCA, and the third-party auditor (DDCA) in verification audits; 680.6(f) states the clearest differentiation between the role of the DCA versus the DDCA, and PSMFC’s audit procedures have been developed by AFSC based on the 680.6 specification.

conducted by a DCA, and presently limits release of un-aggregated EDR data in blind format only.⁷ Alternative 2, Component 2, as originally composed, would apply only to the Crab EDR program. Thus Alternative 2, Component 2 would revise regulations to eliminate the requirements of blind data formatting in the Crab EDR programs as identified in Appendix A; however, it would not revise regulations to eliminate the requirements of blind data formatting in the GOA Trawl EDR program.

Under Alternative 2, Component 2 NMFS would also revise data aggregation procedures for EDR data. Due to concerns regarding the sensitivity of proprietary cost data collected in EDRs, the Council requested AFSC to develop enhanced confidential data protocols for EDR data following the initial collection of annual Crab EDRs in 2006.

Based on a review of OMB guidance and best practices for nondisclosure control, and after consulting with ADF&G and AKRO staff, it was determined that a minimum aggregation standard of 5 data records would be employed for public disclosure of aggregate statistics reporting EDR results. This is in contrast to the minimum of three records required for all other federal and state sources of North Pacific fishery data. The enhanced protocol has subsequently been applied by the Pacific States Marine Fisheries Commission (PSMFC/AKFIN) and the Alaska Fisheries Science Center (AFSC) to all public release of statistics derived from EDR Program data. In addition, the Alaska Fisheries Information Network (AKFIN) and AFSC follow federal guidelines for primary and secondary cell suppression described in FCSM (2005).

The Council recommended the enhanced protocol as a guideline rather than a formal requirement implemented in EDR regulations, and AFSC has subsequently applied this standard to all public release of statistical summaries using any EDR program data. Under Alternative 2, Component 2, the Council could effectively rescind the previous Council guideline and recommend that the standards applied to other confidential commercial fisheries data be applied to all EDR programs. As this practice is presently a guideline rather than a rule, this action would not require specific regulatory or FMP amendments and the standard data handling procedures are presently authorized under NMFS and Council reciprocal access agreements, MOAs with ADFG and CFEC, and respective agency administrative rules concerning confidential data.⁸

Alternative 2, Component 3 in the Council's April 2019 motion would consider revisions to or complete removal of the GOA Trawl EDR program. The April 2019 Council motion identifies the alternatives considered here as being within Issue 1, FMP and regulatory amendment analysis, and are considered to be straightforward adjustments that can be implemented fairly quickly. The motion also includes a more extensive treatment of Issue 2, review of EDR programs. Issue 2 has been assigned to the Council's Social Sciences Planning Team (SSPT), and the SSPT has begun work on that comprehensive review of the EDR program, which will include consideration of program revisions. Given the ongoing review by the SSPT, the analysts recommend that the Council consider only complete removal of the GOA Trawl EDR program as Alternative 2, Component 3 and consider program revisions in the analysis of any proposed FMP and/or regulatory amendments that may be developed through the SSPT and further

⁷ Defined in 679.2 and 680.2 as "Blind data means any data collected from an 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, and State of Alaska vessel registration and permit numbers, and by adding in their place a nonspecific identifier."

⁸ See Confidentiality Of Fisheries Information, Divisional Operating Procedure (DOP) CF-008, ADF&G Division of Commercial Fisheries. <https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+DOP>, NAO 216-100 Protection of Confidential Fisheries Statistics. https://www.corporateservices.noaa.gov/ames/administrative_orders/chapter_216/216-100.html

Council processes under Issue 2. This analysis does not provide treatment of potential changes to the GOA Trawl EDR given the ongoing process of Issue 2.

2.3. Comparison of Alternatives

Each Component would potentially amend FMP text, regulatory text, EDR data collection forms, and operational procedures. The following table identifies what the action would functionally accomplish and then identifies the FMP that would be amended, the regulations that would be amended, whether forms would need to be revised, and what operational procedures would be expected to change. As is shown in the table, removing audit authorizations will require amendment to the Crab FMP, crab regulations (part 680), groundfish regulations (part 679), several forms, and would eliminate the audit process. Eliminating blind data formatting also amends the Crab FMP, crab regulations, and groundfish regulations but does not affect EDR forms and procedurally retains respondent identifiers within the EDR data. Applying existing data handling standards would only affect the Council’s guideline and its application in data aggregation but would not require either FMP or regulatory amendments. Eliminating the GOA Trawl EDR would require groundfish regulatory amendments (part 679), eliminate forms, and end the PSMFC data collection process for GOA Trawl EDR; however, groundfish FMP language generally authorizes a data collection program and would be retained.

Table 3 Comparison of the Alternatives

	Alternative 1	Alternative 2 Component 1	Alternative 2 Component 2	Alternative 2 Component 2	Alternative 2 Component 3
Action	Status quo. No action.	Remove independent third party audit authorizations	Eliminate blind formatting of EDR data	Apply existing data handling standards to EDR data	Eliminate the GOA Trawl EDR
Crab FMP		✓	✓		
BSAI Groundfish FMP					
GOA Groundfish FMP					
Crab regulations (part 680)		✓	✓		
Groundfish regulations (part 679)		✓	✓		✓
Forms and instructions		✓			✓
Operational procedures	Audits now only in cases of noncompliance	No audits, data verification continues/suspension of audit reports	DCA retains identifiers in EDR data provided to NMFS	Change in Council guidelines	End data collection/PRA process/PSMFC process

3. Description of the Economic Data Reporting Programs

3.1. Description of Potentially Affected Fisheries

While it standard practice to provide information on fishery participation, harvest, revenue, and possibly community involvement, the purpose of inclusion of such information in an RIR is to create a baseline against which to compare the impacts and effect of the action alternatives under consideration. This analysis provides estimates of programmatic costs and industry compliance costs that would be either reduced or eliminated by adoption of the action alternative. These cost savings are not comparable to standard baseline fisheries descriptions as they affect the financial operations of fishing companies but are not directly related to harvesting, processing, or communities. Thus, the analysts have omitted extensive fishery descriptions and have instead included extensive EDR program descriptions. For additional background information, this analysis incorporates by reference the Ten-Year Program Review for the Crab Rationalization Management Program in the Bering Sea/ Aleutian Islands (NPFMC 2017), and the Economic Status Report for Crab Fisheries of the Bering Sea/Aleutian Islands (NMFS, 2018b) and the Economic Status Report for Groundfish Fisheries of the Gulf of Alaska and the Bering Sea/Aleutian Islands (NMFS 2018c) as fishery descriptions.

3.2. Background: Current EDR Data Collections

The following subsections provide summary descriptions of each of the four current EDR data collections, including the initial year of implementation, target entity populations and conditions requiring submission of the associated EDR forms, and a summary description of the data elements collected in the respective forms. This is followed by a summary overview of EDR variables collected in the EDR Program as a whole.

3.2.1. Crab rationalization program EDR

The Council set forth the purpose and need for the Crab EDR in its June, 2002 motion as follows:

“A mandatory data collection program shall be developed and implemented as part of the crab rationalization program and continued through the life of the program. Cost, revenue, ownership and employment data will be collected on a periodic basis (based on scientific requirements) to provide the information necessary to study the impacts of the crab rationalization program as well as collecting data that could be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities. This data collection effort is also required to fulfill the Council problem statement requiring a crab rationalization program that would achieve “equity between the harvesting and processing sectors” and to monitor the “...economic stability for harvesters, processors and coastal communities. Both statutory and regulatory language shall be developed to ensure the confidentiality of these data.

Any mandatory data collection program shall include:

A comprehensive discussion of the enforcement of such a program, including enforcement actions that would be taken if inaccuracies in the data are found. The intent of this action would be to ensure that accurate data are collected without being overly burdensome on industry for unintended errors.”

The Crab EDR⁹ was implemented concurrent with the Crab Rationalization (CR) Program under Amendments 18 and 19 of the BSAI Crab FMP (70 FR 10174), effective April 1, 2005. The rule requiring EDR submission was codified in 50 CFR 680.6, which retroactively required affected entities to submit “historical” EDR forms for 1998, 2001, and 2004 calendar year operations by June 1, 2005, and to submit an annual EDR form for calendar year 2005 and thereafter by a deadline of May 1 of the following year. The Council took final action on Amendment 42 in December 2012, revising Crab EDR reporting requirements, and NMFS published the final rule (78 FR 36122), effective July 17, 2013. The amended rule extended the annual submission deadline to July 31. This section focuses on a description of the current Crab EDR data collection, with Section 4.3 below providing a more detailed discussion of the Council and NMFS process for developing and implementing the Crab EDR prior to 2013. However, as each of the revised EDR forms maintained a subset of the original data elements, the majority of data elements in the current Crab EDR have been collected continuously (with modifications where noted) since the baseline historical EDRs were submitted in 2005.

Under 680.6, the reporting requirements for the Crab EDR apply to a) owners and leaseholders of vessels and catcher/processors with landings of BSAI program crab (including Community Development Quota (CDQ) allocation crab), and b) owners and leaseholders of shore-based processing plants, and Registered Crab Receivers (RCRs), who purchase and/or process landed BSAI crab during a calendar year.¹⁰ For both groups, the annual submission requirement is conditional on active participation in harvest, purchase, and/or processing (including providing custom processing) of CR crab.

Under the CR program, both harvest quota (Quota Share (QS)/Individual Fishing Quota (IFQ) and processing quota (Processor Quota Share (PQS)/Individual Processor Quota (IPQ) are held by qualified corporate entities or harvest cooperatives that are typically distinct from the entities that operate the crab vessels and from the processors that are subject to the EDR requirement. The Crab EDR is comprised of three EDR forms developed for the respective sectors: the Crab CV EDR, Crab Processor EDR, and the Crab C/P EDR.¹¹ The CV and processor forms collect distinct sets of data elements, with the CP form comprised of a combination of all data elements collected in the catcher vessel form and applicable elements from the processor form. Data elements collected in each of the Crab EDR forms are the following:

Crab CVs and CPs

- Estimated market value and replacement value of vessel;
- Crab landings volume (pounds) and ex-vessel revenue, by CR fishery and quota type;
- Annual total fuel cost and gallons;
- Fuel gallons consumed, by CR fishery;
- Provisions costs, by CR fishery;
- Bait costs, by CR fishery;
- Quota lease costs, by CR fishery and quota type
- Total labor payments to crew (total of final settlement payments), by CR fishery;
- Total labor payments to captains (total of final settlement payments), by CR fishery;
- Annual total direct labor payments to crew (inclusive of crab settlements);
- Health Insurance and Retirement Benefits provided to crew; (Y/N), by fishing crew/captains;

⁹ PSMFC’s Crab EDR webpage provides access to EDR forms, submitter instructions, and validation audit reports: http://www.psmfc.org/alaska_crab/.

¹⁰ The EDR requirement for RCRs was added in the Amendment 42 EDR revision, beginning 2012 calendar year. Prior to 2012, RCRs that held crab IPQ and purchased landed crab for custom processing, and did not operate a plant, were not required to submit an annual EDR.

¹¹ The forms are formally labeled in 680.6(b) as the Annual Crab Catcher Vessel Crab EDR, Annual stationary floating crab processor and shoreside crab processor EDR, and the Annual catcher/processor crab EDR.

- Commercial crew license number or Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number, by individual crew member that worked on vessel during CR crab season; and
- Vessel used for tendering during calendar year, (Y/N)

Crab processors, RCRs, and CPs

- Estimated market value and Borough assessed value (shore plants) or Replacement value (floating processors);
- Crab product sales to affiliated/unaffiliated buyers, volume (pounds) and first wholesale revenue, by crab species, product code, process code, and box size (large/small);
- Custom processing services provided, revenue, raw pounds, and finished pounds, by CR fishery, product code, and process code;
- Crab purchased from landing vessels, pounds and cost, by CR fishery and quota type;
- IPQ leased, pounds and cost, by CR fishery and quota type; and
- Custom processing services purchased, raw pounds, finished pounds, and processing fees paid, by CR fishery, product code, and process code;

Crab processors and RCRs

- Processing labor gross wages and paid hours, by CR fishery (CPs report processing crew labor cost combined with fishing crew);
- Processing employee count, by location of residence, CR Crab total and Annual total
- Non-processing employment (annual total number employed), and total annual gross wages and salaries

Amendment 80 economic data EDR

The Council set forth the purpose and need for the Amendment 80 Non-AFA Trawl C/P EDR (A80 ER) in its June 10, 2006 motion as follows:

“The purpose of the data collection program is to understand the economic effects of the Amendment 80 program on vessels or entities regulated by this action, and to inform future management actions. The data is needed to assess whether Amendment 80 addresses some goals in the problem statement to mitigate, to some degree, the costs associated with bycatch reduction. Data will be used by Council and agency staff, recognizing that confidentiality is of extreme importance.”

Economic data collected under this program include employment data by vessel collected to determine the labor amounts and costs for the sector. In addition, revenue and cost data by vessel will be collected to evaluate trends in returns to the sector that may be compared with elements of the Amendment 80 program, such as bycatch reduction measures”

The A80 EDR¹² was implemented in regulation at 50 CFR 679.94, as part of the Amendment 80 management program, published by NMFS on September 14, 2007 (72 FR 52668), effective January 20, 2008. The initial A80 EDR submissions were due June 1, 2009 reporting data for the 2008 calendar year. The A80 EDR reporting requirement under the original rule applied to all Amendment 80 Quota Share (QS) permit holders, with permit holders who actively operated an A80 vessel required to complete and

¹² PSMFC’s Amendment 80 EDR webpage provides access to EDR forms, submitter instructions, and validation audit reports: <http://www.psmfc.org/am80edr/>.

the entire EDR form, and QS permit holders who did not operate a vessel required to complete portions of the form pertaining to QS permit sale and/or lease costs and revenues.

NMFS' publication of the rule implementing the GOA Trawl EDR program in 2014 included amendments to 679.94, redesignating the A80 EDR as the "Annual Trawl Catcher/Processor Economic Data Report" and added additional reporting elements to the form; the rule also extended the requirement to complete the all portions of the EDR form to owners/leaseholders of any vessel named on a LLP groundfish license authorizing a C/P using trawl gear to harvest and process License Limitation Program (LLP) groundfish species in the GOA.¹³ The association between the GOA Trawl (CV and Processor) EDR and Annual Trawl C/P EDRs has resulted in confusion. For the sake of clarity, the EDR currently specified under 50 CFR 679.94 is referenced in this discussion paper as the A80 EDR, and that under 679(a)(1) and (2) as the GOA Trawl EDR; any relevant distinctions and/or overlaps are described as needed.

The A80 EDR form has been submitted annually by A80 QS holders since 2008, consistently collecting comprehensive, quantitative data for the following data elements:

- Vessel characteristics and registry details (home port, tonnage, fuel capacity, shaft horsepower, year built);
- Survey value, date, and included assets;
- Fuel consumption rate (gal/hour), and annual total gallons consumed, by operating activity;
- Freezer storage and throughput capacity, and processing line throughput capacity, by A80 and GOA groundfish species and product code;
- Fishery product sales volume and revenue, LLP sale revenue, quota lease revenue and pounds, and other vessel operations income;
- Annual total capital expenditure, grouped by fishing gear, processing equipment, other equipment, and other vessel capital;
- Non-labor vessel operating expenses, annual totals grouped by: fuel; lubrication; provisions, repair and maintenance, vessel/equipment lease costs, fishing gear purchases, leases and repair costs; freight and storage costs for product sales; other freight and storage; materials; observer fees and reporting/monitoring costs; cooperative fees, general administrative/management overhead, vessel insurance; fisheries landing taxes, total cost and volume of raw fish purchases; and QS lease quantity and costs by A80 species;
- Gross labor costs, grouped by: deck crew, processing crew, and all other on-board crew
- Average number of crew onboard and total crew members employed in year, grouped by: deck crew, processing crew, and all other on-board crew; and
- Use of share-system for crew compensation (y/n), by processing/non-processing crew

Beginning in 2016, the revised Annual Trawl CP EDR added collection of individual commercial crew license or CFEC gear operator permit numbers for all individual crew members that worked on the vessel during the calendar year.

3.2.2. Amendment 91 Chinook salmon EDR

The Council set forth the purpose and need for the Amendment 91 Chinook salmon EDR (A91 EDR) in its December, 2009 motion as follows:

"In April 2009 the Council approved Amendment 91 to the BSAI groundfish fishery FMP to reduce Chinook salmon bycatch in the Bering Sea pollock fleet. Under Amendment 91,

¹³ As a matter of public record, the addition of the EDR requirement to GOA Trawl CPs as defined in the 2014 rule effectively added the owner of one CP to the population of entities subject to the A80 EDR requirement.

the pollock fishery has the option of participating in a NMFS-approved Incentive Plan Agreement (IPA) to access a higher hard cap than is available in the absence of an IPA. The IPAs provide a new and innovative method of bycatch management. A data collection program is needed in conjunction with Amendment 91 to understand the effects and impact of the IPAs. The data collection program will focus on: (1) evaluating the effectiveness of the IPA incentives in times of high and low levels of salmon bycatch abundance, the hard cap, and the performance standard in terms of reducing salmon bycatch, and (2) evaluating how the Council's action affects where, when, and how pollock fishing and salmon bycatch occur. The data collection program will also provide data for the agency to study and verify conclusions drawn by industry in the IPA annual reports. To ensure that a full assessment of the program is possible, the data collection program should be implemented at the time Amendment 91 is implemented or as soon as practicable.

To ensure that a full assessment of the program is possible from the start of the program, the data collection program should be separated into two phases, with a suite of data collection measures implemented at the time Amendment 91 goes into effect and sent to the Comprehensive Economic Data Collection Committee after IPAs have been fully developed and submitted to NMFS. The objective of this collection is to provide an improvement in the amount of data available to evaluate the effectiveness of incentives to minimize Chinook salmon bycatch under Amendment 91."

The A91 EDR¹⁴ and additional record keeping and reporting requirements associated with monitoring of Chinook salmon bycatch avoidance measures implemented concurrently, were published by NMFS on February 2, 2012 (77 FR 5389), effective March 5, 2012, approximately 17 months after rules implementing Amendment 91 (75 FR 53026) went into effect. The initial submission of EDR forms required under 50 CFR 679.65 were due on June 1, 2013 reporting data for the 2012 calendar year.

The A91 EDR reporting requirement applies most broadly to owners and leaseholders of AFA-permitted catcher vessels, catcher-processors, and motherships active in the Bering Sea pollock fishery, and to entities eligible to receive Chinook salmon Prohibited Species Catch (PSC) allocation (apart from AFA vessel owners, this includes AFA In-shore Sector harvest cooperative representatives, sector-based Incentive Plan Agreement representatives, and Community Development Quota Program group representatives), all of whom are annually noticed of EDR submission requirements by the Pacific States Marine Fisheries Commission (PSMFC). In addition, captains of AFA vessels who were active in the A or B season of the previous year pollock fishery are the target population of one of the three A91 EDR forms, but are assigned by vessel owners and not directly required to submit EDR forms to NMFS.

The Amendment 91 EDR is comprised of three separate forms: the Compensated Transfer Report, the Vessel Fuel Survey, and the Vessel Master Survey. The Compensated Transfer Report (CTR) is intended to collect transaction-level data on all bipartite transfers of Chinook PSQ allocation units during the pollock season in which monetary payment is included the transaction (i.e., "in-kind only" transactions are exempted). For each individual PSC transfer, the submitter is required to report: the NMFS id of the other party, the type of association between the submitter and the other party, the entity type of the other party, the number of Chinook salmon PSC transferred, the payment in \$US transferred, and a Y/N indicator that other assets besides Chinook PSC were included in the transfer. It was the NPFMC's intention that the CTR would capture "spot-market" PSC transfers, exempting pre-season or other transfers in which salmon PSC and pollock quota are coupled and avoiding revelation of pollock quota lease value. The form is to be completed by all entities participating as lessor or lessee in one or more

¹⁴ PSMFC's Amendment 91 Chinook Salmon EDR webpage provides access to EDR forms, submitter instructions, and validation audit reports: <http://www.psmfc.org/chinookedr/>.

"compensated transfers" of Chinook PSC; however, no such transactions have been reported, and all CTR form submissions to date have been "certification-only" submissions.

The Vessel fuel survey is required for all AFA vessels that harvested BSAI pollock during the previous year, and collects four data elements:

- Average hourly rate of fuel consumption for the vessel while operating in the BSAI pollock fishery, reported separately for fishing and transiting; and
- Total annual amount (in gallons) of fuel loaded to the vessel during the year, and total fuel cost.

The vessel master survey is comprised of a series of qualitative response questions regarding fishing and bycatch conditions observed by vessel masters during the BSAI pollock fishery, and factors in effect that motivated Chinook bycatch avoidance (survey questions are listed below).

- If the vessel participated in an Incentive Plan Agreement, did the IPA affect your fishing strategy? If yes, please describe and discuss what incentives had the largest impact on your strategy.
- Did the amount and/or cost of Chinook PSC allocation available to the vessel lead you to make changes in pollock fishing operations? If yes, please describe.
- How would you compare the Chinook salmon bycatch and pollock conditions during the A and B seasons this year relative to the last two years? Please describe any unique aspects of the season.
- Did Chinook salmon bycatch conditions cause you to delay the start of your pollock fishing or otherwise alter the timing of your pollock fishing for some period during the past A and/or B season? If yes, please describe the Chinook salmon bycatch condition, when it occurred, and any change in your pollock fishing as a result.
- In the past year, did you end a trip and return to port early because of Chinook salmon bycatch conditions? [] YES [] NO. If YES, please indicate the number of trips that this occurred in each season (use a checkmark to indicate appropriate answer for each season).
- Please describe how any area closures or restrictions for the purpose of reducing Chinook salmon bycatch affected where and how you fished.
- Please describe how any regulatory or other area closures or restrictions for a purpose other than reducing Chinook salmon bycatch affected where and how you fished.
- Compared to a typical year, did weather or sea ice conditions have more, less or about the same impact on fishing as in a typical year? Please describe especially if there were particularly uncommon conditions at any point this year. If these conditions had an impact on your ability to avoid Chinook salmon bycatch, please describe.
- Were there exceptional factors that affected your pollock fishing this year? For example, were there unusual market or stock conditions, unusual pollock fishing conditions, or maintenance problems? Please describe.
- Separate from an Incentive Plan Agreement, were there other incentives for you to reduce Chinook salmon bycatch? If yes, please describe.
- Did actual or potential bycatch of species other than Chinook salmon cause you to change your harvesting decisions during the pollock season? If yes, please describe.

The structure of the A91 EDR is distinct from the other three EDRs in that its three forms are submitted separately, with AFA vessel owners as the primary submitter group, from which all three of the forms are required. The CTR form is also required from PSC entities, for whom it is the only EDR requirement. Vessel owners are also required to submit the fuel survey form, and to collect and submit vessel master

surveys completed by the captain(s) of the vessel designated by the owner.¹⁵ All three forms include certification sections, which include conditions under which the submitter is exempted from the data reporting portion of the form, and is required only to submit the certification section of the form if such exemptions apply. The requirement to complete the data portion of the CTR form is conditional on participation in a “compensated transfer” as defined in the form, and for the vessel master and fuel survey forms, is conditional on the vessel being active in harvesting BSAI pollock during the reporting year. In addition, the implementing rule for the A91 EDR specified that all forms be electronically submitted online. This required development by PSMFC of a more complicated web application interface to facilitate vessel owners assignment of vessel master surveys while ensuring security of confidential data between linked users accounts.

3.2.3. Gulf of Alaska trawl EDR

The Council set forth the purpose and need for the GOA Trawl EDR in its February, 2013 motion as follows:

“The Council is interested in developing a data collection program that can be established prior to the implementation of a trawl catch share program in the GOA. This fast-tracked data collection would provide the Council and analysts with relevant baseline information that can be used to assess the impacts of a catch share program on affected harvesters, processors, and communities in the GOA.

In developing a data collection program that can be implemented quickly, efficiently, and with minimal burden on participating stakeholders, the Council intends to prioritize the collection of information that is relevant, reliable, and for which existing data sources do not exist. Given the potential for implementation of catch shares in both the Central and Western GOA, the scope of the analysis should include participants in both management areas.”

The final rule implementing the GOA Trawl EDR¹⁶ was published December 2, 2014 (79 FR 71313), effective January 1, 2015, and establishing an initial submission due date of June 1, 2016 for EDRs reporting 2015 calendar year data. As noted previously, the EDR was intended by the Council to be implemented in advance of a catch-share program for the GOA that was in-development at the time of its 2013 motion. However, Council action on GOA bycatch management was suspended in December 2016.

The target population for the GOA Trawl EDR includes owners and leaseholders of catcher vessels and catcher/processors active in the Central and Western GOA groundfish trawl fishery, and operators of shoreside processing facilities that receive groundfish catch from the GOA. The EDR is comprised of three EDR forms: in addition to the Annual Trawl CP EDR described in Section 4.2.3.2 above, the Annual Trawl Catcher Vessel EDR, Annual Shoreside Processor EDR, and Annual Trawl CP EDR forms.

¹⁵ 679.65(d) states: “Vessel Master Survey. (1) For any AFA -permitted vessel used to harvest pollock in the Bering Sea in the previous year: (i) The vessel master must complete the Vessel Master Survey, and the Vessel Master certification following the instructions on the form. (ii) An owner or leaseholder must complete the Vessel owner certification following instructions on the form. (iii) An owner or leaseholder must submit all Vessel Master Surveys, and each Vessel owner certification electronically on or before ...” However, no regulatory definition of “vessel master” is applicable to AFA vessels.

¹⁶ PSMFC’s GOA Trawl EDR webpage provides access to EDR forms, submitter instructions, and validation audit reports: <http://www.psmfc.org/goatrawl/>.

The Trawl CV EDR form is required for all trawl CVs that harvested groundfish in the GOA during the previous year. The form collects the following data elements:

- Estimated market value and replacement value of vessel;
- Fishing gear costs – total direct capitalized expenditures and fully expensed costs for purchase, lease, installation and repair of a) salmon and halibut excluder gear, and b) trawl gear (including excluder gear other than salmon and halibut);
- Annual total fuel and lubrication cost and gallons;
- Total labor payments to a) crew and b) captain (total of final settlement payments), and number of crew, GOA groundfish only;
- Commercial crew license number or CFEC gear operator permit number, by individual crew member that worked on vessel during GOA groundfish trawl fishing.

The Annual Shoreside Processor EDR form is required from all shore-based processors that receive and process groundfish from GOA trawl fisheries. The forms collect the following data elements:

- Estimated market value; Borough assessed value or Replacement value;
- Municipal water utility consumption, gallons and cost, by month, Kodiak plants only;
- Municipal electrical utility consumption, kilowatt-hours and cost, by month, Kodiak plants only;
- Processing labor gross wages and hours, by month and housing-status (housed, non-housed), groundfish processing only;
- Number of processing employees, by month, groundfish only;
- Non-processing employment, number employed, total wages and salaries, annual total.

3.2.4. Summary overview of EDR variables by EDR form

Table 4 below provides a comparative overview of all data elements collected in the EDR program as a whole (with the exception of the A91 Vessel Master Survey). The first column groups together data element collected in one or multiple EDR forms by category: vessel/plant characteristics; revenue, capital expenditures, non-labor operating costs; employment and labor costs; and other operational data, with individual data elements broken out to show the comparison the scope of elements collected in the respective EDR forms. The description of data elements by EDR form shown in column 2-9 indicate the particular specification of the data element in the respective form, including stratification/aggregation (by fishery, annual), scope or reporting (annual, groundfish only), and other variations between EDR forms.

Table 4 Comparative overview of EDR variables across EDR forms

EDR Variables, by general group	BSAI crab			GOA trawl / Amendment 80			Amendment 91	
	Catcher vessel	Catcher Processor	Shoreside & floating processor	Catcher vessel	Catcher processor	Shoreside & floating processor	Vessel Fuel Survey	Compensated Transfer Report
Vessel / plant characteristics								
Name of Cooperative	Annual	Annual			Annual			
General vessel characteristics (1)					Annual			
Value of Vessel (Plant) and equipment Note: Assessed value reported for Shoreside processors only; Replacement value reported for CVs and floating processors only	Estimated market value; replacement value	Estimated market value; replacement value	Estimated market value; Borough assessed value or Replacement value	Estimated market value; replacement value	Survey value (survey date and inclusions)	Estimated market value; Borough assessed value or Replacement value		
Fuel consumption rate, average (gal/hour)					By activity (fishing/processing; steaming loaded; steaming empty); Annual		By activity (fishing; transiting); Pollock fishery	
Freezer capacity - storage capacity (pounds) and maximum product throughput (pounds per hour)					Annual			
Processing capacity - number of processing lines and maximum throughput (pounds per hour)					By species and product; A80 and GOA Groundfish			

EDR Variables, by general group	BSAI crab			GOA trawl / Amendment 80			Amendment 91	
	Catcher vessel	Catcher Processor	Shoreside & floating processor	Catcher vessel	Catcher processor	Shoreside & floating processor	Vessel Fuel Survey	Compensated Transfer Report
Revenue								
Ex-vessel	Revenue and pounds, by CR fishery and quota type							
1st Wholesale		Revenue and pounds, by affiliated (y/n), crab species, product, process, and box size	Revenue and pounds, by affiliated (y/n), crab species, product, process, and box size		Revenue and pounds (includes custom processing); Annual			
Custom processing provided		Revenue, raw pounds, and finished pounds, by CR fishery, product, and process	Revenue, raw pounds, and finished pounds, by CR fishery, product, and process					
Other vessel operation income					Revenue; Annual			
LLP sale revenue					By LLP sold			
Quota royalty revenue					Shares (mt) and royalty revenue; by A80 quota species			
Capital expenditures								
Fishing gear(3)				Capitalized plus expensed value; by type (halibut/salmon excluder), Trawl gear	Annual			
Processing equipment					Annual			
Other equipment					Annual			
Other capital expenditures					Annual			
LLP purchase cost					Annual			

EDR Variables, by general group	BSAI crab			GOA trawl / Amendment 80			Amendment 91	
	Catcher vessel	Catcher Processor	Shoreside & floating processor	Catcher vessel	Catcher processor	Shoreside & floating processor	Vessel Fuel Survey	Compensated Transfer Report
Operating costs, non-labor (annual expenses)								
Fuel and lubrication	1) Fuel cost and gallons; Annual 2) Fuel gallons, by CR Fishery	1) Fuel cost and gallons; Annual 2) Fuel gallons, by CR Fishery		Fuel and lubrication cost and fuel gallons; Annual	1) Fuel cost, lubrication cost; Annual 2) Fuel gallons, by activity (fishing/processing; steaming loaded; steaming empty); Annual		Fuel cost and gallons; Annual	
Food and provisions	By CR fishery	By CR fishery			Annual			
Bait cost	By CR fishery	By CR fishery						
Vessel and equipment - repair and maintenance costs					Annual			
Vessel and equipment - lease costs					Annual			
Fishing gear - purchases, lease, repair costs (excluding finance costs)					Annual			
Freight, storage, other sales costs for non-FOB sales					Annual			
Freight and storage other than for products					Annual			
Product and packaging materials					Annual			
Observer / monitoring fees					Annual			
Cooperative fees					Annual			
General Administrative Cost					Annual			
Insurance					Annual			
Fisheries landing taxes					Annual			
Raw fish purchases from other vessels, quantity and cost		By CR fishery and quota type	By CR fishery and quota type		Annual			
QS/PQS lease amounts and cost	By CR fishery and quota type	By CR fishery and quota type	By CR fishery and quota type		By A80 quota species			Chinook PSC; by compensated transfer
Custom processing purchased - quantity and revenue		By CR fishery, product, process	By CR fishery, product, process					

EDR Variables, by general group	BSAI crab			GOA trawl / Amendment 80			Amendment 91	
	Catcher vessel	Catcher Processor	Shoreside & floating processor	Catcher vessel	Catcher processor	Shoreside & floating processor	Vessel Fuel Survey	Compensated Transfer Report
Utilities (municipal) - water quantity and cost						Gallons and cost, by month; Kodiak plants only		
Utilities (municipal) - electricity quantity and cost						kWh and cost, by month; Kodiak plants only		
Labor cost and employment								
Labor cost - harvesting (4)	Final settlement paid, total by crew-type (fishing crew; captains) and CR fishery	Final settlement paid, total by crew-type (fishing/processing crew; captains) and CR fishery		Final settlement paid, total by crew-type (fishing crew, captains); GOA trawl	Gross wages, total by crew-type (deck crew; other non-processing crew); Annual			
Labor cost - processing (5)		Combined with harvesting labor cost	Gross wages and hours; by CR fishery		Gross wages; Annual	Gross wages and hours, by month and housing-status (housed, non-housed); Groundfish only		
Labor cost - Other personnel(6)			Total wages and salaries, non-processing personnel; Annual			Total wages and salaries, non-processing personnel; Annual		
Labor cost - total vessel labor	Total direct payment to crew (inclusive of settlements); Annual	Total direct payment to crew (inclusive of settlements); Annual						
Labor cost - non-wage expenses	Benefits provided (Y/N), by crew-type (fishing crew; captains); CR Crab	Benefits provided (Y/N), by crew-type (fishing crew; captains); CR Crab			Total benefits, recruitment, travel, and non-wage employment costs; Annual			
Employment - harvesting				Count of paid crew (excluding captains); GOA trawl	Employee count and average positions, by crew-type (deck crew; other non-processing crew); Annual			
Employment - processing			Employee count, by location of residence; CR		Employee count, average positions, and average hours per employee-day; Annual	Employee count, by month; Groundfish fisheries		

EDR Variables, by general group	BSAI crab			GOA trawl / Amendment 80			Amendment 91	
	Catcher vessel	Catcher Processor	Shoreside & floating processor	Catcher vessel	Catcher processor	Shoreside & floating processor	Vessel Fuel Survey	Compensated Transfer Report
			Crab and Annual					
Employment - other non-processing			Employee count; Annual			Employee count; Annual		
Employment - Crew licenses and permits	License/permit number, by crew member; CR Crab	License/permit number, by crew member; CR Crab		License/permit number, by crew member; GOA groundfish	License/permit number, by crew member; Annual			
Crew share system in use					Y/N, by some/all, processing/non-processing; Annual			
Other operational data								
Active days - fishing/processing					By activity (fishing; processing) and fishery (A80, GOA groundfish, other)			
Inactive days					Annual			
Travel/offload days					Annual			
Did vessel perform tendering?	Y/N; Annual							

Notes:

- 1: Home port, gross/net tonnage, length overall, beam, shaft horsepower, fuel capacity, year built
- 2: BSAI crab CV + CP + GOA trawl CV: estimated market value and replacement value; GOA trawl CP: survey value; BSAI crab shoreside processor + GOA trawl shoreside processor: borough assessed value, current estimated value; BSAI crab floating processor + GOA trawl floating processor: current estimated market value, current estimated replacement value
- 3: GOA trawl CV: separate reporting of excluder gear and trawl gear costs, includes total direct expenditures for lease, purchase, installation, and repair of gear; excludes finance costs; GOA trawl CP: separate reporting of fishing gear capital expenditures and fishing gear leases, repairs, and purchases fully expensed in calendar year
- 4: BSAI crab CV + CP + GOA trawl CV: reporting of labor payments to harvest crew and captain excludes non-wage expenses such as payroll taxes, unemployment insurance, and worker's compensation; GOA trawl CP: reporting of deck crew labor expenses lumps together captain and other harvesting crew reporting, and includes bonuses and payroll taxes but excludes benefits and insurance
- 5: GOA trawl CP: includes bonuses and payroll taxes but excludes benefits and insurance
- 6: BSAI + GOA trawl shoreside/floating processor: reporting of labor payments excludes non-wage expenses such as payroll taxes, unemployment insurance, and worker's compensation; GOA trawl CP: reporting of labor expenses for other employees includes bonuses and payroll taxes but excludes benefits and insurance.

An examination of Table 4 indicates a number of inconsistencies, at different scales, across EDR forms. The most obvious disparity is between the relative comprehensiveness of the content reported in the A80 EDR form compared to the scope of data collected in other EDR forms.

The A80 EDR collects measures of the physical capital stock of the vessel, and collects revenue and costs using a framework that has been tested for consistency with financial and other record systems in use by vessel owners. Revenue is collected for four primary income streams generated by the vessel and associated assets, each of which is reported as a simple annual aggregate value rather than disaggregated by fishery or bounded to one fishery or period during the year. Capital expenditures are collected for four major categories that collectively represent the physical and intangible assets comprising the productive capital of the vessel, and annual expenses are broken out into a reasonably complete set of accounting categories that likely correspond readily to information that vessel owners maintain as a matter of standard business tax and financial accounts. Labor costs and employment are broken out into coherent labor classes.

In contrast to the A80 form, no other EDRs collect general capital investment expenditures. The crab CP EDR form collects four categories of non-labor operating costs compared to 14 in the A80 CP form, but requires stratification by individual crab fishery. The Crab CV form collects fuel, provisions, and bait by crab fishery, whereas the GOA CV form collects annual fuel expenditures.

At a finer scale, there are additional inconsistencies across EDR forms in the specification of individual data items, as in the GOA CV reporting of trawl gear and excluder devices combines capitalized expenditures (paid over multiple years) with annual expenses, compared to separate treatment of fishing gear capitalized and expense costs in the Trawl CP form. Also notably, the GOA CV form includes three alternate scales of reporting: values aggregated to total annual value, GOA trawl value, and GOA groundfish value.

3.3. EDR Program Operations

3.3.1. Data Collection to-date: Summary of EDR forms and compliance.

Table 5 summarizes the number of EDR forms submitted for each reporting year, beginning with historical Crab EDR forms that were submitted to PSMFC in 2005. The table reports submission of completed and certified EDR data forms. Certification-only EDR submissions are not shown.¹⁷ Compliance with EDR submission requirements is effectively 100%. Gross noncompliance with EDR submission requirements has been limited to a small number of cases that involved bankruptcy and/or more extensive violations of federal fishery regulations. Late EDR submissions are handled by PSMFC on case-by-case grant of deadline extensions up to two-weeks. Since 2005, 40 EDR submissions have been referred to NMFS Office of Law Enforcement (OLE) due to multiple missed deadline extensions or failure to provide timely response to audit requests. Other than one formal written warning from NMFS's OLE in 2007, late EDR and audit materials have been submitted following phone contact from OLE.

¹⁷ As described in Section 4.2, certification-only submissions occur in cases where entities are subject to the EDR submission as a permit holder or owner of a vessel or processing plant under the applicable subsection of 50 CFR 679 or 680, but did not operate in the fishery or management program that an EDR form pertains to and is exempted from completing the data portion of the form. Certification-only Crab EDR submissions prior to 2005 were nearly equivalent to the number of completed data forms, and remained as high as 25% of the number of completed data forms through 2011. To avoid needless paperwork burden of certification-only EDRs, in 2012 PSMFC/AKFIN improved methods for minimizing the number of certification-only submissions by avoiding distribution of EDR notices to entities that can be confirmed by administrative records (e.g., catch accounting) as exempt from EDR data submission requirements.

Timely compliance with EDR submission and audit requests have been somewhat more problematic in the GOA CV sector, but not excessive for a new reporting requirement, and submitters have generally cooperated with PSMFC in good-faith to complete EDR submissions and audit requirements.

Table 5 Counts of Completed EDR Data Forms by EDR Reporting Year

EDR Reporting Year	CRAB EDR			A80/GOA TRAWL EDR			A91 CHINOOK SALMON EDR			All EDR Forms
	CV	CP	Processors	A80/GOA CP	CV	GOA SP	CTR	Fuel Survey	Vessel Master Survey	
1998	218	8	25							251
2001	218	7	23							248
2004	237	10	20							267
Total 1998-2004	673	25	68							766
2005	166	8	17							191
2006	96	5	13							114
2007	82	5	14							101
2008	91	5	15	24						135
2009	84	5	18	23						130
2010	76	3	18	24						121
2011	74	3	19	24						120
2012	80	3	20	20			0	86	135	344
2013	79	2	24	18			0	86	133	342
2014	74	2	19	18			0	75	126	314
2015	80	2	19	19	69	12	0	64	121	386
2016	80	2	18	18	70	6	0	65	117	376
2017	70	2	18	20	66	13	0	61	116	366
Total To-date	1805	72	300	208	205	31	0	437	748	3806

Note: this table will be updated with 2018 data in the final review draft.

Data Verification/audit administration

EDR data verification is required under EDR regulations in 50 CFR 679 and 680. The regulations state that “the DCA shall...” (680.6), or “NMFS, the DCA, or the DDCA will...” (679 subsections 65, 94, and 110) “conduct verification of information with [a person required to submit the applicable EDR or a designated representative]”. In the subsections that follow this *shall* direction to the DCA, the regulations require the EDR submitter to respond to inquiries from the DCA within 20 days, require the submitter to provide supporting records to the DCA as requested, and authorize the DCA *auditor* to review the records for the purpose of substantiating values reported in the EDR.¹⁸ The Council’s intent for the verification process, and of the third-party audit in that process, is not explicitly stated in the regulations, and

¹⁸ Under 680.2, “Auditor means an examiner employed by, or under contract to, the data collection agent to verify data submitted in an economic data report.” There is some inconsistency between the 679 and 680 regulations pertaining to NMFS’ access to supporting records and roles of NMFS, the DCA, and the third-party auditor (DDCA) in verification audits; 680.6(f) states the clearest differentiation between the role of the DCA versus the DDCA, and PSMFC’s audit procedures have been developed by AFSC based on the 680.6 specification.

authorizes rather than directs that data verification is accomplished by auditor review of supporting records. In developing the data verification and audit procedures for PSMFC, Alaska Fisheries Science Center has relied on the Council's record of decision for guidance regarding intent. The Crab Rationalization Program RIR/IRFA (NMFS, 2004b) provides this background, and has been re-used in subsequent analyses for the other EDRs:

“Anticipated Enforcement of the Data Collection Program

The analysts anticipate that enforcement of the data collection program will be 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 will have 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 for unintended errors.

A discussion of four scenarios will be presented to reflect the analysts understanding of how the enforcement program would function. The four scenarios are: 1) a case where no information is provided on a survey; 2) a case where partial information is provided; 3) a case where the agency has questions regarding the accuracy of the data that has been submitted; and 4) a case where a random “audit” to verify the data does not agree with data submitted in the survey.

In the first case, the person required to fill out the survey does not do so. In the second case, the person fills out some of the requested information, but the survey is incomplete. Under either case that person would be contacted by the agency collecting the data and asked to fulfill their obligation to provide the required information. If the problem is resolved and the requested data are provided, no other action would be taken. If that person does not comply with the request, the collecting agency would notify enforcement that the person is not complying with the requirement to provide the data. Enforcement would then use their discretion regarding the best method to achieve compliance. Those methods would likely include fines or loss of quota and could include criminal prosecution.

In the third case the person fills out all of the requested information, but the agency collecting the data, or the analysts using the data, have questions regarding some of the information provided. For example, this may occur when information provided by one company is much different than that provided by similar companies. These data would only be called into question when obvious differences are encountered. Should these cases arise, the agency collecting the data would request that the person providing the data double check the information. Any reporting errors could be corrected at that time. If the person submitting the data indicates that the data are accurate and the agency still has questions regarding the data, that firm's data could be “audited”. It is anticipated that the review of data would be conducted by an accounting firm selected jointly by the agency and members of industry. Only when that firm refuses to comply with the collecting agencies attempts to verify the accuracy of the data would enforcement be contacted. Once contacted, enforcement would once again use their discretion on how to achieve compliance.

The fourth case would result when the “audit” reports different information than the survey. The “audit” procedure being contemplated is a verification protocol similar to that which was envisioned for use in the pollock data collection program developed by NMFS and Pacific States Marine Fisheries Commission (PSMFC). During the design of this process, input from certified public accountants was solicited in order to develop a verification process that is less costly and cumbersome than a typical “audit” procedure. That protocol involves using an accounting firm, agreed upon by the agency and industry, to conduct a random review of certain elements of the data provided.”

“Since some of the information requested in the surveys may not be maintained by companies and must be calculated, it is possible that differences between the “audited” data from financial statements and survey data may arise. In that case the person filling out the survey would be asked to show how their numbers were derived (footnote 41). If their explanation resolves the problem, there would be no further action needed. If questions remained, the agency would continue to work with the providers of the data. Only when an impasse is reached would enforcement be called upon to resolve the issue. It is hoped that this system would help to prevent abuse of the verification and enforcement authority.

In summary, members of the crab industry will be contacted and given the opportunity to explain and/or correct any problems with the data, that are not willful and intentional attempts to mislead, before enforcement actions are taken. Agency staff does not view enforcement of this program as they would a quota monitoring program. Because these data are not being collected in “real” time, there is the opportunity to resolve occasional problems as part of the data collection system. Development of a program that collects the best information possible to conduct analyses of the crab rationalization program, minimizes the burden on industry, and minimizes the need for enforcement actions are the goals of the data collection initiative.”

[...]

“Verification of data including auditing and error checking

The mandatory data collection program provides that verification of data, auditing, and error checking would be the primary responsibility of the third party agent. Consistent with procedures set forth in the motion, the agent will be obligated to develop an appropriate system for identifying outliers, incomplete data, or anomalies in the data submissions. Further, the third party agent will be obligated to retain qualified professional analysts or accountants to review data submissions and identify errors or flag possible fraudulent submissions.”

ASFC and PSMFC began developing data verification protocols and procedures for the Crab EDR in 2005 and have continued to improve and refine the process to efficiently identify and correct data reporting errors while reducing the cost and burden of the audit process. Prior to incorporation of EDR data into the Alaska Fish Information Network (AKFIN) relational database in 2011, EDR data validation was largely reliant on the audit process. Automated validation routines now allow PSMFC to identify most errors and obtain corrections from submitters shortly after EDRs are submitted. AFSC developed revised audit selection and review protocols in 2017, which were used by PSMFC in the RFP for Certified Public Accounting (CPA) firms to contract the audit review.

EDR data verification currently employs a series of validation procedures, including 1) primary, automated data validation procedures programmed and maintained by AKFIN on the EDR database, 2) secondary validation employing statistical procedures and visual inspection to identify data anomalies and

statistical outliers, and 3) editing and imputation for data errors identified by data users that were not detected and corrected in primary and secondary validation.

Primary validation procedures involve programmed tests to identify logical errors and inconsistencies in individual EDR records, e.g., upper and lower bounds for reported values and ratios of values, crew missing data for one or more by-fishery EDR data fields where fishery participation is indicated in the EDR record or in catch accounting data. Primary routines are executed by PSMFC staff on each EDR record shortly after receiving a certified EDR submission, with follow-up contacts with submitters to obtain corrections as needed. Most primary validation errors are identified and corrected easily with a phone call and result in a re-certified EDR submission within 2 weeks of the submission.

Secondary validation begins after primary validation is completed and all EDR records are certified final by submitters. Once EDRs are completed, AKFIN completes integration of current year EDR records with other datasets, calculation of various pro-rata and statistical indices, and plotting for visual inspection. AFSC and PSMFC review the results to identify and flag visual outliers and anomalies as potential reporting errors. Flagged values are selected for correction through follow-up by PSMFC staff, or selection to third-party verification audit.

Audit protocols specified in the Scope of Work (SOW) for PSMFC's contract with EDR auditors require auditors to notify EDR submitters that have been selected for audit and to request appropriate supporting materials to enable auditors to substantiate reported values. After audit selections have been identified, and prior to the auditor distributing notices, ASFC and PSMFC consult with the auditor to determine the appropriate forms of supporting evidence and level of review appropriate for different types of data. For example, quota lease data tends to be more challenging to validate and requires a higher level of review compared to provisions costs. Once auditors have received the requested records, and/or with additional phone contacts, the auditors identify and confirm a correct value for the data item (either the original reported value or a corrected value). Auditors also evaluate the quality of supporting records and information provided by the submitter, and characterize the quality of support and nature of reporting errors using a coding system developed by AFSC and specified in the SOW.¹⁹ Audit corrections are entered into the EDR database by PSMFC and AKFIN's production version of the EDR database is finalized after all audit results are entered.

As noted above, the data validation process and procedures have been implemented by AFSC and PSMFC based on interpretation of the Council's record of decision, and the third-party audit process has been modified as the process envisioned in the Council record has been implemented through alternative database management procedures that enable more timely and efficient error corrections at lower cost and burden to submitters.

Two issues that have emerged from the practical experience of AFSC and PSMFC in working with CPA firms under contract are especially worth noting: 1) in all audits reviews conducted since 2006, there has not been a single finding of intentional misreporting, or of any bias in the direction of reporting errors identified by auditors; and 2) verifying the quality of results produced by auditors requires considerable effort by AFSC and PSMFC. On the latter point, contracting for the services of CPA firms to conduct data validation audits is not straightforward, and the tasks involved are unfamiliar to CPAs and require one or two iterations to gain experience. However, CPA firms face staff turnovers and can't be relied upon to maintain staffing stability for EDR contracts, and PSMFC is required to issue RFPs to renew ongoing service every three years at minimum.

¹⁹ The SOW for the audit of 2017 Annual Crab EDR data is attached as Appendix B, and all audit reports posted on PSMFC's webpages for the four EDR programs, which can be reached through PSMFC's EDR Program page at: <http://www.psmfc.org/program/prog-2?pid=17>.

3.4. Analysis of Impacts: Alternative 1, No Action

No Action –Status Quo Conditions

If no action is taken, the status quo conditions remain unchanged. The current authorizations for third party data verification audits conducted by an independent auditor would continue in regulations. In addition, blind data formatting procedures would continue to be applied to EDR data. The Council directed guidelines for data aggregation protocol would continue to be applied to EDR data. Finally, the GOA Trawl EDR program would continue to exist.

Status Quo Operational Audit Procedures in 2019 and the Future

The April 2019 Council Motion identified in action Component 1 the elimination of requirements for third party data auditing under existing programs and also to reduce burdens associated with this process. As discussed previously, third party data auditing is not strictly required but it is authorized and has been used over the life of the EDR programs to conduct data verification that has now been, through the auditing process, automated and streamlined resulting in a trend of lower auditing costs over time. The alternative set crafted from the Council motion interprets the language of Component 1 of Alternative 2, if adopted, as striking regulatory language authorizing audits so that any potential for burdens associated with the process are eliminated. However, given Council intent to ease such burdens, the AFSC and PSMFC have opted to not contract with an auditing firm in 2019 and have procedurally suspended automatic audits. Thus, under the no action alternative, the AFSC and PSMFC have acted, in 2019 and potentially into the future, to ease the burdens of third party data audits. Data verification procedures will continue to be followed and the authorization for audits remains in regulation providing an incentive to industry to provide accurate and timely compliance with the EDR information collections.

EDR Program Expenditures and Cost Recovery

This section describes the financial cost of implementing the EDR Program and identifies the extent of which those costs have been recovered from the fishing industry by the National Marine Fisheries Service. These costs would continue under the status quo.

These costs are primarily borne by the AFSC and will be the main focus of this section, but the Alaska Regional Office (AKRO) of NMFS does also provide funds for the Crab Rationalization program and will be described in context. This section focuses on the cost recovery amounts rather than the full cost to the NMFS as in the years prior to cost recovery being implemented in the programs, NMFS did not calculate the in-kind contribution of staff time on EDRs until required to do so for cost recovery purposes.

The cost of running the EDR Program also includes the costs of the PSMFC and their subcontractors in their role as DCA, providing administrative support for the data collections, software development, web services, and database administration. Full Time Equivalent time provided by the AFSC includes oversight of PSMFCs work, performing additional data quality assurance/ quality control, survey development and refinement, collaboration with AKRO staff on Paperwork Reduction Act (PRA) clearance and publication of authorizing regulations, and associated public outreach (meetings, consultations and user support). AFSC also provides office space, computer equipment, and other administrative services.

In addition to cost recovery measures implemented by AKRO concurrently with rationalization of the crab and Central GOA rockfish fisheries and in 2000 in halibut and sablefish, new cost recovery requirements went into effect during 2016 for AFA pollock, Amendment 80, and all CDQ fisheries. The GOA Trawl fishery is not part of a catch share fishery and is therefore not subject to cost recovery. The costs reported for the GOA Trawl EDR only reflect the PSMFC administrative costs and do not include

the costs of NMFS staff time, and therefore serve as a lower bound on the total cost of the GOA Trawl EDR.

Table 6 describes the annual cost recovery amounts for the three cost recovery eligible EDR fisheries and the PSMFC administrative costs for the GOA Trawl EDR. Note that the cost recovery amount for the Crab EDR is listed in the first year of the crab season, but is typically received and used by NMFS and PSMFC during the NMFS fiscal year that coincides with the second year of the crab season. The costs have been quite variable in the Crab EDR Program, which averaged \$286,013 over all years, and fluctuates largely due to changes in the cost of audits each year as well as the costs associated with database administration, support, and changes to the EDR forms. Costs have remained relatively stable in the A80 EDR, averaging \$90,733/year for the first three years of cost recovery (2016-2018). For the inshore sector of the A91 EDR, the only sector from which EDR Program costs are now recovered, costs have averaged \$57,260 per year since costs have been recovered since 2016. To approximate the cost of implementing the GOA Trawl EDR, the PSMFC administrative costs of implementing the GOA Trawl EDR are included, but have not included any NMFS staff time as these are not routinely documented for non-cost recoverable activities. These costs have averaged \$70,159 per year over the four years of the data collection, with costs varying largely due to changes in the need for audits.

While these costs are not insignificant, they represent a small fraction of the ex-vessel value generated by these fisheries (Table 7) with EDR-related costs averaging 0.15% of the ex-vessel value for the Crab EDR, 0.09% for the A80 EDR, 0.04% for the A91 EDR, and 0.10% for the GOA Trawl EDR. Ex-vessel values for the Crab EDR, A80 EDR, and A91 EDR come from the annual cost recovery reports, while the values for GOA Trawl represent their GOA Trawl related ex-vessel revenue for all vessels required to submit a GOA Trawl EDR and was calculated directly by AKFIN.

Table 6 Cost Recovery and PSMFC Administrative Costs of the EDR Programs

Program/ Year	Crab ¹	A80	AFA ²	Cost Recovery Total	GOA Trawl ³	Total EDR Cost
2005	\$ 150,000			\$150,000		\$150,000
2006	\$ 150,000			\$150,000		\$150,000
2007	\$ 259,938			\$259,938		\$259,938
2008	\$ 338,276			\$338,276		\$338,276
2009	\$ 314,303			\$314,303		\$314,303
2010	\$ 352,508			\$352,508		\$352,508
2011	\$ 323,588			\$323,588		\$323,588
2012	\$ 373,316			\$373,316		\$373,316
2013	\$ 318,278			\$318,278		\$318,278
2014	\$ 342,703			\$342,703		\$342,703
2015	\$ 269,583			\$269,583	\$ 53,771	\$323,354
2016	\$ 345,509	\$ 88,254	\$62,859	\$496,622	\$ 73,221	\$569,843
2017	\$ 180,168	\$ 91,482	\$69,369	\$341,019	\$ 91,879	\$432,898
2018		\$ 92,462	\$40,631		\$ 61,765	

¹ The year listed in this table reflects the first year of the crab fishing season.

² Only includes costs associated with the inshore sector.

³ Only includes PSMFC administrative costs.

Table 7 EDR Program Costs as Share of Fishery Ex-Vessel Value

Program/Year	Crab ¹	A80	AFA ²	GOA Trawl ³
2005	0.11%			
2006	0.13%			
2007	0.13%			
2008	0.16%			
2009	0.21%			
2010	0.13%			
2011	0.11%			
2012	0.16%			
2013	0.15%			
2014	0.15%			
2015	0.12%			0.08%
2016	0.18%	0.10%	0.04%	0.11%
2017		0.08%	0.04%	0.13%

¹ The year listed in this table reflects the first year of the crab fishing season.

² Only includes the inshore sector.

³ Only includes PSMFC administrative costs.

However, the share of total cost recoverable costs associated with the EDR Program varies by each EDR as incremental costs associated with catch share programs vary by program as well. The Crab EDR represents on average approximately 9% of the total direct program costs which averaged \$3.4 million from the 2005/2006 fishing season through 2016/2017. The costs are slightly higher proportionally in the A80 EDR Program, averaging 19% of the \$584,541 average annual direct program costs for 2016 and 2017. The inshore A91 EDR represents over 29% of the average annual direct program cost of the inshore sector in the AFA program, which has averaged \$252,911 over 2016 and 2017. There is no comparable metric for comparison in the GOA Trawl fishery.

Estimated Cost to Industry of Preparing and Submitting EDRs

Table 8 summarizes the estimated hours and costs to industry of preparing and submitting each form or information collection component of the four Alaska EDRs. Additional information about these estimates is in the EDR discussion paper and on www.reginfo.gov.²⁰ The table provides the estimated annual number of respondents for each form or component each year, the estimated time it takes a respondent to prepare and submit the required information, the estimated cost per hour for preparing and submitting each response, the estimated annual cost per respondent, and the estimated annual total labor cost for all respondents. The rows title “Total for Collection” show the estimated annual total labor cost of submitting the required EDR information for each of the four EDR programs. For example, NMFS estimates that it costs approximately \$312,000 per year for respondents to provide the information required for the crab EDR; approximately \$19,000 per year for the Amendment 80 and GOA trawl catcher/processor EDR, approximately \$48,000 per year for the GOA trawl catcher vessel and processors EDR, and approximately \$60,000 per year for the BS Chinook salmon bycatch EDR. The total estimated

²⁰ The supporting statements describing the information collection requirements and estimates of time burden and cost are available for each information collection on www.reginfo.gov. Search for the following “OMB collection numbers”: Crab EDR (0648-0518), Amendment 80 and GOA trawl CP EDR (0648-0564), GOA trawl EDR (0648-0700), and BS Chinook salmon bycatch EDR (0648-0633).

cost for all of the EDRs is \$439,504. These are the cost estimates for preparing, reviewing, and submitting the required information and are in addition to the EDR administrative costs described in Section 5.1.1.3, some of which are recovered from the industry through cost recovery.

The estimates of time burden and cost per hour in Table 8 represent the estimates used in the most recent PRA supporting statements or updates generated since then through ongoing operation of the program. NMFS solicits comments on these burden hour estimates and cost estimates in the proposed rule for the information collection requirement and again in each 3-year renewal. If specific comments are received on the burden hour or cost estimates, NMFS generally adjusts the estimates in the specific collection.

Table 8 shows a fairly wide range of hourly cost estimates among the EDR programs. The \$37 per hour estimate is an average hourly cost estimate used for forms and components in most of NMFS' information collections. This estimate is based on the assumption that information is being submitted by operators of small vessels or administrative or management staff in processing plants or fishing companies, and the closest average compensation for Federal Government employees of comparable responsibility and compensation. This estimate has not been systematically validated through surveys and has not been updated in several years. The estimates of \$165 per hour for the crab EDR and \$75 per hour for the A91 EDR are based on comments received on past EDR renewals that explained of the type of expertise needed to complete these particular EDRs and provided the associated costs per hour for people with this expertise. As stated earlier, NMFS presents its burden hour and hourly cost estimates for public comment and generally updates and revises them if it receives information that supports doing so.

Table 8 Estimated Number of Respondents and Costs to Prepare and Submit Alaska Economic Data Reports.

Name of EDR Program or Submission	Number of respondents per year	Hours per response	Estimated Cost Per Submission and in Total		
			Cost per hour for respondent	Cost per respondent	Total labor costs of submission
Crab EDR					
Catcher vessels	70 – full EDR	20	\$165 ^{1/}	\$3,300	\$231,000
	1 – cert. only ^{2/}	1	\$165	\$165	\$165
Catcher/processors	2 – full EDR	20	\$165	\$3,300	\$6,600
Processors	18 – full EDR	16	\$165	\$2,640	\$47,520
	4 – cert. only	1	\$165	\$165	\$660
Verification/audit	16 CVs	8	\$165	\$1,320	\$21,120
	0 CPs				\$0
	4 processors				\$5,280
Total for Collection	95				\$312,345
Amendment 80 and GOA Trawl Catcher/Processors					
Annual EDR	21 – full EDR	22	\$37 ^{3/}	\$814	\$17,094
	6 – cert. only	1	\$37	\$37	\$222
Verification/audit	8	5	\$37	\$185	\$1,480
Total for Collection	27				\$18,796
Gulf of Alaska Trawl EDR for Trawl Catcher Vessels and Shoreside Processors Taking Deliveries from Trawl CVs					
Catcher vessels	67 – full EDR	15	\$37	\$555	\$37,185
	34 – cert. only	1	\$37	\$37	\$1,258
Processors	13 – full EDR	15	\$37	\$555	\$7,215
Verification/audit	10 CVs	4	\$37	\$148	\$1,480
	5 processors	5	\$37	\$185	\$925
Total for Collection	114				\$48,063
BS Chinook Salmon EDR					
Annual Compensated Transfer Report	0 – transfer rpt	40	\$75 ^{4/}	\$3,000	\$0
	96 – cert. only	1	\$75	\$75	\$7,200
	0 – verification/audit	4	\$75	\$300	\$0
Vessel Fuel Survey	61	4	\$75	\$300	\$18,300
Vessel Master Survey	116	4	\$75	\$300	\$34,800
Total for Collection					\$60,300
TOTAL for all EDRs					\$439,504

^{1/} Estimated cost per hour of an accountant hired to prepare the crab EDRs and information requested for the verification process.

^{2/} Respondent submitted only the certification page indicating that they were not required to complete the full EDR that year.

^{3/} Standard baseline assumption of cost per hour for most of the Alaska Region's information collection components.

^{4/} Cost per hour estimate from the original supporting statement for the BS Chinook Salmon EDR final rule, assuming a higher average cost per hour for submissions made by vessel owner or operators.

3.5. Analysis of Impacts: Alternative 2, Component 1

Adoption of Alternative 2, Component 1, would remove data verification audit authorizations in 50 CFR 679 and 680, and amend and clarify the Crab FMP text of section 14.7 as shown in Appendix A. Removal of the audit authorization would prevent the DCA from contracting with a third party auditor to conduct the audit portion of the data verification. However, EDR data verification currently employs a series of validation procedures, including 1) primary, automated data validation procedures programmed and maintained by AKFIN on the EDR database, 2) secondary validation employing statistical procedures and visual inspection to identify data anomalies and statistical outliers, and 3) editing and imputation for data errors identified by data users that were not detected and corrected in primary and secondary validation. These data validation procedures would remain in place and continue to be used under this Component. This Component of Alternative 2 only affects the audit authorization.

Two issues that have emerged from the practical experience of AFSC and PSMFC in working with CPA firms under contract are especially worth noting: 1) in all audits reviews conducted since 2006, there has not been a single finding of intentional misreporting, or of any bias in the direction of reporting errors identified by auditors; and 2) verifying the quality of results produced by auditors requires considerable effort by AFSC and PSMFC. On the latter point, contracting for the services of CPA firms to conduct data validation audits is not straightforward, and the tasks involved are unfamiliar to CPAs and require one or two iterations to gain experience. However, CPA firms face staff turnovers and can't be relied upon to maintain staffing stability for EDR contracts, and PSMFC is required to issue RFPs to renew ongoing service every three years at minimum. This Component, by eliminating audit authorization would eliminate these issues and difficulties.

Verification and audit costs born by industry are provided in Table 8. As mentioned previously, the estimates of time burden and cost per hour represent the estimates used in the most recent PRA supporting statements or updates generated since then through ongoing operation of the program. NMFS solicits comments on these burden hour estimates and cost estimates in the proposed rule for the information collection requirement and again in each 3-year renewal. PRA supporting statement data indicates that the verification and audit processes accrue an annual cost estimated to be approximately as follows,

- Crab EDR: \$26,400
- Amendment 80 EDR: \$1,480
- GOA Trawl EDR/Shoreside Processors: \$2,405
- BS Chinook Salmon EDR: \$0 (No compensated transfers have occurred)

Under this Component, data verification will continue with some portion of these costs continuing. Removal of the audit authorization would eliminate the potential for these audits to occur and would eliminate the potential for much of the auditing cost to be incurred; however, much of this cost has already been procedurally eliminated under the status quo with audits being limited to cases of noncompliance.

In addition to the estimated cost of industry compliance with audits there is also contracting cost that would be eliminated. PSMFC has provided, with permission from contractors, data that documents the contracting costs that have been incurred to conduct auditing in the EDR programs. A review of that data shows that the Crab EDR costs have ranged from approximately \$65,000 annually to as low as about \$22,000 annually and have generally been falling over the life of the Crab EDR Program. Audits were done in the amendment 91 program in 2013 and 2014 with costs of between \$15,000 and \$18,000

annually for audits of the fuel and master surveys. Amendment 91 audits are now only considered authorized for the compensated transfer report portion of the A91 EDR; however, there have not been any compensated transfers and, thus, no associated audit contracting costs. Amendment 80 EDR and GOA Trawl EDR combined have had auditing costs of \$30,000 to \$35,000 annually. This component would eliminate the potential for the EDR program operated by AFSC and PSMFC to incur these audit contracting costs.

3.6. Analysis of Impacts: Alternative 2, Component 2

Component 2 of Alternative 2 would revise requirements for aggregation of data across submitters and blind formatting in the crab data collection program to make those data aggregations and confidentiality protections comparable to the requirements under other data collection programs.

The DCA/blind-data rule requires the collection of EDR forms to be performed by a third-party DCA (PSMFC), and requires removal of unique identifiers (e.g., vessel identifiers, permit numbers) from EDR data records accessible to Council and agency staff. However, the Council only required this for Crab EDR and GOA CV and processor EDR data. The blind data rule was considered when developing the A80 and A91 EDRs, but was not included in the preferred alternatives for those EDRs. The blind-data requirement introduces significant administrative challenges for AFSC's oversight and management of the EDR program in collaboration with PSMFC because AFSC staff responsible for oversight of data verification and validation processes are prohibited from access to identifying information. This has substantially impeded timely completion of verification audits and production of economic SAFE reports on some occasions. In contrast, the DCA/blind data regulations in 679.110 and 680.6 do not prohibit PSMFC from authorizing subcontractors to access identifiers in EDR records (subject to nondisclosure agreements). This is necessary for some IT application and database development for EDRs performed for PSMFC under contract. In principle, this would not prohibit release of EDR microdata containing identifiers to individuals contracted and authorized to perform research and analyses using EDR data, but PSMFC and AFSC have consistently applied the blind-data protocol for all EDR data released to contractors authorized for such purposes.

The unique confidentiality protocols that apply to EDR data records also impose limitations on the useability of the data. The designated Data Collection Agent and "blind-data" protocol, and the five record aggregation standard, are unique to EDR data, and were introduced by the Council as part of the Crab EDR program to apply a higher standard of confidential data protection to the cost data and other proprietary business information collected in EDRs. Apart from the particular implications of each element on useability and access to EDR data discussed below, these requirements are an additional aspect of the inconsistency of EDR data that impedes regular use by Council and NMFS analysts. Analysts' use of EDR data involves increased material and perceived risk of inadvertently disclosing confidential data. This has likely resulted in avoidance of using EDR data in cases where it may have been the best information available, but alternatives with lower risk and complexity were chosen for the sake of timeliness.

The Council's guideline aggregation standard specifies that a minimum of five distinct EDR records is required for public release of aggregated statistics and tabular summaries derived from EDR records. This is in contrast to the standards applied to other confidential commercial fisheries data under NMFS and Council reciprocal access agreements and MOAs with ADFG and CFEC, and respective agency administrative rules concerning confidential data.²¹ After consulting with ADF&G and AKRO staff, the

²¹ See Confidentiality Of Fisheries Information, Divisional Operating Procedure (DOP) CF-008, ADF&G Division of Commercial Fisheries.

five record guideline was proposed by the AFSC in 2006 in response to a Council request for confidentiality and data quality standards for use of Crab EDR data. The Council recommended this standard as a guideline rather than a formal requirement implemented in EDR regulations, and AFSC has subsequently applied this standard to all public release of statistical summaries using any EDR program data.

The small number of vessel and processor entities represented in EDR records, particularly in CR crab fisheries, requires confidential data suppression of significant portions of the data collected in EDRs. In particular, the small number of crab processors providing custom crab processing services prevents release of data reported in the Crab Processor EDR form for custom processing service fees paid by buyers and revenue received by custom process providers. This represents a substantial fraction of the data reported in the crab processor EDR. Applying a three record aggregation standard would allow reporting of custom processing data to some extent, but in many cases, there are only one or two providers within a given crab fishery. The five record aggregation standard also requires data suppression for cost and employment data in smaller crab fisheries that would otherwise be publishable under three record standard. It is also notable that, in the potential event of Chinook salmon PSC transfers that would be subject to reporting in the A91 CTR form, application of the five record aggregation standard could prevent release of information on compensated transfers to the Council or public.

The elimination of blind formatting in Component 2 would require a regulatory amendment as identified in Appendix A. However, the data aggregation standard applied to EDR data is a Council guideline and is not specified in regulations. If adopted by the Council, Component 2 would provide a revised recommendation to follow existing data handling standards applied to commercial fisheries data as a guideline to the AFSC regarding EDR data confidentiality standards and consistency and would not require amendment to either FMP text or regulatory text.

3.7. Analysis of Impacts: Alternative 2, Component 3

Component 3 of Alternative 2 removes the GOA Trawl EDR requirements from regulation. Note that the original Council motion included consideration of changes to the program. However, as discussed in the description of alternatives, analysts recommend limiting this Component to program elimination only due to the ongoing work of the SSPT on Issue 2 of the Council April 2019 EDR motion.

Elimination of the GOA Trawl EDR program would eliminate a portion of the EDR program costs incurred by AFSC and PSMFC. Estimated annual programmatic costs attributable to the GOA Trawl EDR are shown in Table 8. To approximate the cost of implementing the GOA Trawl EDR, the PSMFC administrative costs of implementing the GOA Trawl EDR are included, but have not included any NMFS staff time as these are not routinely documented for non-cost recoverable activities. These costs have averaged \$70,159 per year over the four years of the data collection, with costs varying largely due to changes in the need for audits. Elimination of the GOA Trawl EDR would eliminate programmatic costs incurred by AFSC and PSMFC. These are costs born by the agencies, as the GOA Trawl EDR is not part of a catch share fishery and thus administrative costs are not subject to cost recover.

Elimination of the GOA Trawl EDR program would also eliminate compliance costs for industry.

Elimination of the GOA Trawl EDR program would also eliminate compliance costs for industry. Table 8 summarizes the estimated hours and costs to industry of preparing and submitting each form or information collection component of the four Alaska EDRs. The table provides the estimated annual number of respondents for each form or component each year, the estimated time it takes a respondent to

http://www.adfg.alaska.gov/static/home/news/hottopics/cook_inlet_salmon_task_force/pdfs/dopcf-008.pdf

prepare and submit the required information, the estimated cost per hour for preparing and submitting each response, the estimated annual cost per respondent, and the estimated annual total labor cost for all respondents. The rows title "Total for Collection" show the estimated annual total labor cost of submitting the required EDR information for each of the four EDR programs. NMFS estimates that it costs approximately \$48,000 per year for the GOA trawl catcher vessel and processors EDR. Elimination of the program would eliminate these compliance costs. However, the audit portion of these costs (~\$2,500) has been procedurally eliminated under the status quo.

In its original purpose and need statement for the GOA Trawl EDR within its February 2013 motion the Council identified a need to establish a baseline information collection that can be used to assess the impacts of a catch share program particularly on affected harvesters, processors, and communities in the GOA. However, Council action on GOA bycatch management was suspended in December of 2016. Thus, the original need for this data collection program has been indefinitely suspended calling into question the efficacy of continuing the program given that it has demonstrated programmatic costs born ultimately by tax payers as well as industry compliance costs.

The fundamental question is whether continuing this time series data collection is appropriate given the limitations of this data. For example, the reporting of non-labor vessel cost data in the CV EDR is limited and is inconsistent with the structure employed in other EDRs. Despite the Council's stated intent in implementing the GOA EDR to use components from other EDRs that have demonstrated utility and quality, the specifications of two of three non-labor cost elements in the CV form are unique: annual trawl gear cost is reported as inclusive of all expenditures, including expensed items and capitalized purchases; annual expenditures on salmon and halibut excluder gear is also combined over expensed and capitalized purchases, and is not collected in any other EDR.

Further, The GOA processor EDR collects processing labor data as: number of employees by month, and labor hours and gross pay, by month and housed/not housed. This has two potentially important limitations: 1) regular and overtime hours should be reported separately in order to control for the relative effect of overtime premiums on average labor cost, and 2) the different stratification applied to employee counts compared to labor hours and pay limits the ability to identify the number of housed and non-housed employees; the employment data should be differentiated by housing status, consistent with labor hours and pay. The collection of monthly water and electrical utility consumption by processing plants is of some concern as well. The data are not generalizable as the variables only apply to Kodiak plants, and do not adequately capture energy and water costs to plants that are not fully dependent on municipal utility supply. The narrow scope of this data as currently collected may be more suited to an administrative reporting requirement than an EDR.

An important limitation on the use of EDR data for specific applications is the frequency with which the particular management issues are taken up for consideration by the Council. For example, the Council's intent in initiating the GOA Trawl CV and processor EDRs was to establish a baseline of economic data for use in analyzing the effects of a change to catch-share management. Notwithstanding the suspension of GOA rationalization, the intent of the Council was to use the EDR to accumulate a set of baseline measurements, against which later measurements collected after a management change could be compared. The GOA EDR has captured a set of baseline measurements for the few variables that it collects, and may continue to accumulate a longer baseline of the same data. The usability of these data for this intended purpose is uncertain, however, given that the envisioned management transition has not occurred. In addition, the narrow range of variables collected in the CV and processor EDRs poses the risk of not effectively capturing the dimensions of economic change that are most significantly affected as a result of management changes. As the EDR was designed to be implemented on a fast track before an impending catch share program, revisiting the design of the data collection under less time constraint would likely produce a data collection of more general utility, if that is desired by the Council.

On a final note, several recent Council action analyses have used GOA Trawl EDR data. The 2016 GOA trawl bycatch management analysis included an SIA that made extensive use of EDR data. In addition, EDR data was used in the recently completed (3/8/19) analysis titled BSAI Final Review Draft Social Impact Assessment: Catcher/Processor Mothership Restrictions in the Bering Sea and Aleutian Islands and the Gulf of Alaska when taking Directed Non-CDQ Pacific Cod Deliveries from Trawl Catcher Vessels. However, in this case, complete data was not available for any of the different sectors involved and no EDR data was available for some of the sectors involved. This action was essentially an allocation (or reallocation) between sectors and it would not be acceptable to present detailed data on one sector and not another. To overcome this limitation, the analysts used some of the crew residence data for catcher vessels that filled out a GOA Trawl EDR and worked both in the GOA and the BSAI, with important caveats, as a work around solution. In addition, the SIA for the GOA Rockfish Program Reauthorization presently under consideration by the Council used GOA Trawl EDR data. Thus, there is utilization of the data to benefit the Council process despite the suspension of GOA Trawl bycatch management.

3.8. Affected Small Entities (Regulatory Flexibility Act Considerations)

Section 603 of the Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis (IRFA) be prepared to identify whether a proposed action will result in a disproportionate and/or significant adverse economic impact on the directly regulated small entities, and to consider any alternatives that would lessen this adverse economic impact to those small entities. NMFS prepares the IRFA in the classification section of the proposed rule for an action. Therefore, the preparation of a separate IRFA is not necessary for the Council to recommend a preferred alternative. This section provides information about the directly regulated small entities that NMFS will use to prepare the IRFA for this action if the Council recommends regulatory amendments.

The alternatives considered in this analysis would directly regulate the owners of vessels or processors, or leaseholders of vessels, required to submit EDRs to NMFS. The thresholds applied to determine if an entity or group of entities is a small business under the RFA depend on the industry classification for the entity or entities. Businesses classified as primarily engaged in commercial fishing are considered small entities if they have combined annual gross receipts not in excess of \$11.0 million for all affiliated operations worldwide (81 FR 4469; January 26, 2016). Businesses classified as primarily engaged in fish processing are considered small entities if they employ 750 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated operations worldwide. Since at least 1993, NMFS has considered catcher/processors to be predominantly engaged in fish harvesting rather than fish processing. NMFS considers members of fishing cooperatives affiliated for purposes of applying thresholds for identifying small entities. In making this determination, NMFS considered Small Business Administration's (SBA's) "principles of affiliation" at 13 CFR 121.103. Specifically, in § 121.103(f), SBA refers to "[A]ffiliation based on identity of interest," which states "[A]ffiliation may arise among two or more persons with an identity of interest. Individuals or firms that have identical or substantially identical business or economic interests (such as family members, individuals or firms with common investments, or firms that are economically dependent through contractual or other relationships) may be treated as one party with such interests aggregated." If business entities are affiliated, then the threshold for identifying small entities is applied to the group of affiliated entities rather than on an individual entity basis.

Most of the participants in the crab rationalization, AFA, Amendment 80, and Rockfish Program fisheries are affiliated through their membership in fishing cooperatives. Some also are affiliated through ownership. In either of these cases, annual gross receipts are aggregated for all members of a cooperative or all vessels or processors jointly owned. Some vessel owners directly regulated by the EDR requirements may be in cooperatives whose combined annual gross receipts do not exceed \$11.0 million, or may not be in a cooperative at all. Reliable information is not available on ownership affiliations

between some of the individual processing operations or employment for the fish processors directly regulated by this proposed rule. Therefore, analysts often assume that directly regulated processors could be small. Analysts will further evaluate the ownership and affiliation of vessels and processors that could be directly regulated by this action and include more detailed estimates of the directly regulated small entities in the next draft of the RIR.

The two alternatives that would directly regulate those responsible to submit EDRS to NMFS are Alternative 2, Component 1 (options for reducing or removing third party data verification audits) and Alternative 2, Component 3 (removing requirements for the GOA trawl EDR). In both cases, the proposed actions would reduce the costs of the EDR requirements to the directly regulated entities.

3.9. Management and Enforcement Considerations

3.9.1. Alternative 1, No Action, Audit Authorization Incentive

As discussed under impacts of the status quo, the AFSC and PSMFC have opted to not contract with an auditing firm in 2019 and have procedurally suspended automatic audits. Thus, under the no action alternative, the AFSC and PSMFC have acted, in 2019 and potentially into the future, to ease the burdens of third party data audits. Data verification procedures will continue to be followed and the authorization for audits remains in regulation providing an incentive to industry to provide accurate and timely compliance with the EDR information collections. Thus, NMFS has procedurally eliminated routine third-party data verification audits and limits the audit requirement, under the status quo alternative, to instances of noncompliance with EDR submission requirements.

3.9.2. Alternative 2, Component 1 Combined with Component 2

Alternative 2, Component 1, would remove status quo authorizations for EDR third party data audits. This action could potentially remove a strong incentive for industry to continue to provide accurate and timely EDR data submission, as there is no risk of bearing the cost of an audit. Enforcement actions would still be possible in cases of noncompliance; however, without the auditing tool it is unclear how enforcement would become aware of noncompliance if data is blind formatted. What this implies is that if Component 1 is adopted, elimination potential for audits, then noncompliance would be masked in blind formatted data, as data analysts would not know from whom the noncompliant data was submitted. This may hamper enforcement of EDR regulations. Of course if Component 2 is also adopted that would eliminate blind data formatting making identification of noncompliance possible at the data analyst level with possible referral for enforcement investigation

3.10. Summation of the Alternatives with Respect to Net Benefit to the Nation

Table 9 provides a qualitative comparison of the potential effects of the alternatives on industry costs, programmatic costs, data usage and availability, incentives for compliance, and enforceability of EDR program regulations. Direct cost to industry of independent third party audits has been procedurally reduced to zero under the status quo, as audits will now only occur in cases of noncompliance.

Alternative 2, Component 1 eliminates the authorization for third party audits and, thus, removes the incentive for accurate and timely reporting. Given that the agencies have acted to minimize the burden of independent third party audits, Alternative 2, Component 1 may have negative implications for net national benefits dependent on whether misreporting becomes a problem absent the compliance incentive of independent third party audits.

Alternative 2, Component 2 would eliminate blind formatting of data and the Council guideline of use of the five record confidentiality standard both of which have effectively diminished the usefulness and practical application of the data for analysis of fishery management issues. In addition, by authorizing NMFS personnel to access identifiers in EDR records, eliminating blind formatting under Component 2 Option 1 would facilitate more effective oversight of EDR data verification processes by NMFS staff, particularly if independent third party audits are reduced or eliminated as under Alternative 2, Component 1, and would improve effective enforcement of EDR submission requirements. Thus, Alternative 2, Component 2 provides net benefits to the nation in terms of improving data use and application in the fishery management and Council process as well as improving the potential for effective enforcement.

Alternative 2, Component 3 would eliminate the GOA Trawl EDR. The GOA trawl EDR was established to create a baseline data set intended to be used in developing a bycatch management program; however, bycatch management program development in the GOA trawl fishery has been subsequently suspended by the Council. Thus, the original purpose of and need for this data collection program is not clearly existent and the program does impose compliance costs on industry and programmatic costs generally born by taxpayers. However, the data collected in the GOA Trawl EDR has been used to develop analyses of Council actions and has demonstrated practical value in the fisheries management and Council process. Whether elimination of the GOA Trawl EDR would create net national benefits will be further addressed following review of this analysis by the Council’s Scientific and Statistical Committee, the public, and the Council.

Table 9 Comparison of Effects of the Alternatives

	Alternative 1	Alternative 2 Component 1	Alternative 2 Component 2	Alternative 2 Component 2	Alternative 2 Component 3
Action	Status quo. No action.	Remove independent third party data audit authorizations	Eliminate blind formatting of EDR data)	Apply existing data handling standards to EDR data	Eliminate the GOA Trawl EDR
Impacts					
Industry cost-direct cost	Procedurally reduced to ease burden	Potential for audit related cost burden eliminated	No change	No change	Reduced
Industry costs-Cost recovery	Procedurally reduced/taxpayer burden remains	Reduced by elimination of programmatic costs	No change	No change	Taxpayer burden reduced
Programmatic cost (NMFS/PSMFC)	Procedurally reduced	reduced	No change	No change	Reduced
Data use and availability	No change	No change	Improved	Improved	Data eliminated
Compliance incentive	Maintained	Eliminated	No change	No change	Compliance need eliminated
Enforceability	Procedurally reduced audits/enforceability inhibited by blind formatting	Potentially reduced	Improved, especially if audits are eliminated or amended	No change	Enforcement need eliminated

4. Magnuson-Stevens Act and FMP Considerations

4.1. Magnuson-Stevens Act National Standards

Below are the 10 National Standards as contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and a brief discussion of how each alternative is consistent with the National Standards, where applicable. In recommending a preferred alternative, the Council must consider how to balance the national standards.

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

This action is administrative in nature and would not directly affect conservation and management measures presently in place to ensure achieving optimum yield on a continuing basis. This action could potentially eliminate economic burden of compliance with an information collection and/or audit compliance the collection and/or audit are deemed unnecessary. This action could also modify standards to protect confidentiality such that managers and scientists may have greater access to the underlying data which may, in turn, improve the availability of economic information to managers considering management actions.

National Standard 2 — Conservation and management measures shall be based upon the best scientific information available.

The potential actions are all amendments to mandatory annual census reporting requirements intended to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government. While these actions would not directly affect conservation and management measures or the scientific information they are based the actions may improve the usefulness and practical application of the economic data collected for analysis of fishery management issues. Thus, this action may improve enhance collection of the best scientific information in terms of economic data collections. This action may also could potentially eliminate an information collection that was created to collect data that would allow interested stakeholders to better understand the impacts of a proposed trawl bycatch management program and other programs on participants in the fishery, especially harvesting crew members and processing workers. Consideration of the past proposal has been postponed indefinitely calling into question whether this information collection is necessary.

National Standard 3 — To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

This action is administrative in nature and would not directly affect how individual fish stocks are managed. The annual total Allowable Catches (TACs) are set for GOA and BSAI groundfish stocks according to the annual harvest specification process that is outlined in the GOA and BSAI Groundfish FMPs. NMFS conducts the stock assessments for these species, based on the most recent catch and survey information. The assessment author(s), along with the GOA and BSAI Groundfish Plan Team and the Science and Statistical Committee, recommend overfishing levels and allowable biological catches. The Council sets annual harvest specifications for these groundfish stocks based on those recommendations (<http://www.afsc.noaa.gov/refm/stocks/assessments.htm>). Crab stocks are similarly assessed and the Crab Plan Team and Science and Statistical Committee, recommend overfishing levels and allowable biological catches. The State of Alaska manages the Chinook salmon stocks that originate within the state, with NMFS being responsible for Chinook PSC in the groundfish fishery. The proposed

action is consistent with management of individual stocks as a unit or interrelated stocks as a unit or in close coordination.

National Standard 4 — Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be: (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The potential actions are all amendments to mandatory annual census reporting requirements intended to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government. Nothing in the alternatives considers residency as a criterion for the Council's decision. Residents of various states, including Alaska and states of the Pacific Northwest, participate in the major sectors affected by the proposed action.

With regard to allocation of fishing privileges, the purpose of the EDR requirements are to gather information to improve the Council's ability to analyze the economic effects of the catch share or rationalization programs, to understand the economic performance of participants in these programs, and to help estimate impacts of future issues, problems, or proposed revisions to the programs covered by the EDRs. Improvements to the EDR programs would improve the Council's ability to analyze proposed allocation program or revisions to existing programs.

National Standard 5 — Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

This action does not affect the utilization of the fishery resources or involve allocations of any fishery resources. The action alternatives proposes easing economic burden associated with collecting these data, applying consistent confidentiality standards to improve data handling efficiency, and eliminating economic burden on participants where the Council may determine that baseline data in the fishery is no longer necessary.

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

None of the alternatives would be expected to affect changes in the availability of fishery resources in the Alaska EEZ each year. Any such changes would be addressed through the annual allocation process, which is not affected by the alternatives.

National Standard 7 — Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

The objective of this action is to minimize the cost of compliance with information collection programs and to standardize the handling of confidential data.

National Standard 8 — Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of National Standard 2, in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

This action is administrative in nature and seeks to minimize the economic burden of compliance with information collection programs and standardize the handling of confidential data. The purpose of the EDR requirements are to gather information to improve the Council's ability to analyze the economic effects of the catch share or rationalization programs, to understand the economic performance of

participants in these programs, and to help estimate impacts of future issues, problems, or proposed revisions to the programs covered by the EDRs. Improvements to the EDR programs would improve the Council's ability to analyze the impacts of proposed management measures on fishing communities. Specifically, components and options to remove blind formatting and to reduce the data aggregation standards may allow the presentation of more detailed EDR information to the Council and public. Removing requirements for the GOA Trawl EDR program would discontinue the collection of data that has contributed to some economic and social analyses.

National Standard 9 — Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

The proposed action does not directly address regulations governing bycatch management. The management of bycatch and/or prohibited species catch is conducted via the annual TAC specifications process and bycatch management measures in effect in 50 CFR part 679.

National Standard 10 — Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The proposed action would not change safety requirements for fishing vessels and would not impact safety of human life at sea.

4.2. Section 303(a)(9) Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that a fishery impact statement be prepared for each FMP or FMP amendment. A fishery impact statement is required to assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for (a) participants in the fisheries and fishing communities affected by the plan amendment; (b) participants in the fisheries conducted in adjacent areas under the authority of another Council; and (c) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery.

The RIR prepared for this proposed action constitutes the fishery impact statement. The likely effects of the proposed action are analyzed and described throughout the RIR. The proposed action will not have adverse effects on participants in the fisheries and fishing communities. There are no effects of the proposed action on safety of human life at sea. Based on the information reported in this section, there is no need to update the Fishery Impact Statement included in the FMP.

The proposed action affects the groundfish fisheries in the EEZ off Alaska, which are under the jurisdiction of the North Pacific Fishery Management Council. Impacts on participants in fisheries conducted in adjacent areas under the jurisdiction of other Councils are not anticipated as a result of this action.

4.3. Council's Ecosystem Vision Statement

In February 2014, the Council adopted, as Council policy, the following:

Ecosystem Approach for the North Pacific Fishery Management Council

Value Statement

The Gulf of Alaska, Bering Sea, and Aleutian Islands are some of the most biologically productive and unique marine ecosystems in the world, supporting globally significant

populations of marine mammals, seabirds, fish, and shellfish. This region produces over half the nation's seafood and supports robust fishing communities, recreational fisheries, and a subsistence way of life. The Arctic ecosystem is a dynamic environment that is experiencing an unprecedented rate of loss of sea ice and other effects of climate change, resulting in elevated levels of risk and uncertainty. The North Pacific Fishery Management Council has an important stewardship responsibility for these resources, their productivity, and their sustainability for future generations.

Vision Statement

The Council envisions sustainable fisheries that provide benefits for harvesters, processors, recreational and subsistence users, and fishing communities, which (1) are maintained by healthy, productive, biodiverse, resilient marine ecosystems that support a range of services; (2) support robust populations of marine species at all trophic levels, including marine mammals and seabirds; and (3) are managed using a precautionary, transparent, and inclusive process that allows for analyses of tradeoffs, accounts for changing conditions, and mitigates threats.

Implementation Strategy

The Council intends that fishery management explicitly take into account environmental variability and uncertainty, changes and trends in climate and oceanographic conditions, fluctuations in productivity for managed species and associated ecosystem components, such as habitats and non-managed species, and relationships between marine species. Implementation will be responsive to changes in the ecosystem and our understanding of those dynamics, incorporate the best available science (including local and traditional knowledge), and engage scientists, managers, and the public.

The vision statement shall be given effect through all of the Council's work, including long-term planning initiatives, fishery management actions, and science planning to support ecosystem-based fishery management.

In considering this action, the Council is being consistent with its ecosystem vision statement. This action does not affect the tools available for appropriate and conservative monitoring of fishing activities, especially species caught incidentally and discarded at sea. This action does not contradict the Council's intention to provide best data possible for scientists, managers, and the public in order to ensure sustainable fisheries for managed species and their effects on associated ecosystem components.

5. Preparers and Persons Consulted

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6. Literature cited

- Alaska Fisheries Science Center (AFSC). 2019. Draft Social and Economic Data Gap Analysis v.2. Unpublished manuscript under development for the NPFMC Social Sciences Planning Team May 2019 meeting.
- Federal Committee on Statistical Methodology (FCSM). 2001. Statistical policy working paper No. 3: Measuring and Reporting Sources of Error in Surveys. U.S. Dept. of Commerce, Office of Federal Statistical Policy and Standards. 31 p.
- FCSM. 2005. Statistical policy working paper No. 2: Report on statistical disclosure and disclosure-avoidance techniques. U.S. Dept. of Commerce, Office of Federal Statistical Policy and Standards. 69 p.
- Garber-Yonts, B., and J. Lee. 2018. Stock Assessment and Fishery Evaluation Report for King and Tanner Crab Fisheries of the Bering Sea and Aleutian Islands Regions: Economic Status of the BSAI Crab Fisheries, 2017.
- Garber-Yonts, B., Kasperski, S., Bibb, S., and Miller, S. 2019. Discussion Paper: Alaska Region Economic Data Reporting Programs. Presented by NMFS to the North Pacific Fishery Management Council at its April 2019 meeting. Agenda Item D5. <https://meetings.npfmc.org/CommentReview/DownloadFile?p=1f542e61-0dfc-465e-92eb-f7f00ab70edc.pdf&fileName=D5%20EDR%20Discussion%20Paper.pdf>
- NMFS, 2004b. "Regulatory Impact Review/ Initial Regulatory Flexibility Analysis Voluntary Three-Pie Cooperative Program for the Bering Sea and Aleutian Islands Crab Fisheries." North Pacific Fishery Management Council/National Marine Fisheries Service. August, 2004. 638 pp plus appendices. https://alaskafisheries.noaa.gov/sites/default/files/analyses/Appendix1_RIR.pdf; An extract of EIS and RIR/IRFA sections addressing the economic data collection element of the Crab Rationalization program, with Appendix 1.3-6 (missing from the above URL) are available from AFSC at https://www.afsc.noaa.gov/REFM/Socioeconomics/PDFs/EIS_EDRsections.pdf.
- NMFS, 2018b. "Economic Status Report Summary: BSAI Crab Fisheries, 2017." <https://www.npfmc.org/wp-content/PDFdocuments/resources/SAFE/CrabSAFE/2017CrabEconomicSAFEappendix.pdf>
- NMFS, 2018a. "Review of Regulations under E.O. 13771 and E.O. 13777." A discussion paper presented by NMFS to the North Pacific Fishery Management Council at its April 2018 meeting. Agenda Item D2. 15 pp.
- NMFS, 2018c. Stock Assessment and Fishery Evaluation Report for the Groundfish Fisheries of the Gulf of Alaska and Bering Sea/Aleutian Islands Area: Economic Status of the Groundfish Fisheries Off Alaska, 2017. http://meetings.npfmc.org/CommentReview/DownloadFile?p=bf68dfea-11a3-431f-8e9a-9560cc2cc0ba.pdf&fileName=Economic%20Groundfish%20SAFE_Fissel%20revised%2011-19-18.pdf
- NMFS, 2019 in process. Regulatory Impact Review. "Halibut Deck Sorting Monitoring Requirements for Trawl Catcher/Processors Operating in Non-Pollock Groundfish Fisheries off Alaska." NOAA Fisheries, Alaska Regional Office, Juneau Alaska.
- NPFMC, 2014. "Regulatory Impact Review/Initial Regulatory Flexibility Analysis for the Trawl Economic Data Report: Fishery Management Plan for Groundfish of the Gulf of Alaska". Prepared by the North Pacific Fishery Management Council and the National Marine Fisheries Service. February 25, 2014. 49 pp plus appendices.
- NPFMC, 2017. "Ten-Year Program Review for the Crab Rationalization Management Program in the Bering Sea/ Aleutian Islands" January 2017 https://www.npfmc.org/wp-content/PDFdocuments/catch_shares/Crab/Crab10yrReview_Final2017.pdfNPFMC,

Appendix A

Fishery Management Plan and Federal Regulations for Economic Data Collection Programs or Economic Data Reporting Requirements

Text below in *italics* are excerpts from the fishery management plans and are followed by text of the applicable regulations. The text in both sections has been marked in red line strike out visible in review track changes mode under full markup. In addition, comments have been added to identify which Alternative, Component, and where applicable which Option may require the indicated revisions. These suggested revisions are presented for general informational purposes. Actual proposed FMP or regulatory amendments will depend on the Council's final action and will be described in the Notice of Availability and proposed rule published in the *Federal Register*.

Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (crab FMP)

Requirements for the Crab Rationalization Program Economic Data Collection are in Chapter 11, Section 14 of the crab FMP. These requirements were elements of the Crab Rationalization Program, which was added to the crab FMP in 2004 through Amendment 18. These requirements were revised in 2013 through Amendment 42 to the crab FMP. The current text of the crab FMP for the Economic Data Collection Program and requirements are reproduced below:

14. *Data Collection Program*

The Crab Rationalization Program includes a mandatory economic data collection program which requires owners or leaseholders of catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors, as well as PQS holders that purchase crab deliveries, in the BSAI crab fisheries to submit an economic data report (EDR) on an annual basis. The purpose of the EDR is to collect cost, revenue, ownership, and employment data to provide the Council and NMFS with the information necessary to study the impacts of the Crab Rationalization Program. Participation is mandatory.

14.1 *Purpose*

This data collection effort is required to address the Council's original problem statement for the Crab Rationalization Program. That problem statement requires a structure that achieves "equity between the harvesting and processing sectors" and "...economic stability for harvesters, processors and coastal communities." The Council revised the data collection program in 2012 to improve the quality of data collected and eliminate redundancies with other collections of data.

The data collected is intended to aid the Council and NMFS in assessing the efficacy of the Crab Rationalization Program and to determine its relative impact on fishery participants and communities. The collected data may assist with the development of amendments to the Crab Rationalization Program or could be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities.

14.2 *Collection of Data*

The EDR is administered by NMFS through contracts with Pacific States Marine Fisheries Commission (PSMFC), an independent third party data collection agent. Each owner or leaseholder of the BSAI crab fishing industry must fill out the appropriate EDR form annually. The data collected is specific to the crab fisheries in the Crab Rationalization Program and includes information on costs of fishing and processing, revenues for harvesters and processors, and employment data.

14.3 Use of data

Data will be supplied to NMFS, Council staff, and any other authorized users according to statutory and regulatory data confidentiality requirements ~~in a blind and unaggregated form. The blind format is intended to safeguard information that is perceived to be highly proprietary and prevent analysts from directly identifying the source of any observations. Specifically, all identifiers associated with a data submitter are eliminated and replaced with a unique number, which does not reveal the identity of the submitter. However, in cases where the data (including identifiers) are requested by NMFS Enforcement, NOAA General Counsel, the Department of Justice, or the Federal Trade Commission for a purpose connected to law enforcement or qualification for quota and other Federal permits, PSMFC will continue to provide the data and the identity of the submitter.~~

Commented [SM1]: These revisions would be made under Alternative 2, Component 2 (blind formatting).

14.4 Verification of Data

The third party data collection agent will verify the data in a manner that assures accuracy of the information supplied by private parties. The data collection agent may review and request for the owner or leaseholder to provide copies of additional data.

14.5 Duration

The data collection program will continue through the life of the Crab Rationalization Program.

14.6 Failure to Submit Forms

Participation in the data collection program is mandatory. Should a submitter fail to submit the appropriate EDR to PSMFC by the deadline, the infraction will be referred to the Office of Law Enforcement.

14.7 Enforcement of the Data Requirements¹

The Council endorses the approach to enforcing the data requirements developed by the staff and the Data Collection Committee, as set out on page 3.17-20 in the February, 2003 document entitled "BSAI Crab Rationalization Program, Trailing Amendments", which provides:

Anticipated Enforcement of the Data Collection Program The analysts anticipate that enforcement of the data collection program will be 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,

¹The intent of Amendment 42 for the wording of what was section (F) Enforcement of Data Requirements of the crab FMP is unclear. Specifically, the FMP amendment text states The FMP amendment may or may not have retained the following text under paragraph 14.7: This analysis assumes the following text is included in the FMP and the highlighted text would be revised or deleted as needed under the components and options of this action.

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 will have an opportunity to correct omissions and errors³⁷ 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 [NMFS Office of Law Enforcement](#) be contacted. The intent of this program is to ensure that accurate data are collected without being overly burdensome on industry for unintended errors.

Commented [SM2]: These revisions would be made under Alternative 2, Component 1 (audits).

A discussion of ~~three~~ scenarios will be presented to reflect the analysts understanding of how the enforcement program would function. The ~~three~~ scenarios are 1) a case where no information is provided on a survey; 2) a case where partial information is provided; 3) ~~and~~ a case where the agency has questions regarding the accuracy of the data that has been submitted; and 4) a case where a random “audit” to verify the data does not agree with data submitted in the survey.

In the first case, the person required to fill out the survey does not do so. In the second case, the person fills out some of the requested information, but the survey is incomplete. Under either case that person would be contacted by the agency collecting the data and asked to fulfill their obligation to provide the required information. If the problem is resolved and the requested data are provided, no other action would be taken. If that person does not comply with the request, the collecting agency would notify enforcement that the person is not complying with the requirement to provide the data. Enforcement would then use their discretion regarding the best method to achieve compliance. Those methods would likely include fines or loss of quota and could include criminal prosecution.

In the third case the person fills out all of the requested information, but the agency collecting the data, or the analysts using the data, have questions regarding some of the information provided. For example, this may occur when information provided by one company is much different than that provided by similar companies. These data would only be called into question when obvious differences are encountered. Should these cases arise, the agency collecting the data would request that the person providing the data double check the information. Any reporting errors could be corrected at that time. ~~the person submitting the data indicates that the data are accurate and the agency still has questions regarding the data, that firm’s data could be “audited”. It is anticipated that the review of data would be conducted by an accounting firm selected jointly by the agency and members of industry. Only when that firm refuses to comply with the collecting agencies attempts to verify the accuracy of the data would enforcement be contacted. Once contacted, enforcement would once again use their discretion on how to achieve compliance.~~

Commented [SM3]: These revisions would be made under Alternative 2, Component 1 (audits).

~~The fourth case would result when the “audit”³⁸ reports different information than the survey. The “audit” procedure being contemplated is a verification protocol similar to that which was envisioned for use in the pollock data collection program developed by NMFS and PSMFC. During the design of this process, input from certified public accountants was solicited in order to develop a verification process that is less costly and cumbersome than a typical “audit” procedure. That protocol involves using an accounting firm, agreed upon by the agency and industry, to conduct a random review of certain elements of the data provided.³⁹~~

Commented [SM4]: These revisions would be made under Alternative 2, Component 1 (audits).

~~Since some of the information requested in the surveys may not be maintained by companies and must be calculated, it is possible that differences between the “audited” data from financial statements and survey data may arise. In that case the person filling out the survey would be asked to show how their numbers were derived.⁴¹ If their explanation resolves the problem, there would be no further action needed. If questions remained, the agency would continue to work with the providers of the data. Only when an impasse is reached would enforcement be called upon to resolve the issue. It is hoped that this system~~

~~would help to prevent abuse of the verification and enforcement authority.~~

In summary, members of the crab industry will be contacted and given the opportunity to explain and/or correct any problems with the data, that are not willful and intentional attempts to mislead, before enforcement actions are taken. Agency staff does not view enforcement of this program as they would a quota monitoring program. Because these data are not being collected in “real” time, there is the opportunity to resolve occasional problems as part of the data collection system. Development of a program that collects the best information possible to conduct analyses of the crab rationalization program, minimizes the burden on industry, and minimizes the need for enforcement actions are the goals of the data collection initiative.

Footnotes to 14.7:

³⁷ *The intent of the program is to have enforcement actions triggered by the willful and intentional submission of incorrect data or noncompliance with the requirements to submit data.*

³⁸ *The term enforcement agency in this case may or may not include the RAM Division and the Office of Administrative Appeals (in addition to NMFS Enforcement). Those details are still under discussion within NOAA.*

³⁹ *This “audit” could be the result of either the random review process that is contemplated or an “audit” triggered under scenario three.*

⁴⁰ *However, in cases of non-compliance in which enforcement has to be notified, the data verification process is likely be more comprehensive.*

⁴¹ *Any time a number must be derived, the survey will provide direction on how to calculate the information requested. This direction should help minimize differences. However, when discrepancies do arise, the firm will be given an opportunity to show how they derived their figures, and correct the information if necessary.*

Commented [SB5]: These revisions would be made under Alternative 2, Component 1 (audits).

Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP)

3.7.5 Amendment 80

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3.7.5.9 Economic Data Report

A socioeconomic data collection program will be implemented for the non-AFA trawl CP sector. Data will be collected on a periodic basis. The purpose of the data collection program is to understand the economic effects of the Amendment 80 program on vessels or entities regulated by this action, and to inform future management actions.

3.6.2 Prohibited Species Catch Limits

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3.6.2.1.6 Chinook Salmon

There is no reference to the Chinook salmon bycatch economic data collection requirements in the BSAI FMP. The last sentence of section 3.6.2.1.6 states the following:

The process for allocating the Bering Sea Chinook salmon PSC limit among participants in the Bering Sea pollock fishery; requirements governing the transfer and use of these allocations; and requirements for an IPA, the performance standard, annual reporting, and other aspects of the Bering Sea Chinook Salmon Bycatch Management Program are specified in Federal regulations implementing the FMP.

The BSAI FMP also contains the following sections that generally authorize recordkeeping and reporting requirements necessary to implement conservation and management measures regulations needed.

3.9.1 Recordkeeping and Reporting

The Council and NMFS must have the best available biological and socioeconomic information with which to carry out their responsibilities for conserving and managing groundfish resources, as well as other fish resources, such as crab, halibut, and salmon, that are incidentally caught in the groundfish fishery. This information is used for making inseason and inter-season management decisions that affect these resources as well as the fishing industry that utilize them. This information is also used to judge the effectiveness of regulations guiding these decisions. The Council will recommend changes to regulations when necessary on the basis of such information.

The need for the Council and NMFS to consider the best available information is explicit in the goals and objectives as established by the Council and contained in the FMP. They are also explicit in the Magnuson-Stevens Act, Executive Order 12866, the Regulatory Flexibility Act, the National Environmental Policy Act, and other applicable law. The Secretary, therefore, will require segments of the fishing industry to keep and report certain records as necessary to provide the Council and NMFS with the needed information to accomplish these goals and objectives. The Secretary may implement and amend regulations at times to carry out these requirements after receiving Council recommendations to do so, or at other times as necessary to accomplish these goals and objectives. Regulations will be proposed and implemented in accordance with the Administrative Procedure Act, the Magnuson-Stevens Act, and other applicable law.

Information on catch and production, effort, and price

In consultation with the Council, the Secretary may require recordkeeping that is necessary and appropriate to determine catch, production, effort, price, and other information necessary for conservation and management of the fisheries. Such requirements may include the use of catch and/or product logs, product transfer logs, effort logs, or other records. The Secretary may require the industry to submit periodic reports or surveys of catch and fishery performance information derived from the logs or other recordkeeping requirements.

Recordkeeping and reporting is required of operators of catcher vessels, catcher/processor vessels, mothership processor vessels, and by responsible officers of shoreside processor plants.

3.9.1.1 Processor Reports

All processors of groundfish shall report information necessary for the management of groundfish resources. The regulations implementing this plan specify the information to be reported and the time schedule for reporting.

Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP)

There is no specific reference to economic data collection or reporting requirements in the GOA FMP. Requirements that apply to trawl catcher vessels, catcher/processors, and processors that operate in the GOA are implemented under the general recordkeeping and reporting authority in section 3.9 of the GOA FMP. Therefore, amending EDR requirements for the GOA should require only regulatory amendments and revisions to forms and instructions.

3.9 Monitoring and Reporting

The Council and NMFS must have the best available biological and socioeconomic information with which to carry out their responsibilities for conserving and managing groundfish resources, as well as other fish resources, such as crab, halibut, and salmon, which are incidentally caught in the groundfish fishery. This catch monitoring and reporting information is used for making inseason and inter-season management decisions that affect these resources as well as the fishing industry that utilize them. Information collected from industry reports and through the Observer Program constitutes the standardized reporting methodology for the GOA groundfish fishery. The standardized reporting methodology means established, consistent procedures used to collect, record, and report catch and bycatch in the fisheries. One of the purposes of industry reports and the Observer Program is to collect, record, and report bycatch data in the fisheries that are used to assess the amount of type of bycatch occurring in the fishery and inform the development of conservation and management measures that, to the extent practicable, minimize bycatch and bycatch mortality.

Scientific evaluation of the information that is collected through the Observer Program is used to adjust the sampling plan for observer and electronic monitoring deployment. Monitoring and reporting information is also used to judge the effectiveness of regulations guiding the standardized reporting methodology. The Council will recommend changes to regulations when necessary on the basis of such information

3.9.1 Recordkeeping and Reporting

The Council and NMFS must have the best available biological and socioeconomic information with which to carry out their responsibilities for conserving and managing groundfish resources, as well as other fish resources, such as crab, halibut, and salmon, that are incidentally caught in the groundfish fishery. This information is used for making inseason and inter-season management decisions that affect

these resources as well as the fishing industry that utilize them. This information is also used to judge the effectiveness of regulations guiding these decisions. The Council will recommend changes to regulations when necessary on the basis of such information.

The need for the Council and NMFS to consider the best available information is explicit in the goals and objectives as established by the Council and contained in the FMP. They are also explicit in the Magnuson Stevens Act, Executive Order 12866, the Regulatory Flexibility Act, the National Environmental Policy Act, and other applicable law. The Secretary, therefore, will require segments of the fishing industry to keep and report certain records as necessary to provide the Council and NMFS with the needed information to accomplish these goals and objectives. The Secretary may implement and amend regulations at times to carry out these requirements after receiving Council recommendations to do so, or at other times as necessary to accomplish these goals and objectives. Regulations will be proposed and implemented in accordance with the Administrative Procedure Act, the Magnuson-Stevens Act, and other applicable law.

3.9.1.1 Information on catch and production, effort, and price

In consultation with the Council, the Secretary may require recordkeeping that is necessary and appropriate to determine catch, production, effort, price, and other information necessary for conservation and management of the fisheries. Such requirements may include the use of catch and/or product logs, product transfer logs, effort logs, or other records. The Secretary may require the industry to submit periodic reports or surveys of catch and fishery performance information derived from the logs or other recordkeeping requirements.

Recordkeeping and reporting is required of operators of catcher vessels, catcher/processor vessels, mothership processor vessels, and by responsible officers of shoreside processor plants. Such requirements will be contained in regulations implementing this FMP.

Regulations:

Code of Federal Regulations

Title 50, Part 680—Shellfish Fisheries of the Exclusive Economic Zone of Alaska

e-CFR data is current as of December 2, 2019

1.1 §680.2 Definitions.

In addition to the definitions in the Magnuson-Stevens Act, in 50 CFR part 600, and §679.2 of this chapter, the terms used in this part have the following meanings:

Affiliation means a relationship between two or more entities, except for CDQ groups, 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, except for a CDQ group, 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.

~~Auditor means an examiner employed by, or under contract to, the data collection agent to verify data submitted in an economic data report.~~

Commented [SM6]: This revision would be made under Alternative 2, Component 1 (audits).

~~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.~~

Commented [SM7]: Note that blind data is defined here but not required in any other section of 680.2. It is discussed specifically in the February 2003 Council Motion on Amendment 18 and is similarly discussed in the proposed rule implementing Amendments 18 and 19 but it is not mentioned in the regulatory text markup in the proposed rule.

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.

Commented [SM8]: This revision would be made under Alternative 2, Component 2, Option 1 (blind formatting).

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.

1.2 §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.

1.3 §680.5 Recordkeeping and reporting (R&R).

(a) *General requirements*—(1) *Recording and reporting crab*. Any CR crab harvested that is retained must be recorded and reported.

(2) *Responsibility*. (i) The participants in the CR fisheries are responsible for complying with the following R&R requirements:

Recordkeeping and reporting report	Person responsible	Reference
(A)
(K) Crab Economic Data Report (EDR)	Owners or leaseholders of a catcher vessel, catcher/processor, shoreside processor, or SFCP	§680.6.
...

1.4 §680.6 Crab economic data report (EDR).

(a) *Requirements*. (1) Any owner or leaseholder of a vessel or processing plant, or a holder of a registered crab receiver permit that harvested, processed, custom processed, or obtained custom processing for CR crab, during a calendar year, must submit a complete Economic Data Report (EDR) by following the instructions on the applicable EDR form.

(2) A completed EDR or EDR certification pages must be submitted to the DCA for each calendar year on or before 1700 hours, A.I.t., July 31 of the following year.

(3) Annual EDR forms for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors are available on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov> or the Pacific States Marine Fisheries Commission (PSMFC) Alaska Crab Rational Program Web site at www.psmfc.org/alaska_crab/, or by contacting NMFS at 1-800-304-4846.

(b) *EDR certification pages*. Any person required to submit an annual EDR under paragraph (a) of this section must submit the EDR certification pages as either:

(1) *Part of the entire EDR*. Persons submitting the completed EDR certification pages as part of the entire EDR must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(2) *A separate document*. Persons submitting the completed EDR certification pages only must attest that they meet the conditions exempting them from submitting the entire EDR, by signing and dating the certification pages.

(c) *Annual catcher vessel crab EDR*—Any owner or leaseholder of a catcher vessel that landed CR crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed catcher vessel EDR for annual data for the previous calendar year.

(d) *Annual catcher/processor crab EDR*—Any owner or leaseholder of a catcher/processor that harvested or processed CR crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed catcher/processor EDR for annual data for the previous calendar year.

(e) *Annual stationary floating crab processor (SFCP) and shoreside crab processor EDR*—(1) Any owner or leaseholder of an SFCP or a shoreside crab processor that processed CR crab, including custom processing of CR crab performed for other crab buyers, in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed processor EDR for annual data for the previous calendar year.

(2) Any holder of a registered crab receiver (RCR) permit that obtained custom processing for CR Program crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed processor EDR for annual data for the previous calendar year.

(f) *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 NMFS or the DCA. ~~The DCA auditor~~ NMFS or the DCA 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.

Commented [SM9]: This revision would be made under Alternative 2, Component 1 (audits).

(g) *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.

1.5 §680.7 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:

...

(d) Recordkeeping and reporting. (1) Fail to submit information on any report, application, or statement required under this part.

(2) Submit false information on any report, application, or statement required under this part.

...

Code of Federal Regulations
Title 50, Part 679—Fisheries of the Exclusive Economic Zone of Alaska

§679.2 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in part 600 of this chapter, the terms used in this part have the following meanings:

~~Blind data means any data collected from an 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, and State of Alaska vessel registration and permit numbers, and by adding in their place a nonspecific identifier.~~

Commented [SM10]: This revision would be made under Alternative 2, Component 2, (blind formatting).

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.

~~Designated data collection auditor (DDCA) means an examiner employed by, or under contract to, the data collection agent (DCA) to verify data submitted in an economic data report or the NMFS-designated contractor to perform the functions of a data collection auditor.~~

Commented [SM11]: This revision would be made under Alternative 2, Component 1 (audits).

Economic data report (EDR) means the report of cost, labor, earnings, and revenue data required under §679.65, §679.94, and §679.110.

1.6 §679.7 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:

(o) *Amendment 80 Program*—

(8) *Economic data report (EDR)*: Fail to submit a timely and complete EDR as described under §679.94.

§679.91 Amendment 80 Program annual harvester privileges.

(b)(4)(v) *EDR submission*. For 2009 and thereafter, indicate (YES or NO) whether each member of the Amendment 80 cooperative has submitted a timely and complete EDR for each Amendment 80 QS permit held by that person as required under §679.94.

(b)(5) (vi) *EDR submission*. For 2009 and thereafter, indicate (YES or NO) whether the applicant has submitted a timely and complete EDR for each Amendment 80 QS permit held by that person as required under §679.94.

(h)(3)(xi) Are there any special reporting requirements? Yes, the designated representative of the Amendment 80 cooperative must submit an annual Amendment 80 cooperative report as described under §679.5(s). In addition, each member of an Amendment 80 cooperative must submit a timely and complete EDR as described under §679.94.

§679.94 Economic data report (EDR) for the Amendment 80 sector and Gulf of Alaska Trawl Catcher/Processors.

Commented [SM12]: These revisions apply under Alternative 2, Component 3.

(a) Annual Amendment 80 Trawl Catcher/Processor Economic Data Report (EDR)—

(1) *Requirement to submit an EDR.* A person who held an Amendment 80 QS permit during a calendar year, ~~or an owner or leaseholder of a vessel that was named on a Limited License Program (LLP) groundfish license that authorizes a Catcher/Processor using trawl gear to harvest and process LLP groundfish species in the GOA~~ must submit a complete Annual Amendment 80 Trawl Catcher/Processor EDR for that calendar year for each Amendment 80 QS permit held by that person by following the instructions on the Annual Amendment 80 Trawl Catcher/Processor EDR form.

(2) *Deadline.* A completed EDR or EDR certification pages must be submitted as required on the form to NMFS for each calendar year on or before 1700 hours, A.I.t., June 1 of the following year.

(3) *Information required.* The Annual Amendment 80 Trawl Catcher/Processor EDR form is available on the NMFS Alaska Region Web site at www.alaskafisheries.noaa.gov, or by contacting NMFS at 1-800-304-4846.

(4) *EDR certification pages.* Any person required to submit an EDR under paragraph (a)(1) of this section, or their designated representative, if applicable, must submit the EDR certification statement as either:

(i) *Part of the entire EDR.* A person submitting the completed EDR must attest to the accuracy and completion of the EDR by signing and dating the certification portion of the EDR form; or

(ii) *EDR certification only.* A person submitting a completed EDR certification only must attest that they meet the conditions exempting them from submitting the entire EDR as described in the certification portion of the Annual Amendment 80 Trawl Catcher/Processor EDR form and sign and date the certification portion of the EDR form.

(b) *Verification of EDR data.* (1) NMFS ~~or~~ the DCA, ~~or the DDCA~~ will conduct verification of information with a person required to submit the Annual Amendment 80 Trawl Catcher/Processor EDR, or if applicable, that person's designated representative.

Commented [SM13]: Alternative 2, Component 1 (audits)

(2) A person required to submit the Annual Amendment 80 Trawl Catcher/Processor EDR or designated representative, if applicable, must respond to inquiries by NMFS ~~or~~ the designated DCA, ~~or the DDCA~~ within 20 days of the date of issuance of the inquiry.

(3) A person required to submit the Annual Amendment 80 Trawl Catcher/Processor EDR or designated representative, if applicable, must provide copies of additional data to facilitate data verification. NMFS ~~or~~ the DCA, ~~or the DDCA~~ may review and request copies of additional data provided by the person required to submit the Annual Trawl Catcher/Processor EDR form or designated representative, if applicable, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted in an Annual Trawl Catcher/Processor EDR form.

Commented [SM14]: This revision would be made under Alternative 2, Component 1 (audits).

§679.110 Gulf of Alaska Trawl Economic Data Reports (EDRs).

Commented [SM15]: Revisions here would apply under Alternative 2, Component 1, audits.

(a) *Requirements to submit an EDR*—(1) *GOA Trawl Catcher Vessels*. The owner or leaseholder of any vessel who is named on a Limited License Program (LLP) groundfish license that authorizes a catcher vessel using trawl gear to harvest LLP groundfish species in the GOA must submit a complete Annual Trawl Catcher Vessel Economic Data Report (EDR) for that calendar year by following the instructions on the Annual Trawl Catcher Vessel EDR form.

(2) *GOA Shoreside Processors and Stationary Floating Processors*. The owner or leaseholder of a shoreside processor or stationary floating processor with a Federal Processor Permit (FPP) that processes groundfish caught by vessels fishing with trawl gear in the GOA must submit a complete Annual Shoreside Processor Economic Data Report (EDR) for that calendar year by following the instructions on the Annual Shoreside Processor EDR form.

(3) *Annual Trawl Catcher/Processor Economic Data Report (EDR)*. The owner or leaseholder of a vessel that is named on a Limited License Program (LLP) groundfish license that authorizes a Catcher/Processor using trawl gear to harvest and process LLP groundfish in the GOA must submit an Annual Trawl Catcher/Processor EDR as described at §679.94 for that calendar year.

(b) *Deadline*. A completed EDR or EDR certification page for:

(1) The Annual Trawl Catcher Vessel EDR or the Annual Shoreside Processor EDR must be submitted to the DCA for each calendar year on or before 1700 hours, A.l.t., June 1 of the following year, or

(2) The Annual Trawl Catcher/Processor EDR must be submitted to NMFS as required at §679.94(a)(2).

(c) *Information required*. The Annual Trawl Catcher Vessel EDR, Annual Shoreside Processor EDR, and Annual Trawl Catcher/Processor EDR forms are available on the NMFS Alaska Region Web site at www.alaskafisheries.noaa.gov, or by contacting NMFS at 1-800-304-4846.

(d) *EDR certification*. A person required to submit an EDR under paragraph (a) of this section, or the designated representative, if applicable, must submit the EDR certification statement as either:

(1) *Part of the entire EDR*. A person submitting the applicable EDR form must attest to the accuracy and completion of the EDR by signing and dating the certification portion of the applicable EDR form; or

(2) *EDR certification only*. A person submitting a completed EDR certification only must attest that they meet the conditions exempting them from submitting the entire EDR as described in the certification portion of the applicable EDR form and sign and date the certification portion of the form.

(e) *Verification of EDR data*. (1) NMFS, the DCA, ~~or the DDCA~~ will conduct verification of information with a person required to submit the applicable EDR, or if applicable, that person's designated representative.

(2) The person required to submit the applicable EDR or designated representative, if applicable, must respond to inquiries by NMFS, the designated DCA, ~~or the DDCA~~ within 20 days of the date of issuance of the inquiry.

(3) The person required to submit the applicable EDR or designated representative, if applicable, must provide copies of additional data to facilitate data verification. NMFS ~~and~~, the DCA, ~~or the DDCA~~ may review and request copies of additional data provided by the person required to submit the applicable EDR form or designated representative, if applicable, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted in an EDR form.

(f) *DCA authorization.* Except for EDR data submitted as required under §679.94(a), the DCA is authorized to release unaggregated EDR data to authorized data users in blind data format only.

~~§679.110 Gulf of Alaska Trawl Economic Data Reports (EDRs).~~

~~(a) Requirements to submit an EDR—(1) GOA Trawl Catcher Vessels. The owner or leaseholder of any vessel who is named on a Limited License Program (LLP) groundfish license that authorizes a catcher vessel using trawl gear to harvest LLP groundfish species in the GOA must submit a complete Annual Trawl Catcher Vessel Economic Data Report (EDR) for that calendar year by following the instructions on the Annual Trawl Catcher Vessel EDR form.~~

~~(2) GOA Shoreside Processors and Stationary Floating Processors. The owner or leaseholder of a shoreside processor or stationary floating processor with a Federal Processor Permit (FPP) that processes groundfish caught by vessels fishing with trawl gear in the GOA must submit a complete Annual Shoreside Processor Economic Data Report (EDR) for that calendar year by following the instructions on the Annual Shoreside Processor EDR form.~~

~~(3) Annual Trawl Catcher/Processor Economic Data Report (EDR). The owner or leaseholder of a vessel that is named on a Limited License Program (LLP) groundfish license that authorizes a Catcher/Processor using trawl gear to harvest and process LLP groundfish in the GOA must submit an Annual Trawl Catcher/Processor EDR as described at §679.94 for that calendar year.~~

~~(b) Deadline. A completed EDR or EDR certification page for:~~

~~(1) The Annual Trawl Catcher Vessel EDR or the Annual Shoreside Processor EDR must be submitted to the DCA for each calendar year on or before 1700 hours, A.L.T., June 1 of the following year, or~~

~~(2) The Annual Trawl Catcher/Processor EDR must be submitted to NMFS as required at §679.94(a)(2).~~

~~(c) Information required. The Annual Trawl Catcher Vessel EDR, Annual Shoreside Processor EDR, and Annual Trawl Catcher/Processor EDR forms are available on the NMFS Alaska Region Web site at www.alaskafisheries.noaa.gov, or by contacting NMFS at 1-800-304-4846.~~

~~(d) EDR certification. A person required to submit an EDR under paragraph (a) of this section, or the designated representative, if applicable, must submit the EDR certification statement as either:~~

~~(1) Part of the entire EDR. A person submitting the applicable EDR form must attest to the accuracy and completion of the EDR by signing and dating the certification portion of the applicable EDR form; or~~

Commented [SM16]: These deletions would apply under Alternative 2, Component 3, eliminate GOA Trawl EDR requirements.

~~(2) EDR certification only. A person submitting a completed EDR certification only must attest that they meet the conditions exempting them from submitting the entire EDR as described in the certification portion of the applicable EDR form and sign and date the certification portion of the form.~~

~~(e) Verification of EDR data. (1) NMFS, the DCA, or the DDCA will conduct verification of information with a person required to submit the applicable EDR, or if applicable, that person's designated representative.~~

~~(2) The person required to submit the applicable EDR or designated representative, if applicable, must respond to inquiries by NMFS, the designated DCA, or the DDCA within 20 days of the date of issuance of the inquiry.~~

~~(3) The person required to submit the applicable EDR or designated representative, if applicable, must provide copies of additional data to facilitate data verification. NMFS, the DCA, or the DDCA may review and request copies of additional data provided by the person required to submit the applicable EDR form or designated representative, if applicable, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted in an EDR form.~~

~~(f) DCA authorization. Except for EDR data submitted as required under §679.94(a), the DCA is authorized to release unaggregated EDR data to authorized data users in blind data format only.~~

§679.65 Bering Sea Chinook Salmon Bycatch Management Program Economic Data Report (Chinook salmon EDR program).

(a) *Requirements.* NMFS developed the regulations under this section to implement the Chinook salmon EDR program. Additional regulations that implement specific portions of the Chinook salmon EDR program are set out under paragraphs (a)(1) through (4) of this section:

(1) *Daily fishing logbook* (DFL), catcher vessel trawl gear. See §679.5(c)(4).

(2) *Electronic logbook* (ELB), AFA and CDQ trawl catcher/processors. See §679.5(f) in combination with eLandings pursuant to §679.5(e).

(3) *IPA Annual Report.* See §679.21(f)(13).

(4) *AFA cooperative annual reporting requirement.* See §679.61(f)(2).

(b) *Chinook salmon PSC Compensated Transfer Report (CTR).* (1) An owner or leaseholder of an AFA-permitted vessel and the representative of any entity that received an allocation of Chinook salmon PSC from NMFS must submit a CTR, Part 1, each calendar year, for the previous calendar year.

(2) Any person who transferred Chinook salmon PSC allocation after January 20, and paid or received money for the transfer, must submit a completed CTR (Part 1 and Part 2) for the previous calendar year.

(3) The CTR is available through the Internet on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at (206) 526-6414.

(4) Beginning in 2013, and each year thereafter, the completed CTR must be submitted electronically on or before 1700, A.I.t., on June 1, following the instructions on the form.

(c) *Vessel Fuel Survey*. (1) An owner or leaseholder of an AFA-permitted vessel must submit all completed Vessel Fuel Surveys for each vessel used to harvest pollock in the Bering Sea in a given year.

(2) The Vessel Fuel Survey is available through the Internet on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at (206) 526-6414.

(3) The owner or leaseholder annually must submit a completed Vessel Fuel Survey, electronically on or before 1700, A.I.t., on June 1, 2013, and each year thereafter, following the instructions on the form.

(d) *Vessel Master Survey*. (1) For any AFA-permitted vessel used to harvest pollock in the Bering Sea in the previous year:

(i) The vessel master must complete the Vessel Master Survey, and the Vessel Master certification following the instructions on the form.

(ii) An owner or leaseholder must complete the Vessel owner certification following instructions on the form.

(iii) An owner or leaseholder must submit all Vessel Master Surveys, and each Vessel owner certification electronically on or before 1700, A.I.t., on June 1, 2013, and each year thereafter, following the instructions on the form.

(2) The Vessel Master Survey is available through the Internet on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at (206) 526-6414.

(e) *Chinook salmon EDR verification and audit procedures*. NMFS or the designated data collection agent (DDCA) will conduct verification of Chinook salmon EDR information with the persons identified at §679.65(b)(1), (b)(2), (c)(1), (d)(1)(i), and (d)(1)(ii).

(1) The persons identified at §679.65(b)(1), (b)(2), (c)(1), (d)(1)(i), and (d)(1)(ii) must respond to inquiries by NMFS and its DDCA for purposes of the CTR, within 20 days of the date of issuance of the inquiry.

2) The persons identified at §679.65(b)(1) and (b)(2) must provide copies of additional data to facilitate verification by NMFS and its ~~DDCA-DCA~~ for purposes of the CTR. These paper or electronic copies may include, but are not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted.

Commented [SM17]: This revision would be made under Alternative 2, Component 1 (audits).