

## Applicable (and Only) Comments on PR RIN 0648-BA93

### Comments and Responses

NMFS received two comment letters during the public comment period for the proposed rule to implement this regulatory amendment. One comment letter was received from a representative of the affected fishing industry and contained two unique comments; the other comment letter was received from a member of the public and did not contain any comments relevant to the proposed rule. A summary of the comments and NMFS' responses follow.

Comment 1: The commenter expressed general support for the proposed regulatory amendment.

Response: NMFS acknowledges this comment.

Comment 2: The proposed rule would require an Amendment 80 cooperative to report its groundfish retention rate in its annual cooperative report and would continue the requirement that Amendment 80 cooperative reports be submitted to NMFS. The information contained in the cooperative reports is confidential under NOAA Administrative Order (NAO) 216-100, 50 CFR 600.405, and section 402(b)(1) of the Magnuson-Stevens Act. Although NMFS states in the preamble of the proposed rule on page 62487 that it would provide Amendment 80 cooperative reports to the Council, NMFS is prevented from providing the cooperative reports to the Council given the confidential nature of information contained in the reports.

Response: NMFS considers the information submitted by an Amendment 80 cooperative in its annual report to be information subject to the confidentiality provisions of the Magnuson-Stevens Act at section 402(b). Any release of such information must be in conformance with the provisions of section 402(b) of the Magnuson-Stevens Act, NAO 216-100, and regulations at 50 CFR 600.405.

NMFS incorrectly described in the preamble statement highlighted by the commenter the information that will be provided to the Council after the effective date of this final rule. NMFS has not provided Amendment 80 cooperative reports to the Council and does not intend to provide Amendment 80 cooperative reports to the Council as a result of this final rule. However, NMFS has provided the Council with information on the annual groundfish retention rates of vessels participating in the Amendment 80 fisheries. NMFS has presented this information to the Council in a manner that does not directly or indirectly disclose the identity or business of the persons submitting such information to NMFS, consistent with section 402(b)(3) of the Magnuson-Stevens Act, NAO 216-100, and 50 CFR 600.405. NMFS intends to continue to provide the Council with information on the annual groundfish retention rates of vessels participating in the Amendment 80 fisheries. Moreover, the statement in the preamble should have been worded to explain that information on groundfish retention rates, rather than the cooperative report, will be provided to the Council and the public.