

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 12/14/2007

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 10/11/2007

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200709-0648-014
AGENCY ICR TRACKING NUMBER:
TITLE: Foreign Fishing Reporting Requirements
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0075

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 12/31/2010

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	1,010	177	0
New	505	88	350
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	-505	-89	350
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Activity Reports			50 CFR 600.52(f)
Weekly reports	NA, NA, NA	Weekly Catch Report, Weekly Joint Venture Receipts Report, Weekly Marine Mammal Report	
Daily Fishing and Daily Joint Ventures Logs	NA, NA	Daily Fishing Log, Daily Joint Venture Log	

PAPERWORK REDUCTION ACT SUBMISSION

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

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

19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
FOREIGN FISHING VESSEL REPORTING REQUIREMENTS
OMB CONTROL NO.: 0648-0075**

A. JUSTIFICATION

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

This information collection is necessary to comply with the Magnuson-Stevens Fishery Conservation and Management Act (**MSFCMA**), 16 U.S.C. 1801 *et seq.*, as amended in 2006. Pursuant to regulations promulgated under the MSFCMA at 50 CFR Part 600, Subpart F, foreign fishing vessels may be authorized to fish in U.S. waters.

Each applicant for a foreign fishing permit acknowledges the exclusive fishery management authority of the United States in our waters and agrees to abide by all regulations promulgated by the Secretary of Commerce, including regulations promulgated to implement fishery management plans. Each foreign nation and the owners or operators of that nation's fishing vessels must abide by the requirements that vessels will be boarded, searched and inspected in the Exclusive Economic Zone (EEZ) by authorized U.S. officers and arrested or have vessels seized if there is cause to believe violations have occurred; that they will accept U.S. observers aboard their vessels; that they will pay appropriate fees, and be responsible for losses or damage to U.S. fishing vessels, their gear, or their catch caused by a foreign fishing vessel; and that they will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management included in such an agreement.

Certain amounts of fish for which a "Total Allowable Level of Foreign Fishing" (TALFF) has been specified may be allocated to a foreign nation for harvest directly by permitted foreign vessels of that nation, and/or the vessels of that nation may be permitted to engage in joint ventures (JVs), wherein U.S. vessels catch and transfer at-sea to permitted foreign vessels certain species for which an amount for "Joint Venture Processing" (JVP) has been specified. Permits could also be issued to authorize foreign transport vessels to receive transshipments, from U.S. or foreign vessels, of processed fish, or fish products, destined for landing at foreign ports. Reports from permitted foreign vessels are necessary for a number of reasons.

National Marine Fisheries Service (NMFS) responsibilities under the MSFCMA are, in part, to develop fishery management plans (FMP) for species identified as requiring management. To do so, appropriate information on stocks, recruitment, mortality, etc., is required in order to establish the optimum yield (OY) for each fishery. Once OYs are established and estimated domestic harvests are deducted, the balance of an OY may be available for foreign fishing in the form of TALFF and/or as JVP. NMFS must collect information not only on foreign directed catch, if any, but also on the U.S. catch delivered at-sea to foreign fishing vessels (FFV) in JVs. This information is necessary in order to know when to close directed and JV fisheries in a timely manner to avoid exceeding allocations for directed fishing and JVP amounts. To exceed such amounts (i.e., let foreign nations take too much fish) would violate the MSFCMA. NMFS must also monitor directed foreign fishing/JVs to ensure that directed foreign catches and/or JV catches by U.S. vessels delivered to FFVs do not adversely affect supplies for domestic

processors. To adversely affect U.S. processors would violate the MSFCMA. To protect U.S. fisheries resources from illegal fishing by permitted foreign vessels, it is necessary for all permitted foreign vessels to submit reports indicating their activities and whereabouts when in U.S. waters. To fail to maintain control and accountability over all permitted foreign vessels in U.S. waters would violate the MSFCMA.

Data derived from this information collection are unique. Although U.S. observers would be placed aboard virtually all foreign vessels conducting directed fishing or participating in JVs, the observers cannot provide coverage around the clock and observer data are primarily a means of verifying reports submitted under requirements of [50 CFR Part 600, Subpart F](#).

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information required by §600.502 and §600.507, respectively, generally falls into a reporting category, in the first case, and a recordkeeping category, in the second.

Section 600.502 requires reports on the activities of FFVs. Activity reports are to indicate times and positions FFVs will begin fishing, temporarily stop fishing, shift areas of operations, or cease fishing. These reports are submitted to the appropriate Coast Guard (CG) commander. Similar reports are required if the FFVs will receive or have received fish from U.S. vessels. FFVs must report any product carried into the EEZ.

BEGIN and CEASE reports are required for actually placing and debarking observers, verifying that the reporting vessel has a valid permit for the planned activity before fishing, or scheduling exit boardings. The time and position data are needed for at-sea boardings by the CG to intercept reporting FFVs to verify the reported product on board and check for illegal gear. Messaged activity reports are also required on the times, dates, and positions of anticipated transfers of products; the amounts of products offloaded; and the amounts received (TRANSFER, OFFLOADED, RECEIVED messages). These reports are critical to enforcement. They enable the CG to prepare for boardings during transfers between fishing and cargo vessels to compare the respective amounts of products reported by the fishing vessel captain against products received and reported by the cargo vessel. Product recovery rates are used to convert product weight to raw weight to verify that raw fish reported to have been caught in the EEZ or received from U.S. fishing vessels are correctly recorded in vessel logs required by §600.507.

Joint venture operations are significantly reduced, but these removals must be accounted for. Messaged reports on joint venture operations (JVOPS) are used by the NMFS and the CG to verify that the reporting foreign vessel is authorized to receive U.S.-harvested fish, for placing observers, and to confirm that the operations are confined to the areas and times authorized. Other reports (CHANGE and CANCEL) provide a mechanism for changing or canceling previous reports. These provide the vessel captain with a standard message for keeping CG and NMFS advised of last minute changes to avoid potential enforcement actions when unanticipated changes or errors occur in previously transmitted messages.

Since fisheries enforcement resources are meager, these messages, in combination with the SHIFT message, provide a means for CG and NMFS to monitor activities at-sea and areas of operation of foreign vessels; to plan occasional but unannounced boardings; to account for all fish aboard foreign vessels; and to distinguish fish taken in the EEZ from fish carried into the EEZ; to verify, by boardings, the information provided in transfer reports, the data maintained in vessel logs under §600.507, and compliance with regulations to protect U.S. fishery resources from illegal fishing.

Section 600.502(f) deals with radioed weekly report messages. The nation's designated representative is responsible for transmitting these reports, which originate with a FFV operator. Weekly catch (CATREP) and receipts reports (RECREP) of U.S. harvested fish must be submitted to the appropriate NMFS Regional Administrator or Center Director on the Wednesday following the end of the reporting period. No report is required if vessels deliver raw fish to a processing vessel and the processing vessel submits consolidated CATREPs for fish received. Weekly reports must summarize weekly catches in round weight of each species or species group by area, days fished CATREPs and weekly receipts of U.S. harvested fish by round weight of species or species group RECREPs. RECREPs must identify the U.S. vessels from which the fish were received, the numbers of vessels transferring and the nets received, the prohibited species received, and round weight of fish returned to U.S. fishermen. These reports, in conjunction with observer reports, provide timely information on which to base management actions.

The Marine Mammal Report (MAMREP) (§600.502(f)(4)) must be transmitted if marine mammals are incidentally taken or received and must list the geographic position of the taking, the numbers of animals by species, and their condition.

Regional Administrators and Center Directors use weekly reports to monitor the rate at which foreign FFVs are taking national allocations of fish and the total U.S. harvest available for receipt by FFVs; to project dates of fishery closures by country or management area to avoid exceeding the optimum yield of a species or species group; and to comply with the MSFCMA requirement to protect the portion of the optimum yield set aside for domestic annual processing (DAP). No reports are required if fish were not taken or received during the week.

Weekly catch reports are compared with observer data to test their accuracy. Weekly reports are used to develop rates of catch by species, by area, and by nation. Notices of projected closures are sent to country agents based on the above information. A comparison of the data reported by each vessel can also signal underreporting.

Reports of receipts of U.S.-harvested fish are similarly used to determine when the aggregate JVP will be achieved. The data are similarly processed and JVP fisheries closed when analyses of weekly reports indicate JVP will be achieved.

Reports of the take or receipts of marine mammals are required as part of NMFS responsibilities under the Marine Mammal Protection Act. The reports can support enforcement actions if a vessel has not been issued an appropriate Marine Mammal Permit Program certificate, and either captures or receives a marine mammal during its operations. Capture, or changes in rates of capture, can signify gear problems or changes in the behavior of certain marine mammals.

Recordkeeping provisions are consolidated under §600.507. They require that FFV owners and operators maintain timely and accurate records for inspection by an authorized officer or observer. The records must be maintained and available for 3 years after the end of the permit period while the FFV is in the EEZ. Logs on communications required by §600.502 and transfers, including quantities transferred or offloaded outside the EEZ, must be kept. These logs provide the record of such activities for inspection aboard the vessel and a history of its activities within and outside the EEZ. The logs are important enforcement tools when prosecuting violations to determine a history of underlogging or other illegal activities.

Logbooks must be retained over a period of time because enforcement is not limited to the current year. Three years was selected as appropriate for retention since it is a reasonable period of time and violations occurring prior to the 3-year period could be difficult to corroborate. The need for retention of logbooks was borne out in a case involving the Nichiro Company. This case concerned a long-term conspiracy between a Japanese transport vessel and Japanese trawlers. Although the case was settled for \$2 million and permit sanctions for 20 vessels, other vessels were not penalized because the information needed to corroborate the violations, which would have been found in prior year logs (and that National Oceanic and Atmospheric Administration (NOAA) knew existed in some form) was not available to enforcement officials. NOAA and the Coast Guard consider retention of logs vital to the prosecution of violations.

Logbooks must be maintained in the formats prescribed, although §600.507(i) provides for alternative formats if approved by the relevant Regional Administrator. Generally, foreign nations print and provide log forms for these FFVs. The data required to be logged is standard information recorded in any well run fishing operation, and collection does not impose a significant burden. For example, the EFFORT log, which contains information on the gear, time and position of the set, course, sea depth, depth of set, haul time and position, as well as mesh size, is information used by vessel captains and fishing companies to improve their fishing efficiency. That information is used by observers or authorized officers boarding a FFV for inspection to assess, for example, the potential for an unreported excess bycatch of prohibited species such as American lobster which may be found at a certain depth in the water column or whether undersized fish may be included in the frozen production because the mesh size was less than prescribed. Logs on the catch - CATCH - provide information during boardings to correlate and verify total catches by FFVs on a daily basis versus their production to account for all fish. The consolidated log includes the receipt of unprocessed fish from other FFVs and the log only applies to processing vessels or motherships. The joint venture log requires similar information on receipts from U.S. fishermen. Together the logs provide a practical account of removals from the EEZ and their disposition and are a necessary component of enforcement of the MSFCMA.

The logs also provide information for inspection by U.S. observers and can be used to resolve conflicts between data recorded by the observer and by the vessel captain. The data are no different from data normally recorded in commercial fishing operations, except that they must be recorded in English. These logs provide important information for detection of underlogging violations.

Certain other reports are also required. Sec. 600.504(e)(2) requires that all records maintained on the FFV be available during a boarding to allow enforcement officers to review the correctness of the logs. Section 600.506(b) requires effort plans for general observer planning and for assessing observer fees, which must be paid in advance of fishing. That section also

allows for notification of changes in fishing plans by a FFV captain to avoid errors in planning or billing. This section also provides observers authority to inspect and copy logs and records during comparisons with the observer's records. Section 600.510 requires a vessel operator to report an incident of sighting, or accidental or emergency placement in the EEZ of any substance or article, which may interfere with other vessels or gear, or catch fish and cause damage to marine resources, including mammals and birds. In the case of articles, which may interfere with vessels or gear, such reports must be made to allow the Coast Guard to alert other vessels of such hazards and thereby prevent the unnecessary losses and expenses, which could result for not only U.S. vessels but other foreign vessels as well. Since each foreign fishing nation agrees to reimburse U.S. fishermen for losses caused by gear, it is in the interest of all FFV captains involved in a gear conflict (or retrieving the gear of another FFV) to report such hazards or incidents. Section 600.512(b) requires the submission of a copy of any cruise report or other publication created as a result of scientific research conducted in the EEZ, however, no such research is expected to be conducted during the period for which PRA approval is sought and no estimate for this item is included in the burden estimate.

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

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

Electronic copies of forms for weekly reports and logs are available. Activity reports may be submitted via e-mail.

4. Describe efforts to identify duplication.

Data collected regarding catches, receipts from U.S. vessels, transshipments, etc., are unique to each foreign fishing nation's particular vessels and circumstances. Although observers would be aboard virtually all FFVs engaged in directed fishing or participating in JVs, they are unable to monitor catches or production around the clock because FFVs may conduct 24-hour fishing operations and operate more than one product line at the same time in separate areas of the FFV.

The activity reports required by §600.502 are unique. Catch reports and logs otherwise kept by foreign fishermen are for their own uses in their own language and in a variety of formats. The regulations establish standard formats for submission of catch reports, receipt reports, and the logs kept aboard FFVs. Foreign fishermen have not always provided the information when requested, or even acknowledged its existence. This requirement requires foreign fishermen to provide this information, in English, to enforcement personnel and observers and in a standard

format. This avoids any claims of incorrect translations by the United States Coast Guard (USCG) in enforcement cases.

Recordkeeping under §600.507 does not require duplication of information. The data conform to those normally collected by foreign fishermen except that they must be recorded in English. Formats are standard and consistent from fishery to fishery.

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

This collection will not have a significant impact on small businesses, organizations or governmental entities.

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

Failure to collect the information would make it impossible for NMFS to carry out its responsibilities under the MSFCMA. If this information were to be collected less frequently, the management of fisheries stocks would be impaired and the fish stocks might be damaged. The frequency of collection employed represents a minimum. If reporting were to be lengthened to a quarterly basis, the overrun could result in a very serious violation of the MSFCMA, and cause potential damage to U.S. fish processors. Because of the dynamic nature of fishing and fish stocks, failure to accurately track foreign catch, joint venture receipts, the incidental catch of prohibited species, and the current and projected foreign catch rates might result in overfishing of that stock and its subsequently reduced availability. An excessive incidental take of prohibited species for which caps have been imposed, for example, river herring in the Atlantic mackerel JV fishery, even if the incidental catch is discarded by FFVs, could severely damage valuable U.S. stocks. The MSFCMA prohibition on exceeding the optimum yield would, in the case of the Atlantic mackerel fishery, require a reduction of the amount available for other U.S. fishermen and fish processors.

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

Except with respect to frequency (discussed in item 6), this information collection is conducted in a manner consistent with Office of Management and Budget (OMB) guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register notice was published on May 22, 2007. No comments were received.

There are continuing communications, as appropriate, with NMFS personnel who administer the Foreign Fishing Observer Program, and with the designated agents and representatives of foreign fishing nations. These contacts provide ongoing opportunities for the exchange of ideas regarding the requirements of this information collection.

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

No gifts or payments are provided.

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

Data submitted based on this information collection will be accorded confidentiality pursuant to 50 CFR Part 600, Subpart E.

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

No questions of a sensitive nature are included in this information collection.

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

We are estimating an annual burden of 88 hours for reporting and recordkeeping under this collection. This represents a reduction of 89 hours from the previous 177 hours authorized for this collection. The decrease in hours is due to a decrease in the estimated level of foreign fishing to take place in the EEZ over the next three years.

For purposes of estimating the annual reporting burden of 34 hours, we are assuming that 1 vessel permitted to harvest fish and participate in a JV makes 180 activity reports per year at 6 minutes per report and 10 weekly or other reports per year at 6 minutes per report (weekly catch report, weekly joint ventures receipt report and/or weekly marine mammal report), thereby accounting for 19 hours $[(180+10)(6) = 1,140/60 = 19]$. We are also assuming that 5 transport vessels each make 30 activity reports per year at 6 minutes per report, thereby accounting for 15 hours $[5(30)(6) = 900/60 = 15]$. Thus, there are $190 + 150 = 340$ responses, and $19 + 15 = 34$ hours.

For purposes of estimating the annual recordkeeping burden of 54 hours, we are assuming that 1 vessel permitted to harvest fish and participate in a JV requires 30 minutes per record-keeping day for 90 days per year (daily fishing log and/or daily joint ventures log), thereby accounting for 45 hours $[(30)(90) = 2,700/60 = 45]$. We are also assuming that 5 transport vessels each require 7.5 minutes per recordkeeping day for 15 days per year, thereby accounting for 9 hours (rounded) $[5(7.5)(15) = 562/60 = 9]$. Thus, there are $90 + 75 = 165$ responses, and $45 + 9 = 54$ hours.

The estimated annual responses and burden hours are, respectively, 340 and 34 for reporting, and 165 and 54 for recordkeeping). Total responses are 505 responses and 88 hours.

There are no respondents to the other requirements and none is expected for the next three years, as no directed foreign fishing is likely to take place.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The estimate of costs to the public is less than \$500.00.

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

Using the methodology used in previous years results in estimated costs to the Federal Government as follows:

One quarter work year (One eighth yr. Pacific, one eighth yr. Atlantic) receiving and tabulating data X (42,700 GS-7/5 salary)	\$10,700
Preparing reports	\$500
Overhead = 0.235 (10.7K + .5K)	<u>\$2,600</u>
Estimated costs to Federal Government	\$13,800

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

The decrease in hours is due to a decrease in estimated foreign fishing activity.

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

The results will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

N/A.

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

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

DAILY FISHING LOG

SECTION ONE - EFFORT

PAGE No.	DATE Yr Mo Da	VESSEL NAME	IRCS	U.S. PERMIT No.	NOON POSITION Lat. Long.	NOON WEATHER	WIND DIRECTION FORCE	WEATHER	BAROMETER	SEA CONDITION	AIR WATER TEMPERATURE	MASTER

TRAWL OR SET NO.	FISHING AREA NO.	GEAR TYPE	SET TIME (G.M.T.)	SET POSITION	COURSE OF SET	SEA DEPTH (METERS)	DEPTH OF SET (METERS)	DURATION OF SET (MINUTES)	HAULING TIME (G.M.T.)	HAULING POSITION	NO. OF POTS OR LONGLINE UNITS	NO. OF HOOKS PER LONGLINE UNIT	TRAWL SPEED	TRAWL MESH SIZE COD END		

U.S. INSPECTION <hr/> OFFICER: DATE:	REMARKS:
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SECTION TWO - CATCH

VESSEL---													PROHIBITED SPECIES				MARINE MAMMALS				
SPECIES																					
																	SPECIES CODE	No.	STATUS CODE		
													TOTAL CATCH								
													DAILY TOTAL	CUM TOTAL							
Daily Disp.	C																				
	M																				
	D																				
Area Total																					
Daily Total																					
Cum. Total																					

SECTION THREE - PRODUCTION

FROZEN PRODUCT																MEAL & OIL			
Species																Total Frozen Product		Meal	Oil
Product															Daily Total				
PRR%															Cum. Total				
Daily Total															Amount Transferred				
Cum. Total															Balance				
Amount Transferred																			
Balance																			

Public reporting burden for this collection of information is estimated to average 30 minutes per daily response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Bob Dickinson, NMFS International Affairs, 1315 East-West Highway, Room , Silver Spring, MD 20910.

Data submitted based on this information collection will be accorded confidentiality pursuant to 50 CFR Part 600, Subpart E. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

DAILY JOINT VENTURE LOG
SECTION ONE - EFFORT

PAGE No.	DATE Yr Mo Da	VESSEL NAME	IRCS	U.S. PERMIT No.	NOON POSITION Lat. Long.	NOON WEATHER	WIND DIRECTION FORCE	WEATHER	BAROMETER	SEA CONDITION	AIR WATER TEMPERATURE	MASTER

CODEND No.	U.S. VESSEL NAME	FISHING AREA No.	RECEIPT TIME	RECEIPT POSITION	ESTIMATED RECEIPT WEIGHT	REMARKS
						U.S. INSPECTION
						OFFICER
						DATE
						REMARKS

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WEEKLY CATCH REPORT

Page ___ of ___

VESSEL NAME

PERMIT NUMBER

IRCS

WEEK ENDING
MONTH/DAY

AREA CODES	DAYS FISHED	SPECIES CODES											

DESIGNATED REPRESENTATIVE _____ DATE _____

Public reporting burden for this collection of information is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Bob Dickinson, NMFS International Affairs, 1315 East-West Highway, Room , Silver Spring, MD 20910.

Data submitted based on this information collection will be accorded confidentiality pursuant to 50 CFR Part 600, Subpart E. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

WEEKLY JOINT VENTURE RECEIPTS REPORT

Page ___ of ___

VESSEL NAME

PERMIT NUMBER

IRCS

WEEK ENDING
MONTH/DAY

AREA CODE	DAYS FISH REC'D	VESSELS DELIVERED	CODENDS REC'D	SPECIES CODES									

PARTICIPATING VESSELS

DESIGNATED REPRESENTATIVE _____ DATE _____

Public reporting burden for this collection of information is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Bob Dickinson, NMFS International Affairs, 1315 East-West Highway, Room , Silver Spring, MD 20910.

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WEEKLY MARINE MAMMAL REPORT

Page ___ of ___

VESSEL NAME

PERMIT NUMBER

IRCS

WEEK ENDING
MONTH/DAY

CONDITION CODES

- 1. KILLED DURING CAPTURE
- 2. INJURED DURING CAPTURE
- 3. DEAD BEFORE CAPTURE (DECOMPOSED)
- 4. UNINJURED

RECORD THE CATCH OF INDIVIDUAL ANIMALS UNLESS TWO OR MORE WERE TAKEN TOGETHER AND WERE IN THE SAME CONDITION

DATE (MM/DD)	LATITUDE (DEGREES)	LONGITUDE (DEGREES)	SPECIES CODE	STATUS CODE	NUMBER	FLAG

DESIGNATED REPRESENTATIVE _____ DATE _____

Public reporting burden for this collection of information is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Bob Dickinson, NMFS International Affairs, 1315 East-West Highway, Room , Silver Spring, MD 20910.

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Magnuson-Stevens Fishery Conservation and Management Act

Public Law 94-265

As amended through October 11, 1996

AN ACT

**To provide for the conservation and management of the fisheries,
and for other purposes.**

J.Feder version (12/19/96)

SEC. 2. FINDINGS, PURPOSES, AND POLICY 16 U.S.C. 1801

(a) FINDINGS.--The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

104-297

(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

104-297

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

95-354

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

101-627

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.

104-297

(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

104-297

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

(b) PURPOSES.--It is therefore declared to be the purposes of the Congress in this Act--

99-659, 101-627, 102-251

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources[, and fishery resources in the special areas]*;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

104-297

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each

fishery;

101-627

(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;

95-354, 96-561, 104-297

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

104-297

(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

(c) **POLICY.**--It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

101-627, 104-297

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act;

99-659, 101-627

(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;

101-627

(6) to foster and maintain the diversity of fisheries in the United States; and

104-297

(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

SEC. 3. DEFINITIONS 16 U.S.C. 1802

As used in this Act, unless the context otherwise requires--

(1) The term "anadromous species" means species of fish, which spawn in fresh, or estuarine waters of the United States and which migrate to ocean waters.

104-297

(2) The term "bycatch" means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

104-297

(3) The term "charter fishing" means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

(4) The term "commercial fishing" means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

(5) The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(6) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

99-659, 104-297

(7) The term "Continental Shelf fishery resources" means the following:

CNIDARIA

Bamboo Coral--Acanella spp.;

Fishery Conservation and Management

§ 600.415

(4) Tailoring gear requirements to provide for smaller or lighter gear for smaller vessels.

(5) Avoiding management measures that require hazardous at-sea inspections or enforcement if other comparable enforcement could be accomplished as effectively.

(6) Limiting the number of participants in the fishery.

(7) Spreading effort over time and area to avoid potential gear and/or vessel conflicts.

(8) Implementing management measures that reduce the race for fish and the resulting incentives for fishermen to take additional risks with respect to vessel safety.

[63 FR 24236, May 1, 1998]

Subpart E—Confidentiality of Statistics

§ 600.405 Types of statistics covered.

NOAA is authorized under the Magnuson-Stevens Act and other statutes to collect proprietary or confidential commercial or financial information. This part applies to all pertinent data required to be submitted to the Secretary with respect to any FMP including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing occurred, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, U.S. fish processors.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.410 Collection and maintenance of statistics.

(a) *General.* (1) All statistics required to be submitted to the Secretary are provided to the Assistant Administrator.

(2) After receipt, the Assistant Administrator will remove all identifying particulars from the statistics if doing so is consistent with the needs of NMFS and good scientific practice.

(3) Appropriate safeguards as specified by NOAA Directives, or other NOAA or NMFS internal procedures, apply to the collection and maintenance

of all statistics, whether separated from identifying particulars or not, so as to ensure their confidentiality.

(b) *Collection agreements with states.* (1) The Assistant Administrator may enter into an agreement with a state authorizing the state to collect statistics on behalf of the Secretary.

(2) NMFS will not enter into a cooperative collection agreement with a state unless the state has authority to protect the statistics from disclosure in a manner at least as protective as these regulations.

§ 600.415 Access to statistics.

(a) *General.* In determining whether to grant a request for access to confidential data, the following information will be taken into consideration (also see § 600.130):

(1) The specific types of data required.

(2) The relevance of the data to conservation and management issues.

(3) The duration of time access will be required: continuous, infrequent, or one-time.

(4) An explanation of why the availability of aggregate or non-confidential summaries of data from other sources would not satisfy the requested needs.

(b) *Federal employees.* Statistics submitted as a requirement of an FMP and that reveal the identity of the submitter will only be accessible to the following:

(1) Personnel within NMFS responsible for the collection, processing, and storage of the statistics.

(2) Federal employees who are responsible for FMP development, monitoring, and enforcement.

(3) Personnel within NMFS performing research that requires confidential statistics.

(4) Other NOAA personnel on a demonstrable need-to-know basis.

(5) NOAA/NMFS contractors or grantees who require access to confidential statistics to perform functions authorized by a Federal contract or grant.

(c) *State personnel.* Upon written request, confidential statistics will only be accessible if:

(1) State employees demonstrate a need for confidential statistics for use

§ 600.420

in fishery conservation and management.

(2) The state has entered into a written agreement between the Assistant Administrator and the head of the state's agency that manages marine and/or anadromous fisheries. The agreement shall contain a finding by the Assistant Administrator that the state has confidentiality protection authority comparable to the Magnuson-Stevens Act and that the state will exercise this authority to limit subsequent access and use of the data to fishery management and monitoring purposes.

(d) *Councils*. Upon written request by the Council Executive Director, access to confidential data will be granted to:

(1) Council employees who are responsible for FMP development and monitoring.

(2) A Council for use by the Council for conservation and management purposes, with the approval of the Assistant Administrator. In addition to the information described in paragraph (a) of this section, the Assistant Administrator will consider the following in deciding whether to grant access:

(i) The possibility that Council members might gain personal or competitive advantage from access to the data.

(ii) The possibility that the suppliers of the data would be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings.

(3) A contractor of the Council for use in such analysis or studies necessary for conservation and management purposes, with approval of the Assistant Administrator and execution of an agreement with NMFS as described by NOAA Administrative Order (NAO) 216-100.

(e) *Prohibitions*. Persons having access to these data are prohibited from unauthorized use or disclosure and are subject to the provisions of 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NAO 216-100.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.420 Control system.

(a) The Assistant Administrator maintains a control system to protect

50 CFR Ch. VI (10-1-02 Edition)

the identity of submitters of statistics required by an FMP. The control system:

(1) Identifies those persons who have access to the statistics.

(2) Contains procedures to limit access to confidential data to authorized users.

(3) Provides for safeguarding the data.

(b) This system requires that all persons who have authorized access to the data be informed of the confidentiality of the data. These persons are required to sign a statement that they:

(1) Have been informed that the data are confidential.

(2) Have reviewed and are familiar with the procedures to protect confidential statistics.

§ 600.425 Release of statistics.

(a) The Assistant Administrator will not release to the public any statistics required to be submitted under an FMP in a form that would identify the submitter, except as required by law.

(b) All requests from the public for statistics submitted in response to a requirement of an FMP will be processed consistent with the NOAA FOIA regulations (15 CFR part 903), NAO 205-14, Department of Commerce Administrative Orders 205-12 and 205-14 and 15 CFR part 4.

(c) NOAA does not release or allow access to confidential information in its possession to members of Council advisory groups, except as provided by law.

Subpart F—Foreign Fishing

§ 600.501 Vessel permits.

(a) *General*. (1) Each FFV fishing under the Magnuson-Stevens Act must have on board a permit issued under this section, unless it is engaged only in recreational fishing.

(2) Permits issued under this section do not authorize FFV's or persons to harass, capture, or kill marine mammals. No marine mammals may be taken in the course of fishing unless that vessel has on board a currently valid Authorization Certificate under the MMPA. Regulations governing the taking of marine mammals incidental to commercial fishing operations are

§ 600.420

(ii) The possibility that the suppliers of the data would be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings.

(3) A contractor of the Council for use in such analysis or studies necessary for conservation and management purposes, with approval of the Assistant Administrator and execution of an agreement with NMFS as described by NOAA Administrative Order (NAO) 216-100.

(e) *Prohibitions.* Persons having access to these data are prohibited from unauthorized use or disclosure and are subject to the provisions of 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NAO 216-100.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.420 Control system.

(a) The Assistant Administrator maintains a control system to protect the identity of submitters of statistics required by an FMP. The control system:

(1) Identifies those persons who have access to the statistics.

(2) Contains procedures to limit access to confidential data to authorized users.

(3) Provides for safeguarding the data.

(b) This system requires that all persons who have authorized access to the data be informed of the confidentiality of the data. These persons are required to sign a statement that they:

(1) Have been informed that the data are confidential.

(2) Have reviewed and are familiar with the procedures to protect confidential statistics.

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50 CFR Ch. VI (10-1-00 Edition)

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(2) Permits issued under this section do not authorize FFV's or persons to harass, capture, or kill marine mammals. No marine mammals may be taken in the course of fishing unless that vessel has on board a currently valid Authorization Certificate under the MMPA. Regulations governing the taking of marine mammals incidental to commercial fishing operations are contained in 50 CFR part 229 of this title.

(b) *Responsibility of owners and operators.* The owners and operators of each FFV are jointly and severally responsible for compliance with the Magnuson-Stevens Act, the applicable GIFA, this subpart, and any permit issued under the Magnuson-Stevens Act and this subpart. The owners and operators of each FFV bear civil responsibility for the acts of their employees and agents constituting violations, regardless of whether the specific acts were authorized or even forbidden by the employer or principal, and regardless of knowledge concerning the occurrence.

(c) *Activity codes.* Permits to fish under this subpart may be issued by the Assistant Administrator for the activities described in this paragraph, but the permits may be modified by regulations of this subpart and by the conditions and restrictions attached to the permit (see paragraphs (e)(1)(v) and (l) of this section). The Assistant Administrator may issue a permit, as appropriate, for one or more of the activity codes listed. Only vessels of nations having a GIFA with the United States may be issued permits for activity

Fishery Conservation and Management

§ 600.501

codes 1 through 9. A GIFA is not required for a vessel to be issued a permit for activity code 10. The activity codes are described as follows:

(1) *Activity Code 1.* Catching, scouting, processing, transshipping, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(2) *Activity Code 2.* Processing, scouting, transshipping, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(3) *Activity Code 3.* Transshipping, scouting, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(4) *Activity Code 4.* Processing, scouting, transshipping, and supporting U.S. vessels delivering fish to foreign vessels. Activity is limited to the receipt of unprocessed fish harvested or to be harvested by U.S. vessels.

(5) *Activity Code 5.* Transshipping, scouting, and supporting foreign vessels. Transshipment limited to fish received or to be received from foreign vessels processing fish from U.S. harvesting vessels.

(6) *Activity Code 6.* Transshipping, scouting, and supporting U.S. vessels. Transshipment limited to U.S.-harvested fish processed on board U.S. vessels.

(7) *Activity Code 7.* Processing, transshipping, and supporting foreign vessels. Activity limited to fish harvested or to be harvested by foreign vessels seaward of the EEZ.

(8) *Activity Code 8.* Transshipping and supporting foreign vessels. Activity is limited to fish harvested or to be harvested seaward of the EEZ by foreign vessels or fish duly authorized for processing in the internal waters of one of the states.

(9) *Activity Code 9.* Supporting U.S. fishing vessels and U.S. fish processing vessels and any foreign fishing vessels authorized under any activity code under paragraph (c) of this subpart.

(10) *Activity Code 10.* Transshipping at sea for the purpose of transporting fish or fish products from a point within the EEZ or, with the concurrence of a state, within the boundaries of that

state, to a point outside the United States.

(d) *Application.* (1) Applications for FFV permits authorizing activity codes 1 through 9 must be submitted by an official representative of a foreign nation to the DOS. Applications for permits authorizing activity codes 1 through 9 are available from, and should be submitted to, DOS, OES/OMC, Washington, DC 20520. Applications for FFV permits authorizing activity code 10 may be submitted by any person to the Assistant Administrator. Applications for permits authorizing activity code 10 are available from NMFS, Attn: International Fisheries Division, 1315 East West Highway, Silver Spring, Maryland 20910. All applicants should allow 90 days for review and comment by the public, involved governmental agencies, and appropriate Councils and for processing before the anticipated date to begin fishing. The permit application fee must be paid at the time of application according to §600.518.

(2) Applicants must provide complete and accurate information requested on the permit application form.

(3) Applicants for FFV's that will support U.S. vessels in joint ventures (Activity Code 4) must provide the additional information specified by the permit application form.

(4) Each applicant may request to substitute one FFV for another of the same flag by submitting a new application form and a short explanation of the reason for the substitution to the appropriate address listed at paragraph (d)(1) of this section. Each substitution is considered a new application, and a new application fee must be paid. NMFS will promptly process an application for a vessel replacing a permitted FFV that is disabled or decommissioned, once the appropriate Council(s) and governmental agencies have been notified of the substituted application.

(e) *Issuance.* (1) Permits may be issued to an FFV by the Assistant Administrator after—

(i) The Assistant Administrator determines that the fishing described in the application will meet the requirements of the Magnuson-Stevens Act and approves the permit application.

(ii) The applicant has paid the fees and provided any assurances required by the Secretary in accordance with the provisions of § 600.518.

(iii) The applicant has appointed an agent.

(iv) The applicant has identified a designated representative.

(v) The applicant has accepted the general “conditions and restrictions” of receiving permits, as required by section 204(b)(7) of the Magnuson-Stevens Act, and any “additional restrictions” attached to the permit for the conservation and management of fishery resources or for the prevention of significant impairment of the national defense or security interests.

(2) The DOS will provide permits for activity codes 1 through 9 to the official representative of the applicant foreign nation. The Assistant Administrator will provide permits for activity code 10 directly to the applicant.

(3) An approved permit will contain—

(i) The name and IRCS of the FFV and its permit number.

(ii) The permitted fisheries and/or activity codes.

(iii) The date of issuance and expiration date, if other than December 31.

(iv) All conditions and restrictions, and any additional restrictions and technical modifications appended to the permit.

(4) Permits are not issued for boats that are launched from larger vessels. Any enforcement action that results from the activities of a launched boat will be taken against the permitted vessel.

(f) *Duration.* A permit is valid from its date of issuance to its date of expiration, unless it is revoked or suspended or the nation issuing the FFV’s documents does not accept amendments to the permit made by the Assistant Administrator in accordance with the procedures of paragraph (l) of this section. The permit will be valid for no longer than the calendar year in which it was issued.

(g) *Transfer.* Permits are not transferable or assignable. A permit is valid only for the FFV to which it is issued.

(h) *Display.* Each FFV operator must have a properly completed permit form available on board the FFV when engaged in fishing activities and must

produce it at the request of an authorized officer or observer.

(i) *Suspension and revocation.* NMFS may apply sanctions to an FFV’s permit by revoking, suspending, or imposing additional permit restrictions on the permit under 15 CFR part 904, if the vessel is involved in the commission of any violation of the Magnuson-Stevens Act, the GIFA, or this subpart; if an agent and a designated representative are not maintained in the United States; if a civil penalty or criminal fine imposed under the Magnuson-Stevens Act has become overdue; or as otherwise specified in the Magnuson-Stevens Act.

(j) *Fees.* Permit application fees are described in § 600.518.

(k) *Change in application information.* The applicant must report, in writing, any change in the information supplied under paragraph (d) of this section to the Assistant Administrator within 15 calendar days after the date of the change. Failure to report a change in the ownership from that described in the current application within the specified time frame voids the permit, and all penalties involved will accrue to the previous owner.

(l) *Permit amendments.* (1) The Assistant Administrator may amend a permit by adding “additional restrictions” for the conservation and management of fishery resources covered by the permit, or for the national defense or security if the Assistant Administrator determines that such interests would be significantly impaired without such restrictions. Compliance with the added additional restrictions is a condition of the permit. Violations of added additional restrictions will be treated as violations of this subpart.

(2) The Assistant Administrator may make proposed additional restrictions effective immediately, if necessary, to prevent substantial harm to a fishery resource of the United States, to allow for the continuation of ongoing fishing operations, or to allow for fishing to begin at the normal time for opening of the fishery.

(3) The Assistant Administrator will send proposed additional restrictions to each Nation whose vessels are affected (via the Secretary of State), to the appropriate Councils, and to the

Commandant of the Coast Guard. NMFS will, at the same time, publish a document of any significant proposed additional restrictions in the FEDERAL REGISTER. The document will include a summary of the reasons underlying the proposal, and the reasons that any proposed additional restrictions are made effective immediately.

(4) The Nation whose vessels are involved, the owners of the affected vessels, their representatives, the agencies specified in paragraph (1)(3) of this section, and the public may submit written comments on the proposed additional restrictions within 30 days after publication in the FEDERAL REGISTER.

(5) The Assistant Administrator will make a final decision regarding the proposed additional restrictions as soon as practicable after the end of the comment period. The Assistant Administrator will provide the final additional restrictions to the Nation whose vessels are affected (via the Secretary of State) according to the procedures of paragraph (e) of this section. The Assistant Administrator will include with the final additional restrictions to the Nation, a response to comments submitted.

(6) Additional restrictions may be modified by following the procedures of paragraphs (1)(2) through (1)(5) of this section.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998; 64 FR 39019, July 21, 1999]

§ 600.502 Vessel reports.

(a) The operator of each FFV must report the FFV's activities to the USCG and NMFS as specified in this section.

(b) All reports required by this section must be in English and in the formats specified in the permit additions and restrictions. Reports must be delivered via private or commercial communications facilities, facsimile, or other electronic means acceptable to NMFS and the USCG, directly to the appropriate NMFS Region or Center and USCG commander. Weekly reports must also be delivered directly to the appropriate NMFS Region or Center (see tables 1 and 2 of this section). (The required reports may be delivered to the closest USCG communication sta-

tion as indicated in table 3 of this section or other USCG communication station only if adequate private or commercial communications facilities have not been successfully contacted.) Radio reports must be made via radiotelegraphy, Telex, or facsimile where available. For the purposes of this section, a message is considered "transmitted" when its receipt is acknowledged by a communications facility and considered "delivered" upon its receipt by the offices of the appropriate USCG commander, NMFS Regional Office, or NMFS Center identified in table 2 of this section. Reports required by this section may be submitted by the vessel's designated representative; however, the operator of the FFV is responsible for the correct and timely filing of all required reports.

(c) *Activity reports.* The operator of each FFV must report the FFV's movements and activities before or upon the event, as specified in this paragraph (c). Appropriate forms, instructions, codes, and examples are contained in the conditions and restrictions of the FFV's permit. Each FFV report must contain the following information: The message identifier "VESREP" to indicate it is a vessel activity report, FFV name, international radio call sign IRCS, date (month and day based on GMT), time (hour and minute GMT), position (latitude and longitude to the nearest degree and minute) where required, area (by fishing area code) where required, the appropriate action code, confirmation codes where required, and the other information specified in paragraphs (c)(1) through (c)(11) of this section.

(1) "*BEGIN*". Each operator must specify the date, time, position, and area the FFV will actually "*BEGIN*" fishing in the EEZ and the species (by species code), product (by product code), and quantity of all fish and fish products (by product weight to the nearest hundredth of a metric ton) on board when entering the EEZ (action code "*BEGIN*"). The message must be delivered at least 24 hours before the vessel begins to fish.

(2) "*DEPART*". Each operator must specify the date, time, position, and area the FFV will "*DEPART*" the EEZ to embark or debark an observer, to

visit a U.S. port, to conduct a joint venture in internal waters, or to otherwise temporarily leave an authorized fishing area, but not depart the seaward limit of the EEZ (action code "DEPART"). The message must be transmitted before the FFV departs the present fishing area and delivered within 24 hours of its transmittal.

(3) "RETURN". Each operator must specify the date, time, position, and area the FFV will "RETURN" to the EEZ following a temporary departure, and the species (by species code), product (by product code), and quantity of all fish and fish products (by product weight to the nearest hundredth of a metric ton) on board that were received in a joint venture in internal waters (action code "RETURN"). The message must be transmitted before returning to the EEZ and delivered within 24 hours of its transmittal.

(4) "SHIFT". Each operator must report each SHIFT in fishing area (as described for each fishery) by specifying the date, time, and position the FFV will start fishing, and the new area (action code "SHIFT"). The message must be transmitted before leaving the original area and delivered within 24 hours of its transmittal. If a foreign vessel operates within 20 nautical miles (37.04 km) of a fishing area boundary, its operator may submit in one message the shift reports for all fishing area shifts occurring during 1 fishing day (0001–2400 GMT). This message must be transmitted prior to the last shift expected to be made in the day and delivered within 24 hours of its transmittal.

(5) "JV OPS". Each operator must specify the date, time, position, and area at which the FFV will "START" joint venture operations (action code "START JV OPS") or "END" joint venture operations (action code "END JV OPS"). These reports must be made in addition to other activity reports made under this section. Each message must be transmitted before the event and delivered within 24 hours of its transmittal.

(6) "TRANSFER". The operator of each FFV that anticipates a transshipping operation in which the FFV will receive fish or fisheries products must specify the date, time, position and area the FFV will conduct the

"TRANSFER" and the name and IRCS of the other FFV or U.S. vessel involved (action code "TRANSFER"). The report must include the permit activity code under which the transfer will be made. The message must be transmitted prior to the transfer and delivered within 24 hours of its transmittal. The movement of raw fish from a permitted foreign catching vessel or, under an Activity Code 4, from a U.S. fishing vessel to the reporting processing vessel and the return of nets or codends is not considered a transfer.

(7) "OFFLOADED". Each operator must specify the date, time, position, and area the FFV "OFFLOADED" fish or fisheries products TO another FFV or a U.S. vessel in a transfer, the other FFV's or U.S. vessel's name, IRCS, Permit Activity Code under which the transfer was made, species (by species code) and quantity of fish and fisheries products (by product code and by product weight, to the nearest hundredth of a metric ton) offloaded (action code "OFFLOADED TO"). The message must be transmitted within 12 hours after the transfer is completed and delivered within 24 hours of its transmittal and before the FFV ceases fishing in the EEZ.

(8) "RECEIVED". Each operator must specify the date, time, position and area the vessel "RECEIVED" fish or fisheries products FROM another FFV in a transfer, the other FFV's or U.S. vessel's name, IRCS, Permit Activity Code under which the receipt was made, species (by species code) and quantity of fish and fisheries products (by product code and by product weight, to the nearest hundredth of a metric ton) received (action code "RECEIVED FROM"). The message must be transmitted within 12 hours after the transfer is completed and delivered within 24 hours of its transmittal and before the vessel ceases fishing in the EEZ.

(9) "CEASE". Each operator must specify the date, time, position, and area the FFV will "CEASE" fishing in order to leave the EEZ (action code "CEASE"). The message must be delivered at least 24 hours before the FFV's departure.

(10) "CHANGE". Each operator must report any "CHANGE" TO the FFV's

operations if the position or time of an event specified in an activity report will vary more than 5 nautical miles (9.26 km) or 4 hours from that previously reported, by sending a revised message inserting the word "CHANGE" in front of the previous report, repeating the name, IRCS, date, and time of the previous report, adding the word "TO" and the complete revised text of the new report (action code "CHANGE TO"). Changes to reports specifying an early beginning of fishing by an FFV or other changes to reports contained in paragraphs (c)(1) through (c)(9) of this section must be transmitted and delivered as if the "CHANGE" report were the original message.

(11) "CANCEL". Each operator wanting to "CANCEL" a previous report may do so by sending a revised message, and inserting the word "CANCEL" in front of the previous report's vessel name, IRCS, date, time and action code canceled (action code "CANCEL"). The message must be transmitted and delivered prior to the date and time of the event in the original message.

(d) The operator of an FFV will be in violation of paragraphs (c)(1) through (c)(9) of this section if the FFV does not pass within 5 nautical miles (9.26 km) of the position given in the report within 4 hours of the time given in the report.

(e) The notices required by this section may be provided for individual or groups of FFV's (on a vessel-by-vessel basis) by authorized persons. An FFV operator may retransmit reports on the behalf of another FFV, if authorized by that FFV's operator. This does not relieve the individual vessel operator of the responsibility of filing required reports. In these cases, the message format should be modified so that each line of text under "VESREP" is a separate vessel report.

(f) *Weekly reports.* (1) The operator of each FFV in the EEZ must submit appropriate weekly reports through the Nation's designated representative. The report must arrive at the address and time specified in paragraph (g) of this section. The reports may be sent by facsimile or Telex, but a completed copy of the report form must be mailed or hand delivered to confirm the Telex.

Appropriate forms, instructions, codes, and examples are contained in the conditions and restrictions of the FFV's permit. Designated representatives may include more than one vessel report in a facsimile or Telex message, if the information is submitted on a vessel-by-vessel basis. Requests for corrections to previous reports must be submitted through the Nation's designated representative and mailed or hand-delivered, together with a written explanation of the reasons for the errors. The appropriate Regional Administrator or Science and Research Director may accept or reject any correction and initiate any appropriate civil penalty actions.

(2) *Weekly catch report (CATREP).* The operator of each FFV must submit a weekly catch report stating any catch (Activity Code 1) in round weight of each species or species group allocated to that Nation by area and days fished in each area for the weekly period Sunday through Saturday, GMT, as modified by the fishery in which the FFV is engaged. Foreign vessels delivering unsorted, unprocessed fish to a processing vessel are not required to submit CATREP's, if that processing vessel (Activity Code 2) submits consolidated CATREP's for all fish received during each weekly period. No report is required for FFV's that do not catch or receive foreign-caught fish during the reporting period.

(3) *Weekly receipts report (RECREP).* The operator of each FFV must submit a weekly report stating any receipts of U.S.-harvested fish in a joint venture (Activity Code 4) for the weekly period Sunday through Saturday, GMT, as modified by the fishery in which the FFV is engaged, for each fishing area, by authorized or prohibited species or species group; days fish received; round weight retained or returned to the U.S. fishing vessel; number of codends received; and number of vessels transferring codends. The report must also include the names of U.S. fishing vessels transferring codends during the week. No report is required for FFV's that do not receive any U.S.-harvested fish during the reporting period.

(4) *Marine mammal report (MAMREP).* The operator of each FFV must submit a weekly report stating any incidental

§ 600.502

50 CFR Ch. VI (10–1–00 Edition)

catch or receipt of marine mammals (Activity Codes 1 or 2 and/or 4), the geographical position caught, the condition of the animal, number caught (if more than one of the same species and condition), and nationality of the catching vessel for the period Sunday through Saturday, GMT, as modified by the fishery in which the vessel is engaged. Foreign catching vessels delivering unsorted, unprocessed fish to processing vessel are not required to submit MAMREP's, provided that the processing or factory vessel (Activity Code 2) submits consolidated MAMREP's for all fish received during each weekly period. FFV's receiving U.S.-harvested fish in a joint venture (Activity Code 4) must submit consolidated reports for U.S. vessels operating in the joint venture. No report is required for FFV's that do not catch or receive marine mammals during the reporting period.

(g) *Submission instructions for weekly reports.* The designated representative

for each FFV must submit weekly reports in the prescribed format to the appropriate Regional Administrator or Science and Research Director of NMFS by 1900 GMT on the Wednesday following the end of the reporting period. However, by agreement with the appropriate Regional Administrator or Science and Research Director, the designated representative may submit weekly reports to some other facility of NMFS.

(h) *Alternative reporting procedures.* As an alternative to the use of the specific procedures provided, an applicant may submit proposed reporting procedures for a general type of fishery operation (i.e., transshipments under Activity Code 10) to the appropriate Regional Administrator and the USCG commander (see tables 1 and 2 to §600.502 of this chapter). With the agreement of the USCG commander, the Regional Administrator may authorize the use of alternative reporting procedures.

TABLE 1 TO § 600.502—ADDRESSES

NMFS regional administrators	NMFS science and research directors	U.S. Coast Guard commanders
Administrator, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298.	Director, Northeast Fisheries Science Center, National Marine Fisheries Service, NOAA, 166 Water St., Woods Hole, MA 02543–1097.	Commander, Atlantic Area, U.S. Coast Guard, 431 Crawford St., Portsmouth, VA 23704.
Administrator, Southeast Region, National Marine Fisheries Service, 9721 Exec. Center Drive N., St. Petersburg, FL 33702.	Director, Southeast Fisheries Science Center, National Marine Fisheries Service, NOAA, 75 Virginia Beach Drive, Miami, FL 33149–1003.	Commander, Atlantic Area, U.S. Coast Guard, Governor's Island, New York 10004.
Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115.	Director, Northwest Fisheries Science Center, National Marine Fisheries Service, NOAA, 2725 Montlake Blvd. East, Seattle, WA 98112–2097.	Commander, Pacific Area, U.S. Coast Guard, Government Island, Alameda, CA 94501.
Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668.	Director, Alaska Fisheries Science Center, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 4, Seattle, WA 98115–0070.	Commander, Seventeenth Coast Guard District, P.O. Box 25517, Juneau, AK 99802.
Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.	Director, Southwest Fisheries Science Center, National Marine Fisheries Service, NOAA, P.O. Box 271, La Jolla, CA 92038–0271.	Commander, Fourteenth Coast Guard District, 300 Ala Moana Blvd., Honolulu, HI 96850.

TABLE 2 TO § 600.502—AREAS OF RESPONSIBILITY OF NMFS AND U.S. COAST GUARD OFFICES

Area of responsibility/fishery	National Marine Fisheries Service	U.S. Coast Guard
Atlantic Ocean North of Cape Hatteras	Director, Northeast Science Center, Attn: Observer Program.	Commander, Atlantic Area.
Atlantic Ocean South of Cape Hatteras	Director, Northeast Science Center, Attn: Observer Program.	Commander, Atlantic Area.
Atlantic Tunas, Swordfish, Billfish and Sharks.	Director, Office of Sustainable Fisheries	Commander, Atlantic Area.
Gulf of Mexico and Caribbean Sea	Administrator, Southeast Region	Commander, Atlantic Area.
Pacific Ocean off the States of California, Oregon, and Washington.	Administrator, Northwest Region	Commander, Pacific Area.

Fishery Conservation and Management

§ 600.503

TABLE 2 TO § 600.502—AREAS OF RESPONSIBILITY OF NMFS AND U.S. COAST GUARD OFFICES—Continued

Area of responsibility/fishery	National Marine Fisheries Service	U.S. Coast Guard
North Pacific Ocean and Bering Sea off Alaska.	Administrator, Alaska Region	Commander, Seventeenth Coast Guard District.
Pacific Ocean off Hawaii and Other U.S. Insular Possessions in the Central and Western Pacific.	Administrator, Southwest Region	Commander, Fourteenth Coast Guard District.

TABLE 3 TO § 600.502—U.S. COAST GUARD COMMUNICATIONS STATIONS AND FREQUENCIES

U.S. Coast Guard communications station	Radiotelephone		
	IRCS	Channel ¹	GMT time
Boston	NMF	A-E B,C D E	2330-1100. All. 1100-2330. (On request). 2330-1100.
CAMSLANT Chesapeake (Portsmouth, VA)	NMN	A B,C D E	2330-1100. All. 1100-2330. (On request).
New Orleans	NMG	A B,C D E	2330-1100. All. 1100-2330. (On request).
CAMSPAC Point Reyes (San Francisco, CA)	NMC	A-D E	All. (On request).
Honolulu	NMO	A-D E	All. (On request).
Kodiak	NOJ	A-D E	All. (On request).

¹ Carrier frequencies of duplex, high-frequency single-sideband channels are:

Letter	Shore transmit	Ship transmit
A	4426.0	4134.0
B	6501.0	6200.0
C	8764.0	8240.0
D	13089.0	12242.0
E	17314.0	16432.0

[61 FR 32540, June 24, 1996, as amended at 63 FR 7073, Feb. 12, 1998; 64 FR 39020, July 21, 1999]

§ 600.503 Vessel and gear identification.

(a) *Vessel identification.* (1) The operator of each FFV assigned an IRCS must display that call sign amidships on both the port and starboard sides of the deckhouse or hull, so that it is visible from an enforcement vessel, and on an appropriate weather deck so it is visible from the air.

(2) The operator of each FFV not assigned an IRCS, such as a small trawler associated with a mothership or one of a pair of trawlers, must display the IRCS of the associated vessel, followed by a numerical suffix. (For example, JCZM-1, JCZM-2, etc., would be displayed on small trawlers not assigned an IRCS operating with a mothership

whose IRCS is JCZM; JANP-1 would be displayed by a pair trawler not assigned an IRCS operating with a trawler whose IRCS is JANP.)

(3) The vessel identification must be in a color in contrast to the background and must be permanently affixed to the FFV in block Roman alphabet letters and Arabic numerals at least 1 m in height for FFV's over 20 m in length, and at least 0.5 m in height for all other FFV's.

(b) *Navigational lights and shapes.* Each FFV must display the lights and shapes prescribed by the International Regulations for Preventing Collisions at Sea, 1972 (TIAS 8587, and 1981 amendment TIAS 10672), for the activity in which the FFV is engaged (as described at 33 CFR part 81).

(c) *Gear identification.* (1) The operator of each FFV must ensure that all deployed fishing gear that is not physically and continuously attached to an FFV:

(i) Is clearly marked at the surface with a buoy displaying the vessel identification of the FFV (see paragraph (a) of this section) to which the gear belongs.

(ii) Has attached a light visible for 2 nautical miles (3.70 km) at night in good visibility.

(iii) Has a radio buoy.

Trawl codends passed from one vessel to another are considered continuously attached gear and are not required to be marked.

(2) The operator of each FFV must ensure that deployed longlines, strings of traps or pots, and gillnets are marked at the surface at each terminal end with: (see paragraphs (c)(1)(i) through (c)(1)(iii) of this section).

(3) Additional requirements may be specified for the fishery in which the vessel is engaged.

(4) Unmarked or incorrectly identified fishing gear may be considered abandoned and may be disposed of in accordance with applicable Federal regulations by any authorized officer.

(d) *Maintenance.* The operator of each FFV must—

(1) Keep the vessel and gear identification clearly legible and in good repair.

(2) Ensure that nothing on the FFV obstructs the view of the markings from an enforcement vessel or aircraft.

(3) Ensure that the proper navigational lights and shapes are displayed for the FFV's activity and are properly functioning.

§ 600.504 Facilitation of enforcement.

(a) *General.* (1) The owner, operator, or any person aboard any FFV subject to this subpart must immediately comply with instructions and signals issued by an authorized officer to stop the FFV; to move the FFV to a specified location; and to facilitate safe boarding and inspection of the vessel, its gear, equipment, records, and fish and fish products on board for purposes of enforcing the Magnuson-Stevens Act and this subpart.

(2) The operator of each FFV must provide vessel position or other information when requested by an authorized officer within the time specified in the request.

(b) *Communications equipment.* (1) Each FFV must be equipped with a VHF-FM radiotelephone station located so that it may be operated from the wheelhouse. Each operator must maintain a continuous listening watch on channel 16 (156.8 MHz).

(2) Each FFV must be equipped with a radiotelephone station capable of communicating via 2182 kHz (SSB) radiotelephony and at least one set of working frequencies identified in table 3 to § 600.502 appropriate to the fishery in which the FFV is operating. Each operator must monitor and be ready to communicate via 2182 kHz (SSB) radiotelephone each day from 0800 GMT to 0830 GMT and 2000 to 2030 GMT, and in preparation for boarding.

(3) FFV's that are not equipped with processing facilities and that deliver all catches to a foreign processing vessel are exempt from the requirements of paragraph (b)(2) of this section.

(4) FFV's with no IRCS that do not catch fish and are used as auxiliary vessels to handle codends, nets, equipment, or passengers for a processing vessel are exempt from the requirements of paragraphs (b)(1) and (b)(2) of this section.

(5) The appropriate Regional Administrator, with the agreement of the appropriate USCG commander, may, upon request by a foreign nation, accept alternatives to the radio requirements of this section to certain FFV's or types of FFV's operating in a fishery, provided they are adequate for the communications needs of the fishery.

(c) *Communications procedures.* (1) Upon being approached by a USCG vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of any FFV subject to this subpart must be alert for communications conveying enforcement instructions. The enforcement unit may communicate by channel 16 VHF-FM radiotelephone, 2182 kHz (SSB) radiotelephone, message block from an aircraft, flashing light or flag signals from the International Code of Signals, hand signal, placard, loudhailer, or

other appropriate means. The following signals, extracted from the International Code of Signals, are among those that may be used.

(i) "AA, AA, AA, etc.", which is the call for an unknown station. The signaled vessel should respond by identifying itself or by illuminating the vessel identification required by § 600.505.

(ii) "RY-CY", meaning "You should proceed at slow speed, a boat is coming to you".

(iii) "SQ3", meaning "You should stop or heave to; I am going to board you".

(iv) "L", meaning "You should stop your vessel instantly."

(2) Failure of an FFV's operator to stop the vessel when directed to do so by an authorized officer using VHF-FM radiotelephone (channel 16), 2182 kHz (SSB) radiotelephone (where required), message block from an aircraft, flashing light signal, flaghoist, or loudhailer constitutes a violation of this subpart.

(3) The operator of or any person aboard an FFV who does not understand a signal from an enforcement unit and who is unable to obtain clarification by radiotelephone or other means must consider the signal to be a command to stop the FFV instantly.

(d) *Boarding.* The operator of an FFV signaled for boarding must—

(1) Monitor 2182 kHz (SSB) radiotelephone and channel 16 (156.8 MHz) VHF-FM radiotelephone.

(2) Stop immediately and lay to or maneuver in such a way as to maintain the safety of the FFV and facilitate boarding by the authorized officer and the boarding party or an observer.

(3) Provide the authorized officer, boarding party, or observer a safe pilot ladder. The operator must ensure the pilot ladder is securely attached to the FFV and meets the construction requirements of Regulation 17, Chapter V of the International Convention for the Safety of Life at Sea (SOLAS), 1974 (TIAS 9700 and 1978 Protocol, TIAS 10009), or a substantially equivalent national standard approved by letter from the Assistant Administrator, with agreement with the USCG. Safe pilot ladder standards are summarized below:

(i) The ladder must be of a single length of not more than 9 m (30 ft), ca-

pable of reaching the water from the point of access to the FFV, accounting for all conditions of loading and trim of the FFV and for an adverse list of 15°. Whenever the distance from sea level to the point of access to the ship is more than 9 m (30 ft), access must be by means of an accommodation ladder or other safe and convenient means.

(ii) The steps of the pilot ladder must be—

(A) Of hardwood, or other material of equivalent properties, made in one piece free of knots, having an efficient non-slip surface; the four lowest steps may be made of rubber of sufficient strength and stiffness or of other suitable material of equivalent characteristics.

(B) Not less than 480 mm (19 inches) long, 115 mm (4.5 inches) wide, and 25 mm (1 inch) in depth, excluding any non-slip device.

(C) Equally spaced not less than 300 millimeters (12 inches) nor more than 380 mm (15 inches) apart and secured in such a manner that they will remain horizontal.

(iii) No pilot ladder may have more than two replacement steps that are secured in position by a method different from that used in the original construction of the ladder.

(iv) The side ropes of the ladder must consist of two uncovered manila ropes not less than 60 mm (2.25 inches) in circumference on each side (or synthetic ropes of equivalent size and equivalent or greater strength). Each rope must be continuous, with no joints below the top step.

(v) Battens made of hardwood, or other material of equivalent properties, in one piece and not less than 1.80 m (5 ft 10 inches) long must be provided at such intervals as will prevent the pilot ladder from twisting. The lowest batten must be on the fifth step from the bottom of the ladder and the interval between any batten and the next must not exceed nine steps.

(vi) Where passage onto or off the ship is by means of a bulwark ladder, two handhold stanchions must be fitted at the point of boarding or leaving the FFV not less than 0.70 m (2 ft 3 inches) nor more than 0.80 m (2 ft 7 inches) apart, not less than 40 mm (2.5 inches) in diameter, and must extend not less

§ 600.505

50 CFR Ch. VI (10-1-00 Edition)

than 1.20 m (3 ft 11 inches) above the top of the bulwark.

(4) When necessary to facilitate the boarding or when requested by an authorized officer or observer, provide a manrope, safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to ensure the safety of the authorized officer and the boarding party and to facilitate the boarding and inspection.

(e) *Access and records.* (1) The owner and operator of each FFV must provide authorized officers access to all spaces where work is conducted or business papers and records are prepared or stored, including but not limited to, personal quarters and areas within personal quarters.

(2) The owner and operator of each FFV must provide to authorized officers all records and documents pertaining to the fishing activities of the vessel, including but not limited to, production records, fishing logs, navigation logs, transfer records, product receipts, cargo stowage plans or records, draft or displacement calculations, customs documents or records, and an accurate hold plan reflecting the current structure of the vessel's storage and factory spaces.

(f) *Product storage.* The operator of each permitted FFV storing fish or fish products in a storage space must ensure that all non-fish product items are neither stowed beneath nor covered by fish products, unless required to maintain the stability and safety of the vessel. These items include, but are not limited to, portable conveyors, exhaust fans, ladders, nets, fuel bladders, extra bin boards, or other movable non-product items. These items may be in the space when necessary for safety of the vessel or crew or for storage of the product. Lumber, bin boards, or other dunnage may be used for shoring or bracing of product to ensure safety of crew and to prevent shifting of cargo within the space.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.505 Prohibitions.

(a) It is unlawful for any person to do any of the following:

(1) Ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of any fish taken or retained in violation of the Magnuson-Stevens Act, the applicable GIFA, this subpart, or any permit issued under this subpart;

(2) Refuse to allow an authorized officer to board an FFV for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson-Stevens Act, the applicable GIFA, this subpart, or any other permit issued under this subpart;

(3) Assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any inspection or search described in paragraph (a)(2) of this section;

(4) Resist a lawful arrest for any act prohibited by the Magnuson-Stevens Act, the applicable GIFA, this subpart, or any permit issued under this subpart;

(5) Interfere with, delay, or prevent by any means the apprehension or arrest of another person with the knowledge that such other person has committed any act prohibited by the Magnuson-Stevens Act, the applicable GIFA, this subpart, or any permit issued under this subpart;

(6) Interfere with, obstruct, delay, oppose, impede, intimidate, or prevent by any means any boarding, investigation or search, wherever conducted, in the process of enforcing the Magnuson-Stevens Act, the applicable GIFA, this subpart, or any permit issued under this subpart;

(7) Engage in any fishing activity for which the FFV does not have a permit as required under § 600.501;

(8) Engage in any fishing activity within the EEZ without a U.S. observer aboard the FFV, unless the requirement has been waived by the Assistant Administrator or appropriate Regional Administrator;

(9) Retain or attempt to retain, directly or indirectly, any U.S. harvested fish, unless the FFV has a permit for Activity Codes 4, 6, or 10;

(10) Use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued under this subpart;

Fishery Conservation and Management

§ 600.506

(11) Violate any provision of the applicable GIFA;

(12) Falsely or incorrectly complete (including by omission) a permit application or permit form as specified in § 600.501 (d) and (k);

(13) Fail to report to the Assistant Administrator within 15 days any change in the information contained in the permit application for a FFV, as specified in § 600.501(k);

(14) Assault, resist, oppose, impede, intimidate, or interfere with an observer placed aboard an FFV under this subpart;

(15) Interfere with or bias the sampling procedure employed by an observer, including sorting or discarding any catch prior to sampling, unless the observer has stated that sampling will not occur; or tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or effects without the express consent of the observer;

(16) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate determinations, making observations, or otherwise performing the observer's duties;

(17) Harass or sexually harass an authorized officer or observer;

(18) Fail to provide the required assistance to an observer as described at § 600.506 (c) and (e);

(19) Fail to identify, falsely identify, fail to properly maintain, or obscure the identification of the FFV or its gear as required by this subpart;

(20) Falsify or fail to make, keep, maintain, or submit any record or report required by this subpart;

(21) Fail to return to the sea or fail to otherwise treat prohibited species as required by this subpart;

(22) Fail to report or falsely report any gear conflict;

(23) Fail to report or falsely report any loss, jettisoning, or abandonment of fishing gear or other article into the EEZ that might interfere with fishing, obstruct fishing gear or vessels, or cause damage to any fishery resource or marine mammals;

(24) Continue Activity Codes 1 through 4 after those activity codes have been canceled under § 600.511;

(25) Fail to maintain health and safety standards set forth in § 600.506(d);

(26) Violate any provisions of regulations for specific fisheries of this subpart;

(27) On a scientific research vessel, engage in fishing other than recreational fishing authorized by applicable state, territorial, or Federal regulations;

(28) Violate any provision of this subpart, the Magnuson-Stevens Act, the applicable GIFA, any notice issued under this subpart or any permit issued under this subpart; or

(29) Attempt to do any of the foregoing.

(b) It is unlawful for any FFV, and for the owner or operator of any FFV except an FFV engaged only in recreational fishing, to fish—

(1) Within the boundaries of any state, unless:

(i) The fishing is authorized by the Governor of that state as permitted by section 306(c) of the Magnuson-Stevens Act to engage in a joint venture for processing and support with U.S. fishing vessels in the internal waters of that state; or

(ii) The fishing is authorized by, and conducted in accordance with, a valid permit issued under § 600.501, and the Governor of that state has indicated concurrence to allow fishing consisting solely of transporting fish or fish products from a point within the boundaries of that state to a point outside the United States; or

(2) Within the EEZ, or for any anadromous species or continental shelf fishery resources beyond the EEZ, unless the fishing is authorized by, and conducted in accordance with, a valid permit issued under § 600.501.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998; 64 FR 39020, July 21, 1999]

§ 600.506 Observers.

(a) *General.* To carry out such scientific, compliance monitoring, and other functions as may be necessary or appropriate to carry out the purposes of the Magnuson-Stevens Act, the appropriate Regional Administrator or Science and Research Director (see table 2 to § 600.502) may assign U.S. observers to FFV's. Except as provided

for in section 201(h)(2) of the Magnuson-Stevens Act, no FFV may conduct fishing operations within the EEZ unless a U.S. observer is aboard.

(b) *Effort plan.* To ensure the availability of an observer as required by this section, the owners and operators of FFV's wanting to fish within the EEZ will submit to the appropriate Regional Administrator or Science and Research Director and also to the Chief, Financial Services Division, NMFS, 1315 East West Highway, Silver Spring, MD 20910 a schedule of fishing effort 30 days prior to the beginning of each quarter. A quarter is a time period of 3 consecutive months beginning January 1, April 1, July 1, and October 1 of each year. The schedule will contain the name and IRCS of each FFV intending to fish within the EEZ during the upcoming quarter, and each FFV's expected date of arrival and expected date of departure.

(1) The appropriate Regional Administrator or Science and Research Director must be notified immediately of any substitution of vessels or any cancellation of plans to fish in the EEZ for FFV's listed in the effort plan required by this section.

(2) If an arrival date of an FFV will vary more than 5 days from the date listed in the quarterly schedule, the appropriate Regional Administrator or Science and Research Director must be notified at least 10 days in advance of the rescheduled date of arrival. If the notice required by this paragraph (b)(2) is not given, the FFV may not engage in fishing until an observer is available and has been placed aboard the vessel or the requirement has been waived by the appropriate Regional Administrator or Science and Research Director.

(c) *Assistance to observers.* To assist the observer in the accomplishment of his or her assigned duties, the owner and operator of an FFV to which an observer is assigned must—

(1) Provide, at no cost to the observer or the United States, accommodations for the observer aboard the FFV that are equivalent to those provided to the officers of that vessel.

(2) Cause the FFV to proceed to such places and at such times as may be designated by the appropriate Regional

Administrator or Science and Research Director for the purpose of embarking and debarking the observer.

(3) Allow the observer to use the FFV's communications equipment and personnel upon demand for the transmission and receipt of messages.

(4) Allow the observer access to and use of the FFV's navigation equipment and personnel upon demand to determine the vessel's position.

(5) Allow the observer free and unobstructed access to the FFV's bridge, trawl, or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(6) Allow the observer to inspect and copy the FFV's daily log, communications log, transfer log, and any other log, document, notice, or record required by these regulations.

(7) Provide the observer copies of any records required by these regulations upon demand.

(8) Notify the observer at least 15 minutes before fish are brought on board or fish or fish products are transferred from the FFV to allow sampling the catch or observing the transfer, unless the observer specifically requests not to be notified.

(9) Provide all other reasonable assistance to enable the observer to carry out his or her duties.

(d) *Health and safety standards.* All foreign fishing vessels to which an observer is deployed must maintain, at all times that the vessel is in the EEZ, the following:

(1) At least one working radar.

(2) Functioning navigation lights as required by international law.

(3) A watch on the bridge by appropriately trained and experienced personnel while the vessel is underway.

(4) Lifeboats and/or inflatable life rafts with a total carrying capacity equal to or greater than the number of people aboard the vessel. Lifeboats and inflatable life rafts must be maintained in good working order and be readily available.

(5) Life jackets equal or greater in number to the total number of persons aboard the vessel. Life jackets must be

stowed in readily accessible and plainly marked positions throughout the vessel, and maintained in a state of good repair.

(6) At least one ring life buoy for each 25 ft (7.6 m) of vessel length, equipped with automatic water lights. Ring life buoys must have an outside diameter of not more than 32 inches (81.3 cm) nor less than 30 inches (76.2 cm), and must be maintained in a state of good repair. Ring life buoys must be readily available, but not positioned so they pose a threat of entanglement in work areas. They must be secured in such a way that they can be easily cast loose in the event of an emergency.

(7) At least one VHF-FM radio with a functioning channel 16 (156.8 MHz), International Distress, Safety and Calling Frequency, and one functioning AM radio (SSB-Single Side Band) capable of operating at 2182 kHz (SSB). Radios will be maintained in a radio room, chartroom, or other suitable location.

(8) At least one Emergency Position Indicating Radio Beacon (EPIRB), approved by the USCG for offshore commercial use, stowed in a location so as to make it readily available in the event of an emergency.

(9) At least six hand-held, rocket-propelled, parachute, red-flare distress signals, and three orange-smoke distress signals stowed in the pilothouse or navigation bridge in portable watertight containers.

(10) All lights, shapes, whistles, foghorns, fog bells and gongs required by and maintained in accordance with the International Regulations for Preventing Collisions at Sea.

(11) Clean and sanitary conditions in all living spaces, food service and preparation areas and work spaces aboard the vessel.

(e) *Observer transfers.* (1) The operator of the FFV must ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours as weather and sea conditions allow, and with the agreement of the observer involved. The FFV operator must provide the observer 3 hours advance notice of at-sea transfers, so that the observer may collect personal belongings, equipment, and scientific samples.

(2) The FFV's involved must provide a safe pilot ladder and conduct the transfer according to the procedures of §600.504(d) to ensure the safety of the during the transfer.

(3) An experienced crew member must assist the observer in the small boat or raft in which the transfer is made.

(f) *Supplementary observers.* In the event funds are not available from Congressional appropriations of fees collected to assign an observer to a foreign fishing vessel, the appropriate Regional Administrator or Science and Research Director will assign a supplementary observer to that vessel. The costs of supplementary observers will be paid for by the owners and operators of foreign fishing vessels as provided for in paragraph (h) of this section.

(g) *Supplementary observer authority and duties.* (1) A supplementary observer aboard a foreign fishing vessel has the same authority and must be treated in all respects as an observer who is employed by NMFS, either directly or under contract.

(2) The duties of supplementary observers and their deployment and work schedules will be specified by the appropriate Regional Administrator or Science and Research Director.

(3) All data collected by supplementary observers will be under the exclusive control of the Assistant Administrator.

(h) *Supplementary observer payment—*

(1) *Method of payment.* The owners and operators of foreign fishing vessels must pay directly to the contractor the costs of supplementary observer coverage. Payment must be made to the contractor supplying supplementary observer coverage either by letter of credit or certified check drawn on a federally chartered bank in U.S. dollars, or other financial institution acceptable to the contractor. The letter of credit used to pay supplementary observer fees to contractors must be separate and distinct from the letter of credit required by §600.518(b)(2). Billing schedules will be specified by the terms of the contract between NOAA and the contractors. Billings for supplementary observer coverage will be approved by

the appropriate Regional Administrator or Science and Research Director and then transmitted to the owners and operators of foreign fishing vessels by the appropriate designated representative. Each country will have only one designated representative to receive observer bills for all vessels of that country, except as provided for by the Assistant Administrator. All bills must be paid within 10 working days of the billing date. Failure to pay an observer bill will constitute grounds to revoke fishing permits. All fees collected under this section will be considered interim in nature and subject to reconciliation at the end of the fiscal year in accordance with paragraph (h)(4) of this section and §600.518(d).

(2) *Contractor costs.* The costs charged for supplementary observer coverage to the owners and operators of foreign fishing vessels may not exceed the costs charged to NMFS for the same or similar services, except that contractors may charge to the owners and operators of foreign fishing vessels an additional fee to cover the administrative costs of the program not ordinarily part of contract costs charged to NMFS. The costs charged foreign fishermen for supplementary observers may include, but are not limited to the following:

(i) Salary and benefits, including overtime, for supplementary observers.

(ii) The costs of post-certification training required by paragraph (j)(2) of this section.

(iii) The costs of travel, transportation, and per diem associated with deploying supplementary observers to foreign fishing vessels including the cost of travel, transportation, and per diem from the supplementary observer's post of duty to the point of embarkation to the foreign fishing vessel, and then from the point of disembarkation to the post of duty from where the trip began. For the purposes of these regulations, the appropriate Regional Administrator or Science and Research Director will designate posts of duty for supplementary observers.

(iv) The costs of travel, transportation, and per diem associated with the debriefing following deployment of a supplementary observer by NMFS officials.

(v) The administrative and overhead costs incurred by the contractor and, if appropriate, a reasonable profit.

(3) *NMFS costs.* The owners and operators of foreign fishing vessels must also pay to NMFS as part of the surcharge required by section 201(i)(4) of the Magnuson-Stevens Act, the following costs:

(i) The costs of certifying applicants for the position of supplementary observer.

(ii) The costs of any equipment, including safety equipment, sampling equipment, operations manuals, or other texts necessary to perform the duties of a supplementary observer. The equipment will be specified by the appropriate Regional Administrator or Science and Research Director according to the requirements of the fishery to which the supplementary observer will be deployed.

(iii) The costs associated with communications with supplementary observers for transmission of data and routine messages.

(iv) For the purposes of monitoring the supplementary observer program, the costs for the management and analysis of data.

(v) The costs for data editing and entry.

(vi) Any costs incurred by NMFS to train, deploy or debrief a supplementary observer.

(vii) The cost for U.S. Customs inspection for supplementary observers disembarking after deployment.

(4) *Reconciliation.* Fees collected by the contractor in excess of the actual costs of supplementary observer coverage will be refunded to the owners and operators of foreign fishing vessels, or kept on deposit to defray the costs of future supplementary observer coverage. Refunds will be made within 60 days after final costs are determined and approved by NMFS.

(i) *Supplementary observer contractors—(1) Contractor eligibility.* Supplementary observers will be obtained by NMFS from persons or firms having established contracts to provide NMFS with observers. In the event no such contract is in place, NMFS will use established, competitive contracting procedures to select persons or firms to provide supplementary observers. The services supplied by the supplementary

Fishery Conservation and Management

§ 600.506

observer contractors will be as described within the contract and as specified below.

(2) Supplementary observer contractors must submit for the approval of the Assistant Administrator the following:

(i) A copy of any contract, including all attachments, amendments, and enclosures thereto, between the contractor and the owners and operators of foreign fishing vessels for whom the contractor will provide supplementary observer services.

(ii) All application information for persons whom the contractor desires to employ as certified supplementary observers.

(iii) Billing schedules and billings to the owners and operators of foreign fishing vessels for further transmission to the designated representative of the appropriate foreign nation.

(iv) All data on costs.

(j) *Supplementary observers—certification, training*—(1) *Certification*. The appropriate Regional Administrator or Science and Research Director will certify persons as qualified for the position of supplementary observer once the following conditions are met:

(i) The candidate is a citizen or national of the United States.

(ii) The candidate has education or experience equivalent to the education or experience required of persons used as observers by NMFS as either Federal personnel or contract employees. The education and experience required for certification may vary according to the requirements of managing the foreign fishery in which the supplementary observer is to be deployed. Documentation of U.S. citizenship or nationality, and education or experience will be provided from personal qualification statements on file with NMFS contractors who provide supplementary observer services, and will not require the submission of additional information to NMFS.

(2) *Training*. Prior to deployment to foreign fishing vessels, certified supplementary observers must also meet the following conditions:

(i) Each certified supplementary observer must satisfactorily complete a course of training approved by the appropriate Regional Administrator or

Science and Research Director as equivalent to that received by persons used as observers by NMFS as either Federal personnel or contract employees. The course of training may vary according to the foreign fishery in which the supplementary observer is to be deployed.

(ii) Each certified supplementary observer must agree in writing to abide by standards of conduct as set forth in Department of Commerce Administrative Order 202-735 (as provided by the contractor).

(k) *Supplementary observer certification suspension or revocation*. (1) Certification of a supplementary observer may be suspended or revoked by the Assistant Administrator under the following conditions:

(i) A supplementary observer fails to perform the duties specified in paragraph (g)(2) of this section.

(ii) A supplementary observer fails to abide by the standards of conduct described by Department of Commerce Administrative Order 202-735.

(2) The suspension or revocation of the certification of a supplementary observer by the Assistant Administrator may be based on the following:

(i) Boarding inspection reports by authorized officers of the USCG or NMFS, or other credible information, that indicate a supplementary observer has failed to abide by the established standards of conduct; or

(ii) An analysis by NMFS of the data collected by a supplementary observer indicating improper or incorrect data collection or recording. The failure to properly collect or record data is sufficient to justify decertification of supplementary observers; no intent to defraud need be demonstrated.

(3) The Assistant Administrator will notify the supplementary observer, in writing, of the Assistant Administrator's intent to suspend or revoke certification, and the reasons therefor, and provide the supplementary observer a reasonable opportunity to respond. If the Assistant Administrator determines that there are disputed questions of material fact, then the Assistant Administrator may in this respect appoint an examiner to make an

§ 600.507

50 CFR Ch. VI (10–1–00 Edition)

informal fact-finding inquiry and prepare a report and recommendations.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7074, 7075, Feb. 12, 1998; 64 FR 39020, July 21, 1999]

§ 600.507 Recordkeeping.

(a) *General.* The owner and operator of each FFV must maintain timely and accurate records required by this section as modified by the regulations for the fishery in which the FFV is engaged.

(1) The owner and operator of each FFV must maintain all required records in English, based on Greenwich mean time (GMT) unless otherwise specified in the regulation, and make them immediately available for inspection upon the request of an authorized officer or observer.

(2) The owner and operator of each FFV must retain all required records on board the FFV whenever it is in the EEZ, for 3 years after the end of the permit period.

(3) The owner and operator of each FFV must retain the required records and make them available for inspection upon the request of an authorized officer at any time during the 3 years after the end of the permit period, whether or not such records are on board the vessel.

(4) The owner and operator of each FFV must provide to the Assistant Administrator, in the form and at the times prescribed, any other information requested that the Assistant Administrator determines is necessary to fulfill the fishery conservation, management and enforcement purposes of the Magnuson-Stevens Act.

(b) *Communications log.* The owner and operator of each FFV must record in a separate communications log, at the time of transmittal, the time and content of each notification made under § 600.504.

(c) *Transfer log.* Except for the transfer of unsorted, unprocessed fish via codend from a catching vessel to a processing vessel (Activity Code 2 or 4), the owner and operator of each FFV must record, in a separate transfer log, each transfer or receipt of any fish or fishery product, including quantities transferred or offloaded outside the EEZ. The operator must record in the

log within 12 hours of the completion of the transfer:

(1) The time and date (GMT) and location (in geographic coordinates) the transfer began and was completed.

(2) The product weight, by species and product (use species and product codes), of all fish transferred, to the nearest 0.01 mt.

(3) The name, IRCS, and permit number of both the FFV offloading the fish and the FFV receiving the fish.

(d) *Daily fishing log.* (1) The owner or operator of each FFV authorized to catch fish (Activity Code 1) must maintain a daily fishing log of the effort, catch and production of the FFV, as modified by paragraph (d)(2) of this section and the regulations for the fishery in which the FFV is engaged. The operator must maintain on a daily and cumulative basis for the permit period a separate log for each fishery (see table 2 to § 600.502) in which the FFV is engaged according to this section and in the format specified in the instructions provided with the permit or other format authorized under paragraph (i) of this section. Daily effort entries are required for each day the vessel conducts fishing operations within the EEZ. Daily entries are not required whenever the FFV is in port or engaged in a joint venture in the internal waters of a state. Each page of log may contain entries pertaining to only one day's fishing operations or one gear set, whichever is longer.

(2) The owner or operator of each FFV authorized to catch fish (Activity Code 1) and that delivers all catches to a processing vessel, must maintain only "SECTION ONE-EFFORT", of the daily fishing log, provided the processing vessel maintains a daily consolidated fishing log as described in paragraphs (f) and (g) of this section.

(e) *Daily fishing log—contents.* The daily fishing log must contain the following information, as modified by paragraph (d)(2) of this section and the regulations for the fishery in which the FFV is engaged, and be completed according to the format and instructions provided with the permit or other format authorized under paragraph (i) of this section.

(1) "SECTION ONE-EFFORT" must contain on a daily basis—

Fishery Conservation and Management

§ 600.507

(i) A consecutive page number, beginning with the first day the vessel started fishing operations within the EEZ and continuing throughout the log.

(ii) The date (based on GMT).

(iii) The FFV's name.

(iv) The FFV's IRCS.

(v) The FFV's U.S. permit number.

(vi) The FFV's noon (1200 GMT) position in geographic coordinates.

(vii) The master or operator's signature or title.

(2) "SECTION ONE-EFFORT" must contain, for each trawl or set, as appropriate to the gear type employed—

(i) The consecutive trawl or set number, beginning with the first set of the calendar year.

(ii) The fishing area in which the trawl or set was completed.

(iii) The gear type.

(iv) The time the gear was set.

(v) The position of the set.

(vi) The course of the set.

(vii) The sea depth.

(viii) The depth of the set.

(ix) The duration of the set.

(x) The hauling time.

(xi) The position of the haul.

(xii) The number of pots or longline units (where applicable).

(xiii) The average number of hooks per longline unit (where applicable).

(xiv) The trawl speed (where applicable).

(xv) The mesh size of the trawl's codend (where applicable).

(xvi) The estimated total weight of the catch for the trawl or set, to at least the nearest metric ton round weight.

(3) "SECTION TWO-CATCH" must contain, for each trawl or set—

(i) The consecutive set or trawl number from "SECTION ONE".

(ii) The catch of each allocated species or species group to at least the nearest 0.1 mt round weight.

(iii) The prohibited species catch to at least the nearest 0.1 mt round weight or by number, as required by the regulations for the fishery in which the FFV is engaged.

(iv) The species code of each marine mammal caught and its condition when released.

(4) "SECTION TWO-CATCH" must contain, on a daily basis—

(i) The species codes for all allocated or prohibited species or species groups caught.

(ii) For each allocated species—the amount, to at least the nearest 0.1 mt, and the daily disposition, either processed for human consumption, used for fishmeal, or discarded; the daily catch by fishing area; the daily catch for all fishing areas; and the cumulative total catch.

(iii) For the total catch of allocated species—the amount to at least the nearest 0.1 mt and the daily disposition, daily total catch by fishing area, daily total catch for all fishing areas, and cumulative total catch.

(iv) The catch by fishing area, daily total, and cumulative total of each prohibited species.

(5) "SECTION THREE—PRODUCTION" must contain, on a daily basis, for each allocated species caught and product produced—

(i) The product by species code and product type.

(ii) The daily product recovery rate of each species and product.

(iii) The daily total product produced by species to at least the nearest 0.01 mt.

(iv) The cumulative total of each product to at least the nearest 0.01 mt.

(v) The cumulative amount of product transferred.

(vi) The balance of product remaining aboard the FFV.

(vii) The total daily amount, cumulative amount, transferred product and balance of frozen product aboard the FFV to the nearest 0.01 mt.

(viii) Transferred amount and balance of fishmeal and fish oil aboard to at least the nearest 0.01 mt.

(f) *Daily consolidated fishing or joint venture log.* The operator of each FFV that receives unsorted, unprocessed fish from foreign catching vessels (Activity Code 2) for processing or receives U.S.-harvested fish from U.S. fishing vessels in a joint venture (Activity Code 4) must maintain a daily joint venture log of the effort, catch and production of its associated U.S. or foreign fishing vessels and the processing vessel as modified by the regulations for the fishery in which the FFV is engaged. This log is separate and in addition to the log required by paragraph

(d) of this section. The operator must maintain a separate log for each fishery in which the FFV is engaged, on a daily and cumulative basis, according to this section and in the format specified in the instructions provided with the permit or other format authorized under paragraph (i) of this section. Receipts of fish caught outside the EEZ must be included. Each page of the log may contain entries pertaining to only one day's fishing operations.

(g) *Daily joint venture log—contents.* Daily joint venture logs must contain the following information, as modified by the fishery in which the vessel is engaged, and be completed according to the format and instructions provided with the permit or other format authorized under paragraph (i) of this section.

(1) "SECTION ONE-EFFORT" must contain, on a daily basis, that information required in paragraph (e)(1) of this section.

(2) "SECTION ONE-EFFORT" must contain for each receipt of a codend—

(i) The consecutive codend number, beginning with the first codend received for the calendar year.

(ii) The name of the U.S. fishing vessel or the name and IRCS of the foreign fishing vessel the codend was received from.

(iii) The fishing area where the codend was received.

(iv) The time the codend was received.

(v) The position the codend was received.

(vi) The estimated weight of the codend to at least the nearest metric ton round weight.

(3) "SECTION TWO-CATCH" must contain, for each codend received—

(i) The consecutive codend number from "SECTION ONE".

(ii) The receipts of each authorized species or species group and its disposition, either processed for human consumption, used for fishmeal, discarded, or returned to the U.S. fishing vessel, to at least the nearest 0.1 mt round weight.

(iii) The estimated receipts of each prohibited species or species group and its disposition, either discarded or returned to the U.S. fishing vessel if authorized in the fishery in which the

U.S. vessel is engaged, to at least the nearest 0.1 mt round weight.

(iv) The species code of each marine mammal received and its condition when released.

(4) "SECTION TWO-CATCH" must contain on a daily basis—

(i) The species codes of all authorized or prohibited species or species groups received.

(ii) The daily disposition, as described in paragraph (g)(3)(ii) of this section, daily total, and cumulative total receipts of each authorized species or species groups.

(iii) The daily disposition, daily total and cumulative total receipts of all authorized species or species groups.

(iv) The daily and cumulative total receipts of prohibited species groups and their disposition as described in paragraph (g)(3)(iii) of this section.

(5) "SECTION THREE—PRODUCTION" must contain, on a daily basis, for each authorized species or species group received and product produced, that information required in paragraph (e)(5) of this section.

(h) *Daily log maintenance.* The logs required by paragraphs (e) through (g) of this section must be maintained separately for each fishery (see table 2 to § 600.502).

(1) The effort section (all of "SECTION ONE") of the daily logs must be updated within 2 hours of the hauling or receipt time. The catch or receipt by trawl or set ("SECTION TWO") must be entered within 12 hours of the hauling or receipt time. The daily and cumulative total catch or receipts ("SECTION TWO") and the production portion ("SECTION THREE") of the log must be updated within 12 hours of the end of the day on which the catch was taken. The date of catch is the day and time (GMT) the gear is hauled.

(2) Entries for total daily and cumulative catch or receipt weights (disposition "C" or "M") must be based on the most accurate method available to the vessel, either scale round weights or factory weights converted to round weights. Entries for daily and cumulative weights of discarded or returned fish (disposition "D" or "R") must be based on the most accurate method available to the vessel, either actual count, scale round weight, or estimated

deck weights. Entries for product weights must be based on the number of production units (pans, boxes, blocks, trays, cans, or bags) and the average weight of the production unit, with reasonable allowances for water added. Allowances for water added cannot exceed 5 percent of the unit weight. Product weights cannot be based on the commercial or arbitrary wholesale weight of the product, but must be based on the total actual weight of the product as determined by representative samples.

(3) The owner or operator must make all entries in indelible ink, with corrections to be accomplished by lining out and rewriting, rather than erasure.

(i) *Alternative log formats.* As an alternative to the use of the specific formats provided, a Nation may submit a proposed log format for FFV's of that Nation for a general type of fishery operation in a fishery (i.e., joint venture operations) to the appropriate Regional Administrator and the USCG commander (see tables 1 and 2 to §600.502). With the agreement of the USCG commander, the Regional Administrator may authorize the use of that log format for vessels of the requesting Nation.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.508 Fishing operations.

(a) *Catching.* Each FFV authorized for activity code 1 may catch fish. An FFV may retain its catch of any species or species group for which there is an unfilled national allocation. All fish caught will be counted against the national allocation, even if the fish are discarded, unless exempted by the regulations of the fishery in which the FFV is engaged. Catching operations may be conducted as specified by the regulations of the fishery in which the FFV is engaged and as modified by the FFV's permit.

(b) *Scouting.* Each FFV authorized for Activity Codes 1 through 6 may scout for fish. Scouting may be conducted only in the fisheries area authorized by the scouting vessel's permit and under such other circumstances as may be designated in this subpart or the permit.

(c) *Processing.* Each FFV with Activity Code 1 or 2 may process fish. Processing may only be conducted whenever and wherever catching operations for FFV's of that Nation are permitted, whenever and wherever joint venture operations are authorized by an FFV's permit under Activity Code 4, and under such other circumstances as may be designated in this subpart or the permit.

(d) *Support.* Each FFV with Activity Codes 1, 2, 3, 5, or 8 may support other permitted FFV's. Each FFV with Activity Codes 4 or 6 may support U.S. vessels. Support operations may be conducted only in the fisheries areas authorized by the supporting vessel's permit, and under such other circumstances as may be designated in this subpart or the permit.

(e) *Joint ventures.* Each FFV with Activity Code 4 in addition to Activity Codes 1 or 2 may also conduct operations with U.S. fishing vessels. These joint venture operations with U.S. fishing vessels may be conducted throughout the EEZ, and under such other circumstances as may be designated in these regulations or the permit. FFV's with activity code 4 may continue operations assisting U.S. fishing vessels, despite closures under §600.511(a).

(f) *Internal waters.* For FFV's authorized under section 306(c) of the Magnuson-Stevens Act:

(1) Each FFV may engage in fish processing and support of U.S. fishing vessels within the internal waters of that state in compliance with terms and conditions set by the authorizing Governor.

(2) The owner or operator of each FFV must submit weekly reports on the amount of fish received from vessels of the United States and the location(s) where such fish were harvested.

(i) Reports must include:

(A) Vessel identification information for the FFV.

(B) Date of each receipt of fish.

(C) Amount of fish received, by species.

(D) Location(s) from which the fish received were harvested and the name and official number of the vessel of the United States that harvested the fish.

(ii) Owners or operators of FFV's processing fish in internal waters

§ 600.509

under the provisions of this paragraph (f) must request, from the Regional Administrator, the requirements regarding timing and submission of the reports, at least 15 days prior to the first receipt of fish from a vessel of the United States. The Regional Administrator shall stipulate the timing and submission requirements in writing.

(g) *Transshipping.* Each FFV with Activity Code 1, 2, 3, 4, 5, 6, 7, 8, or 10 may transship in accordance with this subpart and the vessel's permit.

[61 FR 32540, June 24, 1996, as amended at 62 FR 27183, May 19, 1997; 62 FR 34397, June 26, 1997; 64 FR 39020, July 21, 1999]

§ 600.509 Prohibited species.

(a) The owner or operator of each FFV must minimize its catch or receipt of prohibited species.

(b) After allowing for sampling by an observer (if any), the owner or operator of each FFV must sort its catch of fish received as soon as possible and return all prohibited species and species parts to the sea immediately with a minimum of injury, regardless of condition, unless a different procedure is specified by the regulations for the fishery in which the FFV is engaged. All prohibited species must be recorded in the daily fishing log and other fishing logs as specified by the regulations for the fishery in which the FFV is engaged.

(c) All species of fish that an FFV has not been specifically allocated or authorized under this subpart to retain, including fish caught or received in excess of any allocation or authorization, are prohibited species.

(d) It is a rebuttable presumption that any prohibited species or species part found on board an FFV was caught and retained in violation of this section.

§ 600.510 Gear avoidance and disposal.

(a) *Vessel and gear avoidance.* (1) FFV's arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose must ascertain the position and extent of gear already placed in the sea and must not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in

50 CFR Ch. VI (10-1-00 Edition)

progress. Vessels using mobile gear must avoid fixed fishing gear.

(2) The operator of each FFV must maintain on its bridge a current plot of broadcast fixed-gear locations for the area in which it is fishing, as required by the regulations for the fishery in which the FFV is engaged.

(b) *Gear conflicts.* The operator of each FFV that is involved in a conflict or that retrieves the gear of another vessel must immediately notify the appropriate USCG commander identified in tables 1 and 2 to § 600.502 and request disposal instructions. Each report must include:

(1) The name of the reporting vessel.

(2) A description of the incident and articles retrieved, including the amount, type of gear, condition, and identification markings.

(3) The location of the incident.

(4) The date and time of the incident.

(c) *Disposal of fishing gear and other articles.* (1) The operator of an FFV in the EEZ may not dump overboard, jettison or otherwise discard any article or substance that may interfere with other fishing vessels or gear, or that may catch fish or cause damage to any marine resource, including marine mammals and birds, except in cases of emergency involving the safety of the ship or crew, or as specifically authorized by communication from the appropriate USCG commander or other authorized officer. These articles and substances include, but are not limited to, fishing gear, net scraps, bale straps, plastic bags, oil drums, petroleum containers, oil, toxic chemicals or any manmade items retrieved in an FFV's gear.

(2) The operator of an FFV may not abandon fishing gear in the EEZ.

(3) If these articles or substances are encountered, or in the event of accidental or emergency placement into the EEZ, the vessel operator must immediately report the incident to the appropriate USCG Commander indicated in tables 1 and 2 to § 600.502, and give the information required in paragraph (b) of this section.

§ 600.511 Fishery closure procedures.

(a) Activity Codes 1 and 2 for a fishery are automatically canceled in the

Fishery Conservation and Management

§ 600.512

following cases, unless otherwise specified by regulations specific to a fishery, when—

(1) The OY for any allocated species or species group has been reached in that fishery;

(2) The TALFF or catch allowance for any allocated species or species group has been reached in that fishery;

(3) The foreign nation's allocation for any allocated species or species group has been reached; or

(4) The letter of credit required in §600.518(b)(2) is not established and maintained.

(b) Activity Code 4 is automatically canceled when—

(1) The OY for a species with a JVP amount is reached;

(2) The JVP amount for a species or species group is reached; or

(3) The letter of credit required in §600.518(b)(2) is not established and maintained.

(c) *Notification.* (1) The Regional Administrator is authorized to close a fishery on behalf of NMFS. The Regional Administrator will notify each FFV's designated representative of closures.

(2) If possible, notice will be given 48 hours before the closure. However, each Nation and the owners and operators of all FFV's of that Nation are responsible for ending fishing operations when an allocation is reached.

(d) *Catch reconciliation.* Vessel activity reports, U.S. surveillance observations, observer reports, and foreign catch and effort reports will be used to make the determination listed in paragraphs (a) and (b) of this section. If NMFS estimates of catch or other values made during the season differ from those reported by the foreign fleets, efforts may be initiated by the designated representative of each Nation to resolve such differences with NMFS. If, however, differences still persist after such efforts have been made, NMFS estimates will be the basis for decisions and will prevail.

(e) *Duration.* Any closure under this section will remain in effect until an applicable new or increased allocation or JVP becomes available or the letter

of credit required by §600.518(b)(2) is re-established.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.512 Scientific research.

(a) *Scientific research activity.* Persons planning to conduct scientific research activities in the EEZ that may be confused with fishing are encouraged to submit to the appropriate Regional Administrator, Director, or designee, 60 days or as soon as practicable prior to its start, a scientific research plan for each scientific cruise. The Regional Administrator, Director, or designee will acknowledge notification of scientific research activity by issuing to the operator or master of that vessel, or to the sponsoring institution, a letter of acknowledgment. This letter of acknowledgment is separate and distinct from any permit required under any other applicable law. If the Regional Administrator, Director, or designee, after review of a research plan, determines that it does not constitute scientific research activity, but rather fishing, the Regional Administrator, Director, or designee will inform the applicant as soon as practicable and in writing. The Regional Administrator, Director, or designee may also make recommendations to revise the research plan to make the cruise acceptable as scientific research activity. In order to facilitate identification of activity as scientific research, persons conducting scientific research activities are advised to carry a copy of the scientific research plan and the letter of acknowledgment on board the scientific research vessel. Activities conducted in accordance with a scientific research plan acknowledged by such a letter are presumed to be scientific research activities. The presumption may be overcome by showing that an activity does not fit the definition of scientific research activity or is outside the scope of the scientific research plan.

(b) *Reports.* Persons conducting scientific research are requested to submit a copy of any cruise report or other publication created as a result of the cruise, including the amount, composition, and disposition of their catch,

§ 600.513

to the appropriate Science and Research Director.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.513 Recreational fishing.

(a) Foreign vessels conducting recreational fishing must comply only with this section, and §§ 600.10, 600.504(a)(1), and 600.505 (as applicable). Such vessels may conduct recreational fishing within the EEZ and within the boundaries of a state. Any fish caught may not be sold, bartered, or traded.

(b) The owners or operator and any other person aboard any foreign vessel conducting recreational fishing must comply with any Federal laws or regulations applicable to the domestic fishery while in the EEZ, and any state laws or regulations applicable while in state waters.

§ 600.514 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and state statutes may apply to their activities.

(b) Fishing vessel operators must exercise due care in the conduct of fishing activities near submarine cables. Damage to submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing vessel operator to enforcement action under the International Convention for the Protection of Submarine Cables, and to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) and other laws that implement that Convention. Fishing vessel operators also should be aware that the Submarine Cable Act prohibits fishing operations at a distance of less than 1 nautical mile (1.85 km) from a vessel engaged in laying or repairing a submarine cable; or at a distance of less than 0.25 nautical mile (0.46 km) from a buoy or buoys intended to mark the position of a cable when being laid, or when out of order, or broken.

§ 600.515 Interpretation of 16 U.S.C. 1857(4).

Section 307(4) of the Magnuson-Stevens Act prohibits any fishing vessel other than a vessel of the United States (foreign fishing vessel) from op-

50 CFR Ch. VI (10-1-00 Edition)

erating in the EEZ if all of the fishing gear on board the vessel is not stowed in compliance with that section "unless such vessel is authorized to engage in fishing in the area in which the vessel is operating." If such a vessel has a permit authorization that is limited to fishing activities other than catching, taking or harvesting (such as support, scouting or processing activities), it must have all of its fishing gear stowed at all times while it is in the EEZ. If such a vessel has a permit authorization to engage in catching, taking or harvesting activities, but such authorization is limited to a specific area within the EEZ, and/or to a specific period of time, the vessel must have all of its fishing gear stowed while it is in the EEZ, except when it is in the specific area authorized, and/or during the specific period of time authorized.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.516 Total allowable level of foreign fishing (TALFF).

(a) The TALFF, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, is that portion of the OY of such fishery that will not be caught by vessels of the United States.

(b) Each specification of OY and each assessment of the anticipated U.S. harvest will be reviewed during each fishing season. Adjustments to TALFF's will be made based on updated information relating to status of stocks, estimated and actual performance of domestic and foreign fleets, and other relevant factors.

(c) Specifications of OY and the initial estimates of U.S. harvests and TALFF's at the beginning of the relevant fishing year will be published in the FEDERAL REGISTER. Adjustments to those numbers will be published in the FEDERAL REGISTER upon occasion or as directed by regulations implementing FMPs. For current apportionments, contact the appropriate Regional Administrator or the Director.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

Fishery Conservation and Management

§ 600.518

§ 600.517 Allocations.

The Secretary of State, in cooperation with the Secretary, determines the allocation among foreign nations of fish species and species groups. The Secretary of State officially notifies each foreign nation of its allocation. The burden of ascertaining and accurately transmitting current allocations and status of harvest of an applicable allocation to fishing vessels is upon the foreign nation and the owner or operator of the FFV.

§ 600.518 Fee schedule for foreign fishing.

(a) *Permit application fees.* Each vessel permit application submitted under §600.501 must be accompanied by a fee. The amount of the fee will be determined in accordance with the procedures for determining administrative costs of each special product or service contained in the NOAA Finance Handbook, which is available upon request from the International Fisheries Division (see address at §600.501(d)(1)). The fee is specified with the application form. At the time the application is submitted, a check for the fees, drawn on a U.S. bank, payable to the order of "Department of Commerce, NOAA," must be sent to the Assistant Administrator. The permit fee payment must be accompanied by a list of the vessels for which the payment is made. In the case of applications for permits authorizing activity code 10, the permit application fee will be waived if the applicant provides satisfactory documentary proof to the Assistant Administrator that the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation. The documentation presented (e.g., copy of foreign fishing regulations applicable to vessels of the United States) must clearly exempt vessels of the United States from such a fee.

(b) *Poundage fees.* (1) *Rates.* If a Nation chooses to accept an allocation, poundage fees must be paid at the rate specified in the following table.

TABLE—SPECIES AND POUNDAGE FEES
[Dollars per metric ton, unless otherwise noted]

Species fees	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	274.61
2. Hake, red	163.97
3. Hake, silver	174.63
4. Herring	61.76
5. Mackerel, Atlantic	58.33
6. Other groundfish	119.09
7. Squid, <i>Illex</i>	103.98
8. Squid, <i>Loligo</i>	245.73

(2) *Method of payment of poundage fees and observer fees.* (i) If a Nation chooses to accept an allocation, a revolving letter of credit (L/C) must be established and maintained to cover the poundage fees for at least 25 percent of the previous year's total allocation at the rate in paragraph (b)(1) of this section, or as determined by the Assistant Administrator, plus the observer fees required by paragraph (c) of this section. The L/C must—

- (A) Be irrevocable.
- (B) Be with a bank subscribing to ICC Pub. 290.
- (C) Designate "Department of Commerce, NOAA" as beneficiary;
- (D) Allow partial withdrawals.
- (E) Be confirmed by a U.S. bank.

(ii) The customer must pay all commissions, transmission, and service charges. No fishing will be allowed until the L/C is established, and authorized written notice of its issuance is provided to the Assistant Administrator.

(3) *Assessment of poundage fees.* Poundage fees will be assessed quarterly for the actual catch during January through March, April through June, July through September, and October through December. The appropriate Regional Administrator will reconcile catch figures with each country following the procedures of §600.511(d). When the catch figures are agreed upon, NOAA will present a bill for collection as the documentary demand for payment to the confirming bank. If, after 45 days from the end of the quarter, catches have not been reconciled, the estimate of the Regional Administrator will stand and a bill will be issued for that amount. If necessary, the catch figures may be refined by the Regional Administrator during the

§ 600.520

next 60 days, and any modifications will be reflected in the next quarter's bill.

(c) *Observer fees.* The Assistant Administrator will notify the owners or operators of FFV's of the estimated annual costs of placing observers aboard their vessels. The owners or operators of any such vessel must provide for repayment of those costs by including one-fourth of the estimated annual observer fee as determined by the Assistant Administrator in a L/C as prescribed in §600.518(b)(2). During the fiscal year, payment will be withdrawn from the L/C as required to cover anticipated observer coverage for the upcoming fishery. The Assistant Administrator will reconcile any differences between the estimated cost and actual costs of observer coverage within 90 days after the end of the fiscal year.

(d) *Financial assurances.* (1) A foreign nation, or the owners and operators of certain vessels of that foreign nation, may be required by the Assistant Administrator to provide financial assurances. Such assurances may be required if—

(i) Civil and criminal penalties assessed against fishing vessels of the Nation have not effectively deterred violations;

(ii) Vessels of that Nation have engaged in fishing in the EEZ without proper authorization to conduct such activities;

(iii) The Nation's vessel owners have refused to answer administrative charges or summons to appear in court; or

(iv) Enforcement of Magnuson-Stevens Act civil or criminal judgments in the courts of a foreign nation is unattainable.

(2) The level of financial assurances will be guided by the level of penalties assessed and costs to the U.S. Government.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998; 64 FR 39020, July 21, 1999]

§ 600.520 Northwest Atlantic Ocean fishery.

(a) *Purpose.* Sections 600.520 and 600.525 regulate all foreign fishing conducted under a GIFA within the EEZ in

50 CFR Ch. VI (10-1-00 Edition)

the Atlantic Ocean north of 35°00' N. lat.

(b) *Authorized fishery—(1) Allocations.* Foreign vessels may engage in fishing only in accordance with applicable national allocations.

(2) *Time and area restrictions.* (i) Fishing, including processing, scouting, and support of foreign or U.S. vessels, is prohibited south of 35°00' N. lat., and north and east of a line beginning at the shore at 44°22' N. lat., 67°52' W. long. and intersecting the boundary of the EEZ at 44°11'12" N. lat., 67°16'46" W. long.

(ii) The Regional Administrator will consult with the Council prior to giving notice of any area or time restriction. NMFS will also consult with the USCG if the restriction is proposed to reduce gear conflicts. If NMFS determines after such consultation that the restriction appears to be appropriate, NMFS will publish the proposed restriction in the FEDERAL REGISTER, together with a summary of the information on which the restriction is based. Following a 30-day comment period, NMFS will publish a final action.

(iii) The Regional Administrator may rescind any restriction if he/she determines that the basis for the restriction no longer exists.

(iv) Any notice of restriction shall operate as a condition imposed on the permit issued to the foreign vessels involved in the fishery.

(3) *TALFF.* The TALFFs for the fisheries of the Northwest Atlantic Ocean are published in the FEDERAL REGISTER. Current TALFFs are also available from the Regional Administrator.

(4) *Species definitions.* The category "other finfish" used in TALFFs and in allocations includes all species except:

(i) The other allocated species, namely: Short-finned squid, long-finned squid, Atlantic herring, Atlantic mackerel, river herring (includes alewife, blueback herring, and hickory shad), and butterfish.

(ii) The prohibited species, namely: American plaice, American shad, Atlantic cod, Atlantic menhaden, Atlantic redfish, Atlantic salmon, all marlin, all spearfish, sailfish, swordfish, black sea bass, bluefish, croaker, haddock, ocean pout, pollock, red hake, scup, sea turtles, sharks (except

Fishery Conservation and Management

§ 600.520

dogfish), silver hake, spot, striped bass, summer flounder, tilefish, yellowtail flounder, weakfish, white hake, windowpane flounder, winter flounder, witch flounder, Continental Shelf fishery resources, and other invertebrates (except nonallocated squids).

(5) *Closures.* The taking of any species for which a Nation has an allocation is permitted, provided that:

(i) The vessels of the foreign nation have not caught the allocation of that Nation for any species or species group (e.g., "other finfish"). When vessels of a foreign nation have caught an applicable allocation of any species, all further fishing other than scouting, processing, or support by vessels of that Nation must cease, even if other allocations have not been reached. Therefore, it is essential that foreign nations plan their fishing strategy to ensure

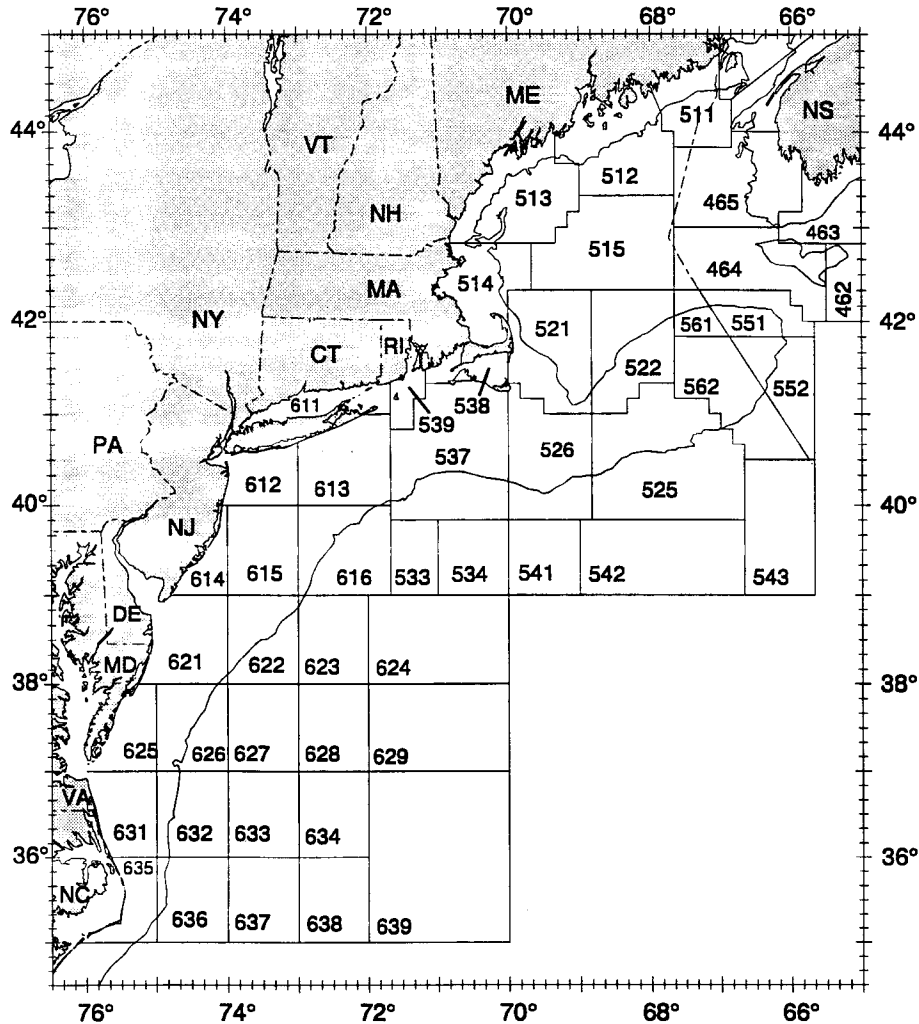
that the reaching of an allocation for one species does not result in the premature closing of a Nation's fishery for other allocated species.

(ii) The fishery has not been closed for other reasons under § 600.511.

(6) *Allocation utilization.* Foreign fishing vessels may elect to retain or discard allocated species; however, the computation of allocation utilization and fee refunds will be based on the total quantity of that species that was caught. Prohibited species must always be returned to the sea as required under § 600.509.

(c) *Fishing areas.* For the purposes of the Northwest Atlantic Ocean fishery, fishing areas are that portion of the EEZ shown inside the boundaries of the "three digit statistical areas" described in Figure 1 to this section.

Figure 1 to § 600.520--Fishing Areas of the Northwest Atlantic Ocean Fisheries



[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.525 Atlantic herring fishery.

(a) *Initial specifications.* The initial specifications of OY, DAH, DAP, JVP, TALFF, and reserve (if any) have been established by the PMP for Atlantic herring approved on July 6, 1995. These annual specifications will remain in effect unless adjusted pursuant to the

provisions specified in paragraph (b) of this section.

(b) *Procedures to adjust initial specifications.* NMFS may adjust these initial specifications upward or downward to produce the greatest overall benefit to the United States at any time prior to or during the fishing years for which the initial specifications are set by publishing notification in the FEDERAL

Fishery Conservation and Management

§ 600.615

REGISTER with the reasons for such adjustments. Any notice of adjustment may provide for public comment. Adjustments to the initial specifications may take into account the following information:

- (1) The estimated domestic processing capacity and extent to which it will be used.;
- (2) Landings and catch statistics.;
- (3) Stock assessments.
- (4) Relevant scientific information.

Subpart G—Preemption of State Authority Under Section 306(b)

§ 600.605 General policy.

It is the policy of the Secretary that preemption proceedings will be conducted expeditiously. The administrative law judge and counsel or other representative for each party are encouraged to make every effort at each stage of the proceedings to avoid delay.

§ 600.610 Factual findings for Federal preemption.

(a) The two factual findings for Federal preemption of state management authority over a fishery are:

(1) The fishing in a fishery that is covered by an FMP implemented under the Magnuson-Stevens Act is engaged in predominately within the EEZ and beyond such zone.

(2) A state has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such FMP.

(b) Whether fishing is engaged in “predominately” within or beyond the EEZ will be determined after consideration of relevant factors, including but not limited to, the catch (based on numbers, value, or weight of fish caught, or other relevant factors) or fishing effort during the appropriate period, and in light of historical patterns of the distribution of catch or fishing effort for such stock or stocks of fish.

(c) Whether relevant effects are substantial will be determined after consideration of the magnitude of such actual or potential effects. Relevant to this determination are various factors, including but not limited to, the proportion of the fishery (stock or stocks

of fish and fishing for such stocks) that is subject to the effects of a particular state’s action or omission, the characteristics and status (including migratory patterns and biological condition) of the stock or stocks of fish in the fishery, and the similarity or dissimilarity between the goals, objectives, or policies of the state’s action or omission and the management goals or objectives specified in the FMP for the fishery or between the state and Federal conservation and management measures of the fishery.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.615 Commencement of proceedings.

(a) *Notice of proposed preemption.* (1) If a proceeding under this part is deemed necessary, the Administrator must issue a notice of proposed preemption to the Attorney General of the State or States concerned. The notice will contain:

(i) A recital of the legal authority and jurisdiction for instituting the proceeding.

(ii) A concise statement of the § 600.610 factual findings for Federal preemption upon which the notice is based.

(iii) The time, place, and date of the hearing.

(2) The notice of proposed preemption will also be published in the FEDERAL REGISTER. This notification may be combined with any notice of proposed rulemaking published under paragraph (d)(1) of this section.

(b) *Response.* The state will have the opportunity to respond in writing to the notice of proposed preemption.

(c) *Amendment.* The Administrator may, at any time prior to the Secretary’s decision, withdraw the notice of proposed preemption. Upon motion of either party before the record is closed, the administrative law judge may amend the notice of proposed preemption.

(d) *Proposed regulations—*(1) *In general.* If additional regulations are required to govern fishing within the

Sec. 1824. Permits for foreign fishing

- (a) In general

After February 28, 1977, no foreign fishing vessel shall engage in fishing within the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

- (b) Applications and permits under governing international fishery agreements

- (1) Eligibility; duration

Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a) of this section. No permit issued under this section may be valid for longer than a year; and section [558](#)(c) of title 5 does not apply to the renewal of any such permit.

- (2) Forms

The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

- (3) Contents

Any application made under this subsection shall specify -

- (A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;
- (B) the tonnage, hold capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;
- (C) each fishery in which each such vessel wishes to fish;
- (D) the estimated amount of tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;
- (E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States;
- (F) the ocean area in which, and the season or period during which, such fishing will be conducted; and
- (G) all applicable vessel safety standards imposed by the foreign country, and shall include written certification that

the vessel is in compliance with those standards;
and shall include any other pertinent information and material
which the Secretary may require.

○ (4) Transmittal for action

Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3). The Secretary of State shall promptly transmit -

- (A) such application, together with his comments and recommendations thereon, to the Secretary;
- (B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and
- (C) a copy or a summary of the application to the appropriate Council.

○ (5) Action by Council

After receiving a copy or summary of an application under paragraph (4)(C), the Council may prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

○ (6) Approval

- (A) After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve, subject to subparagraph (B), the application, if he determines that the fishing described in the application will meet the requirements of this chapter, or he may disapprove all or any portion of the application.
- (B)
 - (i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United

States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned.

- (ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.
- (iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.

○ (7) Establishment of conditions and restrictions

The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) or subsection (d) of this section and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued.

Such conditions and restrictions shall include the following:

- (A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and any applicable Federal or State fishing regulations.
- (B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.
- (C) The requirements described in section [1821\(c\)\(1\), \(2\), and \(3\)](#) of this title.
- (D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B) or subsection (d) of this section, the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.
- (E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.
- (F) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

○ (8) Notice of approval

The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to -

- (A) the Secretary of State for transmittal to the foreign nation involved;
- (B) the Secretary of the department in which the Coast Guard is operating; and
- (C) any Council which has authority over any fishery specified in such application.

○ (9) Disapproval of applications

If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefore. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

○ (10) Fees

- (A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

- (B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.

○ (11) Issuance of permits

If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

● (c) Registration permits

The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section [1821](#)(b) of this title and which wishes to

engage in fishing described in subsection (a) of this section. Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this chapter (as provided for in section [1861](#) of this title). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

- (d) Transshipment permits

- (1) Authority to issue permits

The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who -

- (A) submits an application which is approved by the Secretary under paragraph (3); and
- (B) pays a fee imposed under paragraph (7).

- (2) Transmittal

Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

- (3) Approval of application

The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that -

- (A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this chapter;
- (B) the applicant will comply with the requirements described in section [1821\(c\)\(2\)](#) of this title with respect to activities authorized by any permit issued pursuant to the application;
- (C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and
- (D) no owner or operator of a vessel of the United States

which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

- (4) Whole or partial approval
The Secretary may approve all or any portion of an application under paragraph (3).
- (5) Failure to approve application
If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.
- (6) Conditions and restrictions
The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7) of this section, which shall be complied with by the owner and operator of the vessel for which the permit is issued.
- (7) Fees
The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

- (e) Pacific Insular Areas

- (1) Negotiation of Pacific Insular Area fishery agreements
The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area -
 - (A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and
 - (B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.
- (2) Agreement terms and conditions
A Pacific Insular Area fishery agreement -
 - (A) shall not be considered to supersede any governing international fishery agreement currently in effect under this

chapter, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

- (B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this subchapter specifically made applicable in this subsection;
 - (C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this chapter;
 - (D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;
 - (E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section [1823](#) of this title; and
 - (F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section [1821](#)(c) of this title, section 1821(d) of this title, and section [1821](#)(h) of this title.
- (3) Permits for foreign fishing
- (A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7)(A) and (B), (8), and (9) of subsection (b) of this section, and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.
 - (B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall

contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

○ (4) Marine conservation plans

- (A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to -
 - (i) establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section [1821](#)(h) of this title;
 - (ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;
 - (iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;
 - (iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and
 - (v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.
- (B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

- (C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.
- (5) Reciprocal conditions
Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreement may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.
- (6) Use of payments by American Samoa, Guam, Northern Mariana Islands
Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area -
- (A) to carry out the purposes of this subsection;
 - (B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and
 - (C) to implement a marine conservation plan developed and approved under paragraph (4).
- (7) Western Pacific Sustainable Fisheries Fund
There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to -
- (A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);
 - (B) the Secretary of State for mutually agreed upon travel

expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(B); and (C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this chapter.

○ (8) Use of fines and penalties

In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this chapter, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4).

MARINE MAMMAL PROTECTION ACT OF 1972

16 U.S.C. §§ 1361-1421h, October 21, 1972, as amended 1973, 1976-1978, 1980-1982, 1984, 1986, 1988, 1990, 1992-1994 and 1996.

Overview. The Act establishes a federal responsibility to conserve marine mammals, with management vested in the Department of Commerce for cetaceans and pinnipeds other than walrus. The Department of the Interior is responsible for all other marine mammals, including sea otter, walrus, polar bear, dugong and manatee. The Act generally assigns identical responsibilities to the Secretaries of the two departments.

Findings/Policy. Congress found that: certain species and population stocks of marine mammals are or may be in danger of extinction or depletion due to human activities; these mammals should not be permitted to diminish below their optimum sustainable population; measures should be taken immediately to replenish any of these mammals that have diminished below that level, and efforts should be made to protect essential habitats; there is inadequate knowledge of the ecology and population dynamics of these mammals; negotiations should be undertaken immediately to encourage international arrangements for research and conservation of these mammals. Congress declared that marine mammals are resources of great international significance (aesthetic, recreational and economic), and should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management. The primary management objective should be to maintain the health and stability of the marine ecosystem. The goal is to obtain an optimum sustainable population within the carrying capacity of the habitat. § 1361.

16 U.S.C. § 1361

Selected Definitions. Harassment: an act of pursuit, torment or annoyance which has the potential to injure, or disturb by causing disruption of behavioral patterns, a marine mammal or marine mammal stock in the wild. Marine mammal: any mammal which is morphologically adapted to the marine environment (including sea otters and members of the orders *sirenia*, *pinnipedia* and *cetacea*), or primarily inhabits the marine environment (such as the polar bear); also includes any part of a marine mammal, including raw, dressed or dyed fur or skin. Marine mammal product: an item of merchandise which consists of, or is composed in whole or in part, of a marine mammal. Optimum sustainable population: the number of animals which will result in the maximum productivity of a population or species, considering the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element. Secretary: Secretary of Commerce with respect to members of the order *cetacea* (includes whales and dolphins) and *pinnipedia* other than walruses; Secretary of the Interior with respect to all other marine mammals covered by the Act. Stranding: an event in the wild in which a dead marine mammal is on a U.S. beach or shore or in U.S. waters; or an alive marine mammal is on a U.S. beach or shore and either is unable to return to the water or is in need of apparent medical attention, or is in U.S. waters and unable to return to its natural habitat without assistance. Take: harass, hunt, capture or kill, or attempt to harass, hunt, capture or kill a marine mammal. Unusual mortality event: a stranding that is unexpected, involves a significant die-off of a marine mammal population, and demands immediate response. §§ 1362 and 1421h.

16 U.S.C. § 1362

16 U.S.C. § 1421 h

Moratorium. The Act establishes a moratorium on the taking and importation of marine mammals and marine mammal products. The Secretary may issue permits for taking and importation for scientific research, public display, photography for educational or commercial use, enhancing the survival or recovery of a species, or importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Permit applications, except for polar bear parts, must first be reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals. The Secretary can waive these requirements and allow taking and importing in accordance with the purposes and policies of the Act, if the Secretary certifies that the marine mammals were taken in their country of origin in a manner consistent with this Act. With limited exceptions, no permits may be issued for the taking or importation of a marine mammal designated as depleted.

Incidental taking in commercial fishing operations is allowable either by permit or authorization by the Secretary. The immediate goal is the reduction of incidental kill or incidental serious injury of marine mammals in commercial fishing to insignificant levels approaching a zero mortality and serious injury rate.

The Secretary of the Treasury must ban the importation of commercial fish or products from fish caught with commercial fishing technology that results in the incidental kill or serious injury of marine mammals in excess of U.S. standards, and must require reasonable proof from exporting countries of the effects of their technology on these mammals. Specific documentary evidence is required from nations exporting yellowfin tuna harvested with purse seines in the eastern tropical Pacific Ocean. Intermediary nations must certify and provide proof that they have not imported any yellowfin tuna or products that are subject to the U.S. importation ban. Exporting nations also must provide evidence that fish were not harvested with large-scale driftnets.

The Act generally does not apply to measures to deter a marine mammal from endangering personal safety or damaging personal property, as long as the measures do not seriously injure or kill the animal. The Secretary must publish guidelines on nonlethal ways to deter marine mammals. It is not a violation of the Act to take a marine mammal if imminently necessary to save a life, provided the taking is reported to the Secretary within 48 hours.

The Act sets out procedures for the Secretary to allow incidental taking of small numbers of marine mammals through a specific activity in a specified geographic region, upon certain findings and with protective restrictions. This authorization requires public notice in the affected local communities. The Secretary also may allow incidental taking of depleted marine mammals during commercial fishing, if the impact is negligible, a recovery plan is developed and a monitoring program is established.

The Act does not apply to the taking of marine mammals by an Indian, Aleut or Eskimo who resides in Alaska and dwells on the coast of the North Pacific Ocean or the Arctic Ocean, if the taking is done in a nonwasteful manner and is for subsistence purposes or for creating and selling authentic native handicrafts and clothing. These takings may be regulated by the Secretary, however, if the marine mammal is depleted. § 1371.

16 U.S.C. § 1371

Prohibitions. With the exceptions contained in the Act, it is unlawful for a person to take a marine mammal, to possess a marine mammal or product taken in violation of the Act, or to transport, purchase, sell, import or export a marine mammal. It is generally unlawful to import a pregnant or nursing marine mammal, a depleted mammal, or a mammal taken in an inhumane or illegal way. It is also unlawful to take any species of whale incident to commercial whaling in U.S. waters. § 1372.

16 U.S.C. § 1372

Regulations. The Secretary must prescribe regulations for taking and importing of marine mammals to insure that the taking is not to the disadvantage of the species and is consistent with the purposes and policies of the Act. § 1373.

16 U.S.C. § 1373

Permits. The Secretary may issue permits which authorize the taking or importation of a marine mammal. A permit must be consistent with applicable regulations and specify the number and kind of animals authorized to be taken or imported, the location and manner in which they may be taken or imported, the period for which the permit is valid, and any other terms or conditions the Secretary deems appropriate. Additional requirements apply for specific types of permits. The Secretary may modify, suspend or revoke permits. § 1374.

16 U.S.C. § 1374

Penalties. Violation of the Act, or a permit or regulation issued under it, is subject to a civil penalty of up to \$10,000 per violation. Each unlawful taking or importation is a separate offense. Knowing violation of the Act, or a permit or regulation issued under it, is subject to a criminal penalty of up to \$20,000 per violation or imprisonment for one year, or both. (The \$20,000 maximum fine stated in the Act and repeated in this summary is modified by the Sentencing Reform Act of 1984, as amended by the Criminal Fine Improvements Act of 1987. See the summary of the Sentencing Reform Act for the new, generally higher, levels.) § 1375.

16 U.S.C. § 1375

A vessel subject to U.S. jurisdiction used in the unlawful taking of a marine mammal is subject to seizure and forfeiture of its cargo, and liable for a civil penalty of up to \$25,000. § 1376.

16 U.S.C. § 1376

Enforcement. The Secretary is required to enforce the Act and by agreement may use the resources of a federal agency for doing so. The Secretary also may designate officers and employees of a state or U.S. possession to enforce the Act, allowing them to function as federal law enforcement agents for this purpose. § 1377.

16 U.S.C. § 1377

International Program. The Secretary, through the Secretary of State, must initiate negotiations for bilateral or multilateral agreements with other nations for the protection and conservation of all marine mammals covered by the Act. The Secretary also is required to work with other countries, in specified ways, to promote the purposes of the Act. § 1378.

16 U.S.C. § 1378

Transfer of Management Authority. States may not enforce a state law or regulation relating to taking of marine mammals within the state unless the Secretary has transferred authority for the conservation and management of that species to the state. The Secretary must transfer management authority for a marine mammal species to a state if the Secretary makes certain findings on the policies of the state program. Management authority may be revoked if the state program is not implemented consistent with the requirements of the Act. The Secretary may make grants to states to assist them in developing or administering their programs. Federal, state and local government officials or employees are not prohibited as part of their official duties from taking a marine mammal in a humane manner if done for the protection or welfare of the animal or public health and welfare, or for the nonlethal removal of nuisance animals. Where feasible, a marine mammal must be returned to its natural habitat. § 1379.

16 U.S.C. § 1379

Research Grants. The Secretary is authorized to make grants or provide financial assistance to a federal or state agency, public or private institution, or a person for research in subjects that are relevant to the protection and conservation of marine mammals. The Secretary must engage in certain research and workshop activities. § 1380.

16 U.S.C. § 1380

Commercial Fishing. The Secretary must undertake a program of research and development for improving fishing methods and gear to reduce to the maximum extent practical the incidental taking of marine mammals in commercial fishing. The Secretary must issue regulations to reduce to the lowest practical level the taking of marine mammals incidental to commercial fishing operations, and must negotiate to reduce marine mammal taking by the tuna fishery. § 1381.

16 U.S.C. § 1381

Regulations and Administration. The Secretary must prescribe regulations to carry out the Act. Federal agencies are directed to cooperate with the Secretary. The Secretary may enter into contracts, leases, cooperative agreements or other transactions with a federal or state agency, public or private institution, or any other person. The Secretary must review annually each program involving the taking of marine mammals on land, and suspend the operation of a program that cannot be administered consistent with the purposes and policies of the Act. The Secretary may develop and implement conservation or management measures to alleviate impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals that may be causing the decline or impeding the recovery of a strategic stock. § 1382.

16 U.S.C. § 1382

Treaties and Conventions. The provisions of this Act are in addition to other existing international treaties, conventions or agreements. The Secretary is required to review the effectiveness of polar bear agreements and conservation. § 1383.

16 U.S.C. § 1383

Status Review for Depleted Mammals. In determining whether a species or stock should be designated as depleted, or no longer so designated, the Secretary must allow for public comment and make the decision based on the best scientific information available. The Act sets out procedures the Secretary must follow upon receiving a petition for a status review. The Secretary must prepare conservation plans for a species or stock designated as depleted, unless the Secretary determines that a plan will not promote its conservation. The plan's purpose must be to conserve and restore the species or stock to its optimum sustainable population. § 1383b.

16 U.S.C. § 1383b

Dolphin Protection Consumer Information Act. See [separate entry](#) in this Handbook. § 1385.

16 U.S.C. § 1385

Stock Assessments. The Secretary must prepare by August 1, 1994 a draft stock assessment for each marine mammal stock in waters within the jurisdiction of the U.S. This assessment must be based on the best scientific information available and must: describe the geographic range of the affected stock, including seasonal or temporal variations; provide minimum population estimates, productivity rates and population trends; estimate the annual human-caused mortality and serious injury of the stock by source; describe the commercial fisheries that interact with the stock; categorize the status of the stock as either unlikely to be reduced below its optimum sustainable population or as strategic; estimate the potential biological removal level for the stock. The Secretary must provide notice of the availability of the draft stock assessment, allow for public review and comment, and conduct a proceeding on the record prior to publishing a final assessment. The Secretary must review stock assessments annually for strategic stocks and for stocks for which significant new information is available, and every three years for other stocks.

The Secretary of Commerce, in consultation with others, must establish three independent regional scientific review groups representing Alaska, the Pacific Coast and the Atlantic Coast. These groups are charged with advising the Secretary on a variety of population, research, habitat and other appropriate issues, including the stock assessments. § 1386.

16 U.S.C. § 1386

Incidental Taking in Commercial Fishing. Except when a life is in immediate danger, the intentional lethal taking of a marine mammal in the course of commercial fishing operations is prohibited. Commercial fisheries must reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching zero by April 30, 2001. Fisheries that maintain a level approaching zero are not required to reduce their mortality and injury rates further. The Act requires the owners or operators of commercial fishing vessels to report all incidental mortality and injury of marine mammals to the Secretary within 48 hours of the end of each fishing trip.

By April, 1997, the Secretary of Commerce must review the progress of all commercial fisheries, and if the rate of incidental mortality and serious injury is not consistent with the reduction requirement, must develop and implement a take reduction plan. The Secretary may develop a take reduction plan for any marine mammal that interacts with a commercial fishery and has a high level of mortality and serious injury.

Upon application, the Secretary must grant authorizations for incidental taking of marine mammals to commercial fisheries, which must follow specified requirements for displaying a decal, reporting incidental taking, complying with take reduction plans and emergency regulations, and allowing an observer on board the vessel. The Secretary must develop a program to monitor incidental taking and serious injury, and may place observers on board vessels to record mortality and injury rates, log the number of marine mammals sighted and conduct other scientific investigations.

If the Secretary finds that the incidental mortality and serious injury of marine mammals by commercial fisheries has, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary must issue emergency regulations to reduce the mortality and injury rates and provide expedited review of take reduction plans or amendments. § 1387.

16 U.S.C. § 1387

Cooperative Agreements in Alaska. The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives. The agreements may include grants to these organizations to collect and analyze data on marine mammal populations, monitor their harvest, participate in research, and develop co-management structures with federal and state agencies. § 1388.

16 U.S.C. § 1388

Pinnipeds. The Secretary may permit the intentional lethal taking of pinnipeds, despite other provisions of the Act. States may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of specified salmonid fishery stocks. A pinniped-fishery interaction task force must be established to recommend to the Secretary whether to approve an application and to suggest nonlethal alternatives. The Secretary must take steps to implement an approved application.

The Secretary must complete by October 1, 1995 a scientific investigation to determine the impact of California sea lions and Pacific harbor seals on the recovery of endangered or threatened salmonid fishery stocks and on the west coast ecosystems. The Secretary must then consult with the Pacific States Marine Fisheries Commission to develop recommendations based on the report.

The Secretary may conduct a study on the interaction of fish and pinnipeds in the anadromous fish migration corridors of the northwest coast. The Secretary is required to establish a pinniped-fishery interaction task force to advise on pinnipeds in the Gulf of Maine. § 1389.

16 U.S.C. § 1389

Marine Mammal Commission. The Act establishes a Marine Mammal Commission, composed of three members appointed by the President for three-year terms. The Commission is required to: review the laws and international conventions relating to marine mammals; conduct an ongoing review of the stocks of marine mammals, methods for their protection and conservation, humane means for their taking, research programs undertaken by authority of the Act, and all permit applications for scientific research, public display, or species survival; undertake other studies necessary for the protection and conservation of marine mammals; recommend steps to the Secretary and other federal officials to protect and conserve these mammals; recommend to the Secretary of State appropriate policies for international arrangements to protect and conserve these mammals; recommend necessary revisions to the endangered and threatened species lists; recommend additional measures to further the Act. The Commission also must consult with the Secretary as desirable and annually report to Congress. The Commission is required to establish a committee of scientific advisors with which to consult on studies, recommendations, research programs and permit applications for scientific research.

The Marine Mammal Commission has access to all studies and data compiled by federal agencies on marine mammals, and must coordinate its efforts to avoid duplication of research. Congress authorized to be appropriated to the Commission funds ranging from \$1,500,000 to \$1,750,000 for each fiscal year 1994-1999. §§ 1401-1407.

16 U.S.C. § 1401

International Dolphin Conservation Act of 1992. According to 1992 amendments to the Act, the policy of the U.S. is to: eliminate marine mammal mortality resulting from intentional encirclement of dolphins and other marine mammals in tuna purse seine fisheries; secure appropriate multilateral agreements to reduce and eliminate this mortality eventually, and ensure that U.S. tuna fishing vessels have continued access to productive tuna fishing grounds in the South Pacific Ocean; ensure that the U.S. market is not an incentive to the harvest of tuna caught in association with dolphins or with driftnets; encourage observers on purse seine vessels fishing for tuna under certain conditions. § 1411.

16 U.S.C. § 1441

The Act authorizes the Secretary of State, in consultation with the Secretary, to enter into international agreements to establish a global moratorium for at least five years to prohibit harvesting tuna using purse seine nets deployed on or to encircle dolphins or other marine mammals. These agreements must include an international research program to develop fishing methods for large yellowfin tuna either without setting nets on dolphins and other marine mammals or by setting nets with zero set-caused mortality. The moratorium may be terminated prior to December 31, 1999 with respect to U.S. tuna harvesting in the eastern tropical Pacific Ocean only if the Secretary so recommends and Congress approves. §§ 1412-1413.

16 U.S.C. § 1412

The importation of yellowfin tuna or its products must not be banned under the Act from a country that submits to the Secretary of State a formal communication in which the country commits to: implement a moratorium of at least five years on the harvesting of tuna using purse seine nets deployed on or to encircle dolphins or other marine mammals; require an observer on vessels engaged in purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean; reduce dolphin mortality from purse seine net operations by specified amounts. Failure of a country to implement these commitments will result in a ban on U.S. imports of yellowfin tuna and products from that country. The Secretary periodically must review compliance with these commitments. The Act also contains restrictions for permits for taking dolphins in addition to those specified earlier in § 1374. §§ 1415-1416.

16 U.S.C. § 1415

The Act requires the Secretary to report annually to Congress on the effectiveness of the moratorium in protecting dolphin populations in the eastern tropical Pacific Ocean; the economic impacts of the moratorium on the tuna industry and consumers; the status of yellowfin tuna stocks; the impact on fishery resources of fishing for large yellowfin tuna with non-encirclement of dolphin methods; results of compliance reviews; and results of research. § 1414.

16 U.S.C. § 1414

The Act makes it unlawful to: sell or offer to sell, purchase, transport or ship tuna or a tuna product that is not dolphin safe; intentionally set a purse seine net on or to encircle a marine mammal during tuna fishing operations, with limited exceptions; import yellowfin tuna or yellowfin tuna products in violation of a ban on importation; violate a regulation under the Act; refuse to permit an authorized officer to board a vessel to search or inspect in connection with enforcement of the Act; assault, resist, oppose, impede, intimidate or interfere with an authorized officer in the conduct of a search or inspection. Knowing and willful violation of these prohibitions is subject to criminal and civil penalties. Vessels used and fish taken in connection with violation of these prohibitions are subject to forfeiture to the U.S. § 1417.

16 U.S.C. § 1417

Marine Mammal Health and Stranding Response Act. This statute, added in 1992, requires the Secretary to establish a Marine Mammal Health and Stranding Response Program to: facilitate the collection and dissemination of reference data on marine mammal health and health trends; correlate marine mammals' health with data on physical, chemical and biological environmental parameters; coordinate effective responses to unusual mortality events by developing a response process within the Department of Commerce. The Secretary must monitor strandings, collect information on procedures for rescuing and rehabilitating stranded marine mammals, collect marine mammal tissues for analysis, and develop objective criteria for deciding when a rehabilitated marine mammal is releasable to the wild. The Secretary may enter into agreements with persons to take marine mammals in response to a stranding. §§ 1421-1421b.

16 U.S.C. § 1421

The Secretary, through the Office of Protected Resources in the National Marine Fisheries Service, must establish a marine mammal unusual mortality event working group to determine when unusual mortality events occur and develop contingency plans for responding to these events. The Act contains detailed requirements for these plans and for actual responses. The Act also establishes a fund for use in compensating persons for costs incurred in responding to unusual mortality events and for the care and maintenance of marine mammals. §§ 1421 c-1421 d.

16 U.S.C. § 1421 c

The Act requires the Secretary to provide for the storage, preparation, examination and archiving of marine mammal tissues in a National Marine Mammal Tissue Bank, to be used as means to monitor and measure overall health trends in marine mammal species and populations. The Secretary also must maintain a central database for tracking and accessing health and unusual mortality event data on marine mammals. § 1421f.

16 U.S.C. § 1421f

Congress authorized to be appropriated to the Secretary \$250,000 for each fiscal year 1993-1994 to carry out this Act, other than § 1421f, and \$250,000 for each fiscal year 1993-1994 to carry out § 1421f. Congress also authorized appropriations of \$500,000 for fiscal year 1993 to the Marine Mammal Unusual Mortality Event Fund. § 1421 g.

16 U.S.C. § 1421g

Appropriations Authorized. Congress authorized to be appropriated to the Department of Commerce for its responsibilities under the Act (except under the Marine Mammal Health and Stranding Response Act) the following sums for each listed fiscal year: 1994, \$12,138,000; 1995, \$12,623,000; 1996, \$13,128,000; 1997, \$13,653,000; 1998, \$14,200,000; and 1999, \$14,768,000. Congress further authorized to be appropriated to the Department of Commerce an additional \$20,000,000 for each fiscal year 1994-1999 to carry out §§ 1386-1387. Congress authorized to be appropriated to the Department of the Interior for its responsibilities under the Act the following sums for each listed fiscal year: 1994, \$8,000,000; 1995, \$8,600,000; 1996, \$9,000,000; 1997, \$9,400,000; 1998, \$9,900,000; and 1999, \$10,296,000. § 1384.

16 U.S.C. § 1384

Editor's Note. The Marine Mammal Protection Act has been amended by two public laws since the Handbook was completed. Public Law 105-18, signed on June 12, 1997, amends § 1371 to add a good samaritan exemption. It is not a violation of the Act to take a marine mammal if the taking is necessary to avoid serious injury or death to a marine mammal entangled in fishing gear or debris, reasonable care is taken to ensure the marine mammal's safe release, reasonable care is exercised to prevent further injury, and the taking is reported to the Secretary within 48 hours. P.L. 105-18 also amends § 1374 on permits for the importation of polar bear parts.

The International Dolphin Conservation Program Act, enacted August 15, 1997 as Public Law 105-42, makes a number of changes to the Marine Mammal Protection Act. Amendments to the [Dolphin Protection Consumer Information Act](#) and the [Tuna Conventions Act](#) of 1950, made by the new law, are described in editor's notes to the summaries of those laws.

Once effective, the 1997 amendments to § 1371 of the MMPA will permit the import of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific if the tuna is harvested by vessels of a nation in compliance with the International Dolphin Conservation Program and the nation is a member, or becoming a member, of the Inter-American Tropical Tuna Commission. Changes to § 1374 will allow the Secretary of Commerce to issue annual permits to U.S. purse seine vessels for the incidental taking of marine mammals, subject to regulation. Sections 1411 through 1418 are being amended to require that the Secretary of State seek a binding international agreement to establish an International Dolphin Conservation Program (IDCP) requiring that the total annual dolphin mortality in the purse seine fishery in the eastern tropical Pacific not exceed 5,000 animals, with a commitment to progressively reduce mortality to a level approaching zero through the setting of annual limits. The Secretary is to issue regulations to implement the IDCP and to govern the taking of marine mammals by U.S. vessels participating in it. The 1997 Act also requires a study of the effect of intentional encirclement (including chase) on dolphins and dolphin stocks incidentally taken. The study is to commence in October, 1997.

Most provisions of P.L. 105-42 do not take effect until the Secretary of Commerce certifies that the study just described is being done and the Secretary of State certifies that the IDCP has been established by binding resolution of the Inter-American Tropical Tuna Commission and is in force. The Secretary of Commerce may issue the regulations required by the Act at any time.

Regulations at 50 CFR 18 - [Table of Contents](#) and [Search](#) Title 50
FWS Manual Chapter [022 FW 4](#), Assistant Director - [Fisheries](#)
[MMPA Information](#) from NOAA/NMFS

Return to [Chapter 4 - Statute Summaries](#) of the [Federal Wildlife & Related Laws Handbook](#)

SECTION 515 PRE-DISSEMINATION REVIEW & DOCUMENTATION GUIDELINES

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554, aka the Data Quality Act or Information Quality Act) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies.” OMB complied by issuing guidelines which direct each federal agency to 1) issue its own guidelines; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with the OMB 515 Guidelines or the agency guidelines; and 3) report periodically to OMB on the number and nature of complaints received by the agency and how the complaints were handled. The OMB Guidelines can be found at:

<http://www.whitehouse.gov/omb/fedreg/reproducible2.pdf>

The Department of Commerce Guidelines can be found at: <http://www.osec.doc.gov/cio/oipr/iqg.htm>

The NOAA Section 515 Information Quality Guidelines, created with input and reviews from each of the components of NOAA Fisheries, went into effect on October 1, 2002. **The NOAA Information Quality Guidelines are posted on the NOAA home page under “Information Quality.”** <http://www.noaanews.noaa.gov/stories/iq.htm>

The guidelines apply to a wide variety of government information products and all types of media, including printed, electronic, broadcast or other. The guidelines define “Information” as, “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.” For example, this definition includes information that an agency disseminates from a web page. The guidelines define “Dissemination” as, “agency initiated or sponsored distribution of information to the public.” Explicitly **not** included within this term is distribution limited to “government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law.” It also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes. (See the NOAA IQ Guidelines, pgs 5-6).

To assist in Data Quality Act compliance, NOAA Fisheries has established a series of actions that should be completed for each new information product subject to the Data Quality Act. (See “Information Generation and Compliance Documentation” and “Pre-Dissemination Review” below.) **In addition to the information contained in this document, familiarity with the NOAA Section 515 Information Quality Guidelines (<http://www.noaanews.noaa.gov/stories/iq.htm>) is crucial for NOAA Fisheries employees who engage in the generation and dissemination of information.**

Information Generation and Compliance Documentation

- The fundamental step in the process is to create a Sec. 515 Information Quality file for each new information product. To aid in this process, a Section 515 Pre-Dissemination Review and Documentation form has been created. These guidelines are intended to serve as a supplement to the Pre-Dissemination Review and Documentation Form. The basic steps to the documentation process are outlined below.
- Complete general information (e.g., author/responsible office, title/description) section of the form.
- Determine the information category (i.e., original data; synthesized products; interpreted products; hydrometeorological, hazardous chemical spill, and space weather warnings, forecasts, and advisories; experimental products; natural resource plans; corporate and general information). **For most information products, you will only need to check one box.** More complex documents may be an “aggregate” of different categories of information products.
- Generate the information in a way that meets each of the applicable standards for the appropriate information category. See the NOAA Information Quality Guidelines.
- Document how the standards for **utility, integrity and objectivity** are met for each information product, describing what measures were taken to meet each of the applicable standards. Use the 2 page Pre-Dissemination Review & Documentation Form to document compliance with the Utility and Integrity standards contained in NOAA’s Information Quality Guidelines. The Utility and Integrity standards pertain to all categories of information disseminated by NOAA. Use these guidelines (pgs 4-11) to document compliance with the applicable objectivity standards for your information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.
- Maintain the Sec. 515 Information Quality file in a readily accessible place. [Pre-Dissemination Review](#)
- Before information is disseminated, it must be reviewed for compliance with the NOAA Sec. 515 Information Quality Guidelines. This is accomplished by reviewing the information and the Sec. 515 Information Quality file.
- The Pre-Dissemination Review should be conducted during the normal course of clearing the information product for release. The person conducting the Pre-Dissemination Review will sign and date the Pre-Dissemination Review & Documentation Form. The reviewing official must be at least one level above the person generating the information product.
- The Pre-Dissemination Review form and the supporting information quality documentation must accompany the information product through the clearance process and be maintained on file.

Completing the Section 515 Pre-Dissemination Review & Documentation Form

Using the Section 515 Pre-Dissemination Review & Documentation Form and these guidelines, document how the information product meets the

following standards for **Utility, Integrity and Objectivity**. **Please note:** Use the Pre-Dissemination Review & Documentation Form to document how the information product complies with the Utility and Integrity standards that pertain to all categories of information products. The Utility and Integrity standards are presented here for your convenience. Use these guidelines to explain how the information product meets the applicable Objectivity standards for the information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.

I. Utility of Information Product

Utility means that disseminated information is useful to its intended users. "Useful" means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use.

- A. Is the information helpful, beneficial or serviceable to the intended user? Explain.
- B. Who are the intended users of the data or information product? (e.g., the American public; other federal agencies; state and local governments; recreational concerns; national and international organizations). Is this data or information product an improvement over previously available information? Is it more detailed or current? Is it more useful or accessible to the public? Has it been improved based on comments or interactions with users?
- C. What media are used in the dissemination of the information? Printed publications? CD-ROM? Internet?
Is the product made available in a standard data format?
Does it use consistent attribute naming and unit conventions to ensure that the information is accessible to a broad range of users with a variety of operating systems and data needs?

II. Integrity of Information Product

Integrity refers to security - the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. Prior to dissemination, NOAA information, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. **Please note: all electronic information disseminated by NOAA adheres to the standards set forth in paragraph A below. If the information product is disseminated electronically, simply circle paragraph II(A) on the form.** You may also contact your IT Manager for further information.

Explain (circle) how the information product meets the following standards for integrity:

- A. All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, "Security of Automated Information Resources," OMB Circular A-130; the Computer Security Act; and the Government Information Security Reform Act.
- B. If information is confidential, it is safeguarded pursuant to the Privacy Act and Titles 13, 15, and 22 of the U. S. Code (confidentiality of census, business and financial information).
- C. Other/Discussion
(e.g., 50 CFR 600, Subpart E, Confidentiality of Statistics of the Magnuson-Stevens Fishery Conservation and Management Act; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act.)

III. Objectivity of Information Product

(1) Indicate which one of the following categories of information products apply for this product (check one):

- Original Data - go to Section A
- Synthesized Products - go to Section B
- Interpreted Products - go to Section C
- Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories - go to Section D
- Experimental Products - go to Section E
- Natural Resource Plans - go to Section F
- Corporate and General Information - go to Section G

(2) Describe how this information product meets the applicable objectivity standards.

General Standard: Information is presented in an accurate, clear, complete, and unbiased manner, and in proper context. The substance of the information is accurate, reliable, and unbiased; in the scientific, financial or statistical context, original and supporting data are generated and the analytical results are developed using sound, commonly accepted scientific and research methods. "Accurate" means that information is within an acceptable degree of imprecision or error appropriate to the particular kind of information at issue and otherwise meets commonly accepted scientific, financial and statistical standards.

If the information is "influential," that is, it is expected to have a genuinely clear and substantial impact on major public policy and private sector decisions, it is noted as such and it is presented with the highest degree of transparency. If influential information constitutes an assessment of risks to human health, safety or the environment, indicate whether the risk assessment was qualitative or quantitative, and describe which SDWA-adapted quality standards at page 9 of NOAA's Section 515 Information Quality Guidelines were applied to the information product.

Use of third party information in the product (information not collected or generated by NOAA) is only done when the information is of known quality and consistent with NOAA's Section 515 Guidelines; any limitations, assumptions, collection methods, or uncertainties concerning the information are taken into account and disclosed.

Specific Standards: Specific objectivity standards for categories of information products disseminated by NOAA are listed below. Document how the general and specific objectivity standards for the particular information product were met.

A. Original Data

Original Data are data in their most basic useful form. These are data from individual times and locations that have not been summarized or processed to higher levels of analysis. While these data are often derived from other direct measurements (e.g., spectral signatures from a chemical analyzer, electronic signals from current meters), they represent properties of the environment. These data can be disseminated in both real time and retrospectively. Examples of original data include buoy data, survey data (e.g., living marine resource and hydrographic surveys), biological and chemical properties, weather observations, and satellite data.

Objectivity of original data is achieved using sound quality control techniques.

Detail how the data collection methods, systems, instruments, training, and/or tools are appropriate to meet the requirements of the intended users.

Were the methods, systems, instruments, etc., validated before use?

Were standard operating procedures (SOPs) followed for time series data collections? If not, document the valid scientific reasons for the deviation.

Document the quality control techniques used, for example:

- Gross error checks for data that fall outside of physically realistic ranges (e.g., a minimum, maximum or maximum change)
- Comparisons made with other independent sources of the same measurement
- Examination of individual time series and statistical summaries
- Application of sensor drift coefficients determined by a comparison of pre- and post-deployment calibrations
- Visual inspection of data

Describe any evolution and/or improvements in survey techniques, instrument performance and/or data processing.

Have metadata record descriptions and explanations of the methods and quality controls to which original data are subjected been included in the disseminated product? If not, they must be made available upon request.

B. Synthesized Products

Synthesized Products are those that have been developed through analysis of original data. This includes analysis through statistical methods; model interpolations, extrapolations, and simulations; and combinations of multiple sets of original data.

While some scientific evaluation and judgment is needed, the methods of analysis are well documented and relatively routine.

Examples of synthesized products include summaries of fisheries landings statistics, weather statistics, model outputs, data display through Geographical Information System techniques, and satellite-derived maps.

The objectivity of synthesized products is achieved by using data of known quality, applying sound analytical techniques, and reviewing the products or processes used to create them before dissemination. For synthesized products, please document the following:

Identify data sources (preferred option) or be prepared to make them available upon request.

Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities?

Are the methods used to create the synthesized product published in standard methods manuals or generally accepted by the relevant scientific and technical communities? Are the methods documented in readily accessible formats by the disseminating office?

Describe the review process used to ensure the validity of the synthesized product or the procedures used to create them, e.g., statistical procedures, models, or other analysis tools.

If the synthesized product is unique or not regularly produced, was this product reviewed by internal and/or external experts?

If this is a routinely produced synthesized product, was the process for developing the product reviewed by internal and/or external experts?

Does the synthesized product include information about the methods used to create the product? If not, the methods must be made available upon request.

C. Interpreted Products

Interpreted Products are those that have been developed through interpretation of original data and synthesized products. In many cases, this information incorporates additional contextual and/or normative data, standards, or information that puts original data and synthesized products into larger spatial, temporal, or issue contexts. This information is subject to scientific interpretation, evaluation, and judgment. Examples of interpreted products include journal articles, scientific papers, technical reports, and production of and contributions to integrated assessments.

Objectivity of interpreted products is achieved by using data of known quality or from sources acceptable to the relevant scientific and technical communities and reliable supporting products, applying sound analytical techniques, presenting the information in the proper context, and reviewing the products before dissemination.

Are all data and information sources identified or properly referenced?

Are the methods used to create the interpreted product generally accepted by the relevant scientific and technical communities?

Is information concerning the quality and limitations of the interpreted product provided to help the user assess the suitability of the product for the user's application?

Describe the review process used to ensure that the product is valid, complete, unbiased, objective and relevant. For example, peer reviews, ranging from internal peer review by staff who were not involved in the development of the product to formal, independent, external peer review. The review should be conducted at a level commensurate with the importance of the interpreted product.

Does the interpreted product include a description of the methods used to create the product? If not, they must be made available upon

request.

D. Hydrometeorological, Hazardous Chemical Spill, and Space Weather

Warnings, Forecasts, and Advisories

Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories are time-critical interpretations of original data and synthesized products, prepared under tight time constraints and covering relatively short, discrete time periods. As such, these warnings, forecasts, and advisories represent the best possible information in given circumstances. They are subject to scientific interpretation, evaluation, and judgment. Some products in this category, such as weather forecasts, are routinely prepared. Other products, such as tornado warnings, hazardous chemical spill trajectories, and solar flare alerts, are of an urgent nature and are prepared for unique circumstances.

Objectivity of information in this category is achieved by using reliable data collection methods and sound analytical techniques and systems to ensure the highest possible level of accuracy given the time critical nature of the products.

What is the source of the data or information used in the product? Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities? Are the sources included in the information product? If not, they must be made available upon request. Are the methods used to create the product generally accepted by the relevant scientific and technical communities?

Please note if individual best judgment was used due to the time-critical nature of the product.

What mechanisms were used to evaluate the accuracy of the information product? Statistical analysis may be carried out for a subset of products for verification purposes.

E. Experimental Products

Experimental products are products that are experimental (in the sense that their quality has not yet been fully determined) in nature, or are products that are based in part on experimental capabilities or algorithms. Experimental products fall into two classes.

They are either (1) disseminated for experimental use, evaluation or feedback, or (2) used in cases where, in the view of qualified scientists who are operating in an urgent situation in which the timely flow of vital information is crucial to human health, safety, or the environment, the danger to human health, safety, or the environment will be lessened if every tool available is used. Examples of experimental products include imagery or data from non-NOAA sources, algorithms currently being tested and evaluated, experimental climate forecasts, and satellite imagery processed with developmental algorithms for urgent needs (e.g., wildfire detection).

Objectivity of experimental products is achieved by using the best science and supporting studies available, in accordance with sound and objective scientific practices, evaluated in the relevant scientific and technical communities, and peer-reviewed where feasible.

Describe the science and/or supporting studies used, the evaluation techniques used, and note any peer-review of the experimental product. Were the results of initial tests or evaluations made available where possible? Describe the review, by the appropriate NOAA unit, of the experimental products and capabilities documentation, along with any tests or evaluations.

Are explicit limitations provided concerning the quality of the experimental product? Is the degree of uncertainty indicated?

Describe the testing process used, e.g., the experimental product or capabilities are used only after careful testing, evaluation, and review by NOAA experts, and then are approved for provisional use only by selected field offices or other NOAA components. This process is repeated as needed to ensure an acceptable and reliable level of quality.

F. Natural Resource Plans

Natural Resource Plans are information products that are prescribed by law and have content, structure, and public review processes (where applicable) that will be based upon published standards, e.g., statutory or regulatory guidelines. Examples of such published standards include the National Standard Guidelines (50 CFR Part 600, Subpart D), Essential Fish Habitat Guidelines, and Operational Guidelines - Fishery Management Plan Process, all under the Magnuson-Stevens Fishery Conservation and Management Act; and the National Marine Sanctuary Management Plan Handbook (16 U.S.C. section 1434) under the National Marine Sanctuary Act. These Natural Resource Plans are a composite of several types of information (e.g., scientific, management, stakeholder input, and agency policy) from a variety of internal and external sources. Examples of Natural Resources Plans include fishery, protected resource, and sanctuary management plans and regulations, and natural resource restoration plans.

Objectivity of Natural Resource Plans will be achieved by adhering to published standards, using information of known quality or from sources acceptable to the relevant scientific and technical communities, presenting the information in the proper context, and reviewing the products before dissemination.

What published standard(s) governs the creation of the Natural Resource Plan? Does the Plan adhere to the published standards? (See the NOAA Sec. 515 Information Quality Guidelines, Section II(F) for links to the published standards for the Plans disseminated by NOAA.)

Was the Plan developed using the best information available? Please explain.

Have clear distinctions been drawn between policy choices and the supporting science upon which they are based? Have all supporting materials, information, data and analyses used within the Plan been properly referenced to ensure transparency?

Describe the review process of the Plan by technically qualified individuals to ensure that the Plan is valid, complete, unbiased, objective and relevant. For example, internal review by staff who were not involved in the development of the Plan to formal, independent, external peer review. The level of review should be commensurate with the importance of the Plan and the constraints imposed by legally enforceable deadlines.

G. Corporate and General Information

Corporate or general information includes all non-scientific, non-financial, non-statistical information. Examples include program and organizational descriptions, brochures, pamphlets, education and outreach materials, newsletters, and other general descriptions of NOAA operations and capabilities.

Corporate and general information disseminated by NOAA must be presented in a clear, complete, and unbiased manner, and in a context that enhances usability to the intended audience. To the extent possible, identify the sources of the disseminated information, consistent with confidentiality, privacy and security considerations and protections, and taking into account timely presentation, the medium of dissemination, and the importance of the information, balanced against the resources required and the time available.

Information disseminated by NOAA is reliable and accurate to an acceptable degree of error as determined by factors such as the importance of the information, the intended use, time sensitivity, expected degree of permanence, relation to the primary mission(s) of the disseminating office, and the context of the dissemination, balanced against the resources required and the time available.

For non-scientific, non-statistical information, has the information product been reasonably determined to be factually correct in the view of the disseminating office as of the time of dissemination?

Describe the review process for the information product. Review can be accomplished in a number of ways, including but not limited to combinations of the following:

- Active personal review of information by supervisory and management layers, either by reviewing each individual dissemination, or selected samples, or by any other reasonable method.
- Use of quality check lists, charts, statistics, or other means of tracking quality, completeness, and usefulness.
- Process design and monitoring to ensure that the process itself imposes checks on information quality .
- Review during information preparation.
- Use of management controls.
- Any other method, which serves to enhance the accuracy, reliability and objectivity of the information.

represented by the invitees; and (4) develop professional contacts as a basis for strengthening technical ties and enhancing trade.

Workshop recommendations (maximum 5 pages) must address at a minimum the following points, *in the order noted and labeled accordingly*:

1. Name and Description of the Recommending Person or Organization
Provide the primary mailing address, and the name, telephone number and e-mail address of the primary point of contact.

2. Industry Sector and Suggested Workshop Title which captures the essence of the recommendation. Consider the goals and potential benefits.

3. Proposed Workshop Objectives
Describe the intended goals to be attained, why they are important, the specific workshop objectives, and U.S. and foreign stakeholders that are likely to participate.

4. Calendar Dates Suggested for Workshop

Provide three or more suggested start dates for the workshop. The first date should be no earlier than 8 months from the publication date of this announcement.

5. Relevant NIST Organizational Link
Workshop topics must be linked to NIST activities and/or research. The appropriate NIST organizational unit, laboratory or program must be identified by the recommender and the relevance of the activity to NIST must be demonstrated. If known, identify the specific NIST staff who could serve as the NIST internal point of contact.

6. Principal Topics
Provide a list of the suggested topics for the workshop.

7. Related Site Visits and Events
Workshops can include visits to relevant business sites or events. Provide a list of suggested site visit locations, events or other areas of interest and discuss the relevance of each to the overall purpose of the proposed workshop's goals.

8. Expected Outcomes/Measures of Success
Include in this section a description of:

- The anticipated benefit of the workshop for trade and market access;
 - The anticipated economic impacts (in dollars);
 - The potential for future opportunities for collaboration and for trade as a result of the workshop;
 - The measures of success;
 - The desired results of the workshop and how the results will be measured.
- All recommendations must address each of the above ten points and be

submitted to Ellen Emard via e-mail (ellen.emard@nist.gov) or mail 100 Bureau Drive, Mail Stop 2100, Gaithersburg, MD 20899 no later than 5 p.m., June 21, 2007.

Dated: May 16, 2007.

James M. Turner,

Deputy Director.

[FR Doc. 07-2553 Filed 5-21-07; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Foreign Fishing Reporting Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before July 23, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Robert Dickinson, 301-713-2276 or Bob.Dickinson@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Foreign fishing activities can be authorized under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The collection of information from permitted foreign vessels is necessary to monitor their activities and whereabouts in U.S. waters. The reports are also necessary to monitor the amounts of fish, if any, such vessels receive from U.S. vessels in joint venture operations, wherein U.S. vessels catch and transfer at-sea to permitted foreign vessels certain species for which U.S. demand is low relative to the abundance of the species.

II. Method of Collection

Activity reports are made by radio when fishing begins or ceases, to report on transfers of fish, and to file weekly reports on the catch or receipt of fish. The foreign vessels are also subject to recordkeeping requirements, recorded and maintained for three years.

III. Data

OMB Number: 0648-0075.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6.

Estimated Time per Response: 6 minutes for a joint venture report; 30 minutes per day for joint venture recordkeeping; and 7.5 minutes per day for recordkeeping by transport vessels.

Estimated Total Annual Burden Hours: 88.

Estimated Total Annual Cost to Public: \$500.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 16, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-9765 Filed 5-21-07; 8:45 am]

BILLING CODE 3510-22-P