



December 22, 2022

MEMORANDUM FOR: The Record

FROM: Jonathan M. Kurland  
Regional Administrator

SUBJECT: Categorical Exclusion (CE) for the Final Rule to Revise Economic Data Reporting Requirements for Groundfish and Crab Fisheries off Alaska and to Implement Amendment 52 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs [0648-BL50]

The National Oceanic and Atmospheric Administration's (NOAA) Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (NOAA Administrative Order 216-6A and Companion Manual for NAO 216-6A) establishes NOAA's policy and procedures for compliance with the National Environmental Policy Act, the CEQ regulations, Executive Order (EO) 12114 (Environment Effects Abroad of Major Federal Actions), EO 11988 (Floodplain Management), and EO 11990 (Protection of Wetlands). It was used by NOAA to examine the revisions to Economic Data Reporting (EDR) requirements for groundfish and crab fisheries off Alaska and Amendment 52 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) for its potential to impact the quality of the human environment as discussed below.

Description of the Action(s):

This action implements Amendment 52 to the Crab FMP and a regulatory amendment to revise regulations on the EDR requirements for groundfish and crab fisheries off Alaska. This action removes third-party data verification audits and blind formatting<sup>1</sup> requirements for the Bering Sea and Aleutian Islands (BSAI) crab fisheries EDR, the Bering Sea American Fisheries Act pollock fishery Chinook Salmon EDR, and the BSAI Amendment 80 fisheries EDR. This action also eliminates the EDR requirements for the Gulf of Alaska trawl fisheries.

The purpose of the EDR program is to gather data and information to improve the North Pacific Fisheries Management Council's (Council) 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 current EDRs provide valuable information

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<sup>1</sup> Blind formatting requires the collection of EDR forms to be performed by a third-party designated data collection auditor and the removal of unique identifiers (e.g., vessel identifiers, permit numbers) from EDR data records accessible to the Council and NMFS. Blind formatting introduces significant administrative challenges for NMFS's management of the EDR program because staff responsible for oversight of data verification and validation processes are prohibited from accessing identifying information.

for program evaluation and analysis of proposed conservation and management measures. However, after over ten years of the EDR programs in place, 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.

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 7 years. However, no catch share program has been developed by the Council and none will be developed in the foreseeable future. Therefore, this action removes the EDR requirements for the GOA trawl fisheries and eliminates the compliance burden to participants.

CE category A1, Trust Resource Management Actions:

The CE category A1 is appropriate for this action, since this regulatory amendment is a technical change to a fishery management regulation and will not result in a substantial change in any of the following: fishing location, timing, effort, authorized gear types, or harvest levels. This action is not connected to a larger action and can therefore be reviewed independently from other actions under NEPA.

Effects of the Action(s):

Several provisions of the EDR program, including third-party audits, data aggregations, and blind formatting, were intended 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. This action removes the use of those provisions, to improve the usability, efficiency, and consistency of the data collection programs and to minimize cost to industry and the Federal government.

This action implements changes to a social and economic data collection program that have no effect on the natural or physical environment. Participants who are required to submit an annual EDR are expected to benefit from the changes to the current EDR programs. This action does not place any new regulatory burden on fishery participants required to submit EDRs. It removes reporting burdens to improve the usability, efficiency, and consistency of the data collection programs and minimize cost to participants required to submit EDRs. This action improves the usability, efficiency, and consistency of the data collection programs and minimize cost to industry and the Federal government. The economic impacts of this action are addressed in the Analysis.

Extraordinary Circumstances:

I considered the context in which this action could have extraordinary circumstances listed in NOAA's Companion Manual for NAO 216-6A Section 4 and expect no extraordinary circumstances.

Based on the description of this action and its anticipated effects set out above, I have determined that revisions to the EDR requirements for groundfish and crab fisheries off Alaska

and Amendment 52 to Crab FMP has no potential for significant adverse effects on human health or safety. Because this action will not change fishing locations or increase fishing effort, it will not impact areas with unique environmental characteristics, species or habitats protected by the Endangered Species Act, the Marine Mammal Protection Act, the Magnuson-Stevens Act, the Migratory Bird Treaty Act, or properties listed or eligible for listing on the National Register of Historic Places. Furthermore, this action has no potential to generate, use, store, transport, or dispose of hazardous or toxic substances. Nor is there the potential to cause disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities. This action will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species. The action does not pose a potential violation of Federal, state, or local law or requirements imposed for protection of the environment; involve environmental effects that are highly controversial, uncertain, unique, or unknown; establish a precedent or decision in principle for future actions; or result in cumulative significant impacts.

Categorical Exclusion Determination:

Based upon the above analysis, NOAA has determined that this action falls within the category of actions subject to CE identified in Appendix E of NOAA's Companion Manual for NAO 216-6A, A1 - Trust Resource Management Actions, -- a category of actions that does not normally have a significant effect on the quality of the human environment; is not connected to a larger action (40 CFR 1501.9(e)(1)); and does not involve extraordinary circumstances precluding use of the CE. As such, NOAA has determined that it is categorically excluded from further NEPA review.

The original signed memorandum will be maintained in the record for the action.