

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek  
Departmental Paperwork Clearance Officer  
Office of the Chief Information Officer  
14th and Constitution Ave. NW.  
Room 6625  
Washington, DC 20230

06/20/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 03/29/2005.

TITLE: High Seas Fishing Permit Application Information

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0304

EXPIRATION DATE: 06/30/2008

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	200	100	10
New	200	100	10
Difference	0	0	0
Program Change		0	0
Adjustment		0	0

TERMS OF CLEARANCE: None

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OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

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# 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 <span style="float: right;">b. <input type="checkbox"/> None</span> 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 or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
HIGH SEAS FISHING PERMIT APPLICATION INFORMATION  
OMB CONTROL NO.: 0648-0304**

**A. JUSTIFICATION**

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

This information collection is necessary to comply with the High Seas Fishing Compliance Act (HSFCA), 16 U.S.C. 5501 et seq., which, among other things, requires U. S. vessels that operate on the high seas to possess a permit issued in accordance with Section 104 of the HSFCA.

Information obtained under this collection is necessary to carry out the permitting provisions of Section 104 of the HSFCA (copy attached). Implementing regulations are found at 50 CFR Part 300, Subpart B (copy attached). The information collected is either (1) specifically required under the HSFCA, and/or (2) deemed necessary for purposes of general administration and/or enforcement.

**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.**

Respondents receive all application instructions and forms as a package (copy attached). The package starts off with the "VESSEL APPLICATION FOR HIGH SEAS FISHING." The application form contains the PRA statement. Included next are "INSTRUCTIONS FOR VESSEL APPLICATION FOR HIGH SEAS FISHING." With respect to the information requested:

Item 1 is required for purposes of identification and to establish that the applicant vessel is currently documented as a U.S. vessel. The certificate also provides the applicant vessel's official number, port of record, when and where the vessel was built and the vessel's length, all of which are required by the HSFCA.

Items 2, 3, 4, 5, 8, 9, 10, 12 and 13 are either required by the HSFCA or deemed necessary for purposes of identification of the vessel, owner, and operator. Item 10 includes a request for the date of birth of the owner in anticipation of using this field to link to other fishery permit databases (a number of National Marine Fisheries Service permitting systems use date of birth as a key field).

Item 6 is required to provide enforcement personnel with advance information as to crew size to be accounted for during a boarding or other inspection.

Item 7 is required so that enforcement personnel will know the capacity of holds for purposes of checking hold contents during a boarding or other inspection.

Item 11 is required to comply with the Debt Collection Improvement Act of 1996 (Public Law 104-134), which states, at 31 U.S.C. 7701 (c) (1), "The head of each Federal agency shall require each person doing business with that agency to furnish that agency such person's taxpayer identifying number." The Act further states, at 31 U.S.C. 7701 (c) (2)(B), "For purposes of this subsection, a person shall be considered doing business with a Federal agency if the person is an applicant for, or recipient of, a federal . . . permit . . . administered by the agency." Therefore, because applicants for HSFCA permits are "persons doing business" with a Federal agency, NMFS must require applicants for HSFCA permits to provide a taxpayer identifying number such as a Tax Identification Number (TIN) assigned to an applicant's business or a Social Security Number (SSN) assigned to an individual applicant. The HSFCA application form includes a statement advising the applicant that any TIN or SSN provided will not be released to the public.

Items 14 and 15 are required to determine the intended nature and scope of activities to be carried out by U.S. vessels under the HSFCA. Item 16 is required to assist in ascertaining whether the applicant vessel has flown a foreign flag within the last three years. The supplemental information, to be submitted if the vessel has flown a foreign flag, will be used to identify and verify from FAO data whether the applicant vessel, when under foreign flag, violated any natural resource statutes or had a permit or license suspended or revoked.

Item 17 is required to assist in verifying whether the applicant vessel has violated natural resource statutes in the last three years. Any such violations occurring while the vessel flew a U. S. flag should be revealed during a check of the Enforcement Management Information System (EMIS - the standard reference database used in fisheries enforcement), however item 17 provides a means to verify the information contained in EMIS, and is an opportunity for applicants to provide any additional details deemed relevant. This item is also designed to be an opportunity for the applicant to correct any misinformation that may be contained in EMIS. Similarly, if violations occurred while under foreign flag, this item is an opportunity to report relevant violations and any additional details deemed appropriate, in order to verify that any violation data held by FAO are accurate and valid.

Next in the application package is the "List of International Agreements and Fishery Management Plans," followed by the depiction of "Major Fishing Areas for Statistical Purposes," which are referred to, as appropriate, in the instructions.

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.**

The collection does not involve the use of automated or electronic forms of technology. Application documents must be original and bear an original signature. The forms are available on a Web site.

**4. Describe efforts to identify duplication.**

There are no other collections that can substitute for the information required to complete HSFCA applications. The completed applications define unique applications based on an applicant's particular fishing strategies.

**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 Section 104 of the HSFCA. The frequency for renewals is 5 years, a period set by the HSFCA.

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

The collection is consistent with the 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 (copy attached) solicited public comment on this renewal. No comments were received.

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

No payments or gifts are involved.

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

No confidentiality is promised, except with respect to the submission of SSNs and TINs.

**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 sensitive questions are asked.

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

The estimated annual burden for this collection is 100 hours. The estimate is calculated as follows (permits are valid for 5 years):

1000 vessels/5 years = 200 per annum  
200 per annum x .5 hours per application) = 100 hrs

**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 cost to the public is \$10,074. This is based on a \$50 fee for 200 annual applicants, and \$74 for mailing applications (200 applications x \$0.37).

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

Estimated Federal costs for processing applications and issuing permits are calculated as follows:

- a. Average of 1.75 hours per application @ rate of GS 7/5 (w/23.5 percent overhead) for review, verification, data input, permit preparation, copying, filing, etc. = \$42.00 per application.
- b. Average of .25 hours per application @ rate of GS 12/5 (w/23.5 percent overhead) for management review, approval, etc. = \$11.00 per application.

These estimates result in an annual estimated cost of \$10,600.00.

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

No changes are requested.

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

The results are not 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**

This collection does not employ statistical methods.

**VESSEL APPLICATION FOR HIGH SEAS FISHING**  
**(PLEASE READ INSTRUCTIONS BEFORE COMPLETING FORM)**

- 1) U.S Coast Guard Official Documentation No. \_\_\_\_\_  
[Include photocopy of current documentation (Form CG-1270);  
if not USCG documented, leave blank and include photocopy of  
vessel's current state or tribal registration]
- 2) Vessel name \_\_\_\_\_ (3) IRCS \_\_\_\_\_
- 4) ISSCFV vessel type \_\_ (5) Shaft horsepower \_\_\_\_ (6) # Crew \_\_
- 7) Hold capacity \_\_\_\_ (8) Refrigeration type \_\_\_\_\_
- 9) Company name \* \_\_\_\_\_  
\* See instructions if owned by corporation or partnership.  
(mm/dd/yy)
- 10) Date of birth of owner or date of incorporation (\_\_\_\_/\_\_\_\_/\_\_\_\_)
- 11) SSN or Tax ID # \_\_\_\_\_
- 12) Owner name (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (MI) (SUFFIX) \_\_\_\_\_  
Street address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Bus. phone (\_\_\_\_) \_\_\_\_\_ Bus. Fax (\_\_\_\_) \_\_\_\_\_
- 13) Operator name (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (MI) (SUFFIX) \_\_\_\_\_  
Street address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Bus. phone (\_\_\_\_) \_\_\_\_\_ Bus. Fax (\_\_\_\_) \_\_\_\_\_
- 14) Indicate Agreement(s) and/or FMP(s) under which the vessel  
identified above will be used to conduct fishing operations on the  
high seas (see instructions) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 15) Indicate FAO statistical area(s) in which the vessel identified  
above intends to conduct fishing operations on the high seas (see  
instructions for numeric designations) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 16) Has the vessel identified above flown the flag of another nation  
within the last three years? Yes \_\_\_\_\_. No \_\_\_\_\_. If yes, list and  
attach the following information on a separate piece of paper for each  
period during which the vessel operated under other than the U.S.  
flag: Period, Vessel Name, Flag, IRCS, Homeport, Owner  
Name/Address/Phone/Fax, Operator Name/Address/ Phone/Fax.
- 17) Has the vessel identified above, under its current name/flag, or  
any previous names/flags, had any permit or license suspended or  
revoked within the past three years? Yes \_\_\_\_\_. No \_\_\_\_\_. If yes,

list and attach on a separate piece of paper the circumstances surrounding each such instance and include an explanation of the current status of the suspension or revocation.

\*\*\*\*\*

By signing this application, the undersigned owner, operator, or legally authorized agent of the owner of the vessel identified above, declares under penalty of law that all information in this application is true, accurate and complete.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Print Name \_\_\_\_\_

An application fee of \$50.00 in the form of a check or money order made payable to "U.S. Department of Commerce - NOAA" must accompany each application.

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Submission of application information is mandatory in order to be considered for a permit and is used in determining if a permit should be issued. Application information is not confidential. The public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. Send comments regarding this burden estimate or suggestions for reducing this burden to: NMFS, Office of Sustainable Fisheries, 1315 East West Highway, Silver Spring, MD 20910. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject 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.

Your Social Security Number (SSN) and Tax Identification Number (TIN) are confidential and protected under the Privacy Act. The SSN or TIN you report will be used to verify the identity of the individuals/entities doing business with the government as required by the Debt Collection Improvement Act of 1996 (Public Law 104-134).

**INSTRUCTIONS FOR  
VESSEL APPLICATION FOR HIGH SEAS FISHING**

- 1) Enter the U.S. Coast Guard Official Documentation Number assigned to the vessel. Also, attach to the application form a photocopy of the vessel's current documentation (Form CG-1270). Include copy of current decal endorsement, if necessary, as proof of existence of current documentation. If the vessel is not USCG documented, leave blank and attach a photocopy of the vessel's current state or tribal registration. Insure that any photocopies are completely legible.
- 2) Enter the current name of the vessel.
- 3) Enter the International Radio Call Sign (IRCS) currently assigned to the vessel. If none, so indicate.
- 4) Using as a reference the attached International Standard Statistical Classification of Fishery Vessels (ISSCFV) vessel types, enter the numerical code for the vessel type that best describes the vessel.
- 5) Enter the shaft horsepower.
- 6) Enter the normal number of crew the vessel carries.
- 7) Enter the total hold capacity in cubic meters. To calculate hold capacity in cubic meters, first multiply hold width x length x height, in feet (to determine hold capacity in cubic feet), and convert to cubic meters by multiplying the total number of cubic feet by 0.028317. For example, 10'x10'x10' = 1000 cubic feet, and 1000 multiplied by 0.028317 is 28.3 cubic meters. Repeat, if necessary, for each hold to arrive at total hold capacity in cubic meters.
- 8) Enter the refrigeration type (e.g., brine, refrigerated sea water, tunnel blast freezer, plate freezer, ice, other).
- 9) Enter the company name (if any). If the vessel is owned by a corporation or partnership, attach a copy of the certificate of incorporation or partnership agreement, including the names and addresses of all individuals owning 25% or more of the corporation or partnership.
- 10) Enter and the date of birth of the owner (or the date of incorporation or the date of the partnership agreement, if appropriate).
- 11) Enter the Social Security Number (SSN) of the owner or the Tax Identification Number (Tax ID #) of the corporation or partnership.
- 12) Enter the name, address, and business and fax phone numbers of the vessel owner. Please include suffix, if appropriate (e.g., Jr., III, etc.).
- 13) Enter the name, address, and business and fax phone numbers of the vessel operator. Please include suffix, if appropriate (e.g., Jr., III, etc.).
- 14) Using as a reference the attached list of International Agreements

and Fishery Management Plans, list those under which you intend to fish on the high seas. Do not leave this entry blank. You must select at least one, however, list **only** those under which you intend to fish.

15) Using as a reference the attached chart depicting Food and Agriculture Organization (FAO) major fishing areas for statistical purposes, list the numeric area(s) in which the vessel intends to operate on the high seas. Use commas to separate numeric areas. You must indicate one or more areas.

16) Answer "yes" or "no" as appropriate. If yes, insure that all supplemental information requested is reported accurately and completely.

17) Answer "yes" or "no" as appropriate. If yes, insure that all supplemental information requested is reported accurately and completely.

## Int'l. Fishing and Related Activities

## § 300.11

instead of the radio. Hand signals, placards, high frequency radiotelephone, voice, flags, whistle or horn may be employed by an authorized officer or CCAMLR inspector, and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. USCG units will normally use the flashing light signal "L" which, in the International Code of Signals, means "you should stop your vessel instantly."

(4) Failure of a vessel's operator promptly to stop the vessel when directed to do so by an authorized officer or CCAMLR inspector, or by an enforcement vessel or aircraft, using loudhailer, radiotelephone, flashing light, flags, whistle, horn or other means constitutes prima facie evidence of the offense of refusal to allow an authorized officer or CCAMLR inspector to board.

(5) A person aboard a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel immediately.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Monitor Channel 16, VHF-FM, if so equipped.

(2) Stop immediately and lay to or, if appropriate and/or directed to do so by the authorized officer or CCAMLR inspector, maneuver in such a way as to allow the safe boarding of the vessel by the authorized officer or CCAMLR inspector and the boarding party.

(3) Except for those vessels with a freeboard of 4 ft (1.25 m) or less, provide a safe ladder, if needed, for the authorized officer or CCAMLR inspector and boarding party to come aboard.

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

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

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (-.-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (-.- -.- -.- -.-) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear that may be in the water.

(3) "SQ3" (... -.- -.-) means "you should stop or heave to; I am going to board you."

## Subpart B—High Seas Fisheries

AUTHORITY: 16 U.S.C. 5501 *et seq.*

### § 300.10 Purpose.

This subpart implements the High Seas Fishing Compliance Act of 1995 (Act), which requires the Secretary to license U.S. vessels fishing on the high seas.

### § 300.11 Definitions.

In addition to the terms defined in section 300.2 and those in the Act and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993 (Agreement), the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Agreement, the definition in this section shall apply.

## § 300.12

*High seas* means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any Nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

*High seas fishing vessel* means any vessel of the United States used or intended for use on the high seas for the purpose of the commercial exploitation of living marine resources as a harvesting vessel, mothership, or any other support vessel directly engaged in a fishing operation.

*International conservation and management measures* means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States.

*Regional Administrator* means any one of the Directors of the five NMFS regional offices, defined under §300.2, serving as the issuing office.

### § 300.12 Issuing offices.

Any Regional Administrator may issue permits required under this subpart. While applicants for permits may submit an application to any Regional Administrator, applicants are encouraged to submit their applications (with envelopes marked "Attn: HSFCA Permits") to the Regional Administrator with whom they normally interact on fisheries matters.

### § 300.13 Vessel permits.

(a) *Eligibility.* (1) Any high seas fishing vessel of the United States is eligible to receive a permit under this subpart, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and —

(i) The foreign nation suspended such authorization, because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(ii) The foreign nation, within the 3 years preceding application for a permit under this section, withdrew such authorization, because the vessel un-

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dermined the effectiveness of international conservation and management measures.

(2) The restrictions in paragraphs (a)(1) (i) and (ii) of this section do not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Regional Administrator demonstrating that the owner and operator at the time the vessel undermined the effectiveness of such measures has no further legal, beneficial, or financial interest in, or control of, the vessel.

(3) The restrictions in paragraphs (a)(1) (i) and (ii) of this section do not apply if it is determined by the Regional Administrator that issuing a permit would not subvert the purposes of the Agreement.

(b) *Application forms.* The owner or operator of a high seas fishing vessel may apply for a permit under this subpart by completing an application form. Applicants may obtain an application form from a Regional Administrator.

(c) *Application information.* An applicant must submit a complete and accurate permit application, signed by the owner or operator, to the appropriate Regional Administrator.

(d) *Fees.* NMFS will charge a fee to recover the administrative expenses of permit issuance. The amount of the fee will be determined in accordance with the procedures of the NOAA Finance Handbook, available from a Regional Administrator, for determining administrative costs of each special product or service. The fee is specified with the application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded will invalidate any permit.

(e) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Administrator will issue a permit, which will include appropriate conditions or restrictions, within 30 days of receipt of a completed application and payment of the appropriate fee.

## Int'l. Fishing and Related Activities

## § 300.14

(2) The Regional Administrator will notify the applicant of any deficiency in the application.

(f) *Validity.* Permits issued under this subpart are valid for 5 years from the date of issuance. Renewal of a permit prior to its expiration is the responsibility of the permit holder. For a permit to remain valid to its expiration date, the vessel's USCG documentation or state registration must be kept current. A permit issued under this subpart is void when the name of the owner or vessel changes, or in the event the vessel is no longer eligible for U.S. documentation, such documentation is revoked or denied, or the vessel is removed from such documentation.

(g) *Change in application information.* Any changes in vessel documentation status or other permit application information must be reported to the Regional Administrator in writing within 15 days of such changes.

(h) *Transfer.* A permit issued under this subpart is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

(i) *Display.* A valid permit, or a copy thereof, issued under this subpart must be on board the vessel while operating on the high seas and available for inspection by an authorized officer. Faxed copies of permits are acceptable.

[61 FR 35550, July 5, 1996, as amended at 64 FR 15, Jan. 4, 1999]

### § 300.14 Vessel identification.

(a) *General.* A vessel permitted under this subpart must be marked for identification purposes in accordance with this section.

(b) *Marking.* Vessels must be marked either:

(1) In accordance with vessel identification requirements specified in Federal fishery regulations issued under the Magnuson-Stevens Act or under other Federal fishery management statutes; or

(2) In accordance with the following identification requirements:

(i) A vessel must be marked with its IRCS, or, if not assigned an IRCS, must be marked (in order of priority) with its Federal, state, or other documenta-

tion number appearing on its high seas fishing permit;

(ii) The markings must be displayed at all times on the vessel's side or superstructure, port and starboard, as well as on a deck;

(iii) The markings must be placed so that they do not extend below the waterline, are not obscured by fishing gear, whether stowed or in use, and are clear of flow from scuppers or overboard discharges that might damage or discolor the markings;

(iv) Block lettering and numbering must be used;

(v) The height of the letters and numbers must be in proportion to the size of the vessel as follows: for vessels 25 meters (m) and over in length, the height of letters and numbers must be no less than 1.0 m; for vessels 20 m but less than 25 m in length, the height of letters and numbers must be no less than 0.8 m; for vessels 15 m but less than 20 m in length, the height of letters and numbers must be no less than 0.6 m; for vessels 12 m but less than 15 m in length, the height of letters and numbers must be no less than 0.4 m; for vessels 5 m but less than 12 m in length, the height of letters and numbers must be no less than 0.3 m; and for vessels under 5 m in length, the height of letters and numbers must be no less than 0.1 m;

(vi) The height of the letters and numbers to be placed on decks must be no less than 0.3 m;

(vii) The length of the hyphen(s), if any, must be half the height (h) of the letters and numbers;

(viii) The width of the stroke for all letters, numbers, and hyphens must be  $h/6$ ;

(ix) The space between letters and/or numbers must not exceed  $h/4$  nor be less than  $h/6$ ;

(x) The space between adjacent letters having sloping sides must not exceed  $h/8$  nor be less than  $h/10$ ;

(xi) The marks must be white on a black background, or black on a white background;

(xii) The background must extend to provide a border around the mark of no less than  $h/6$ ; and



Public Law 104-43  
104th Congress

An Act

To amend the Fishermen's Protective Act.

Nov. 3, 1995  
[H.R. 716]

Fisheries Act of  
1995.  
Conservation.  
16 USC 5501  
note.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fisheries Act of 1995".

**SEC. 2. TABLE OF CONTENTS.**

The Table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—HIGH SEAS FISHING COMPLIANCE

- Sec. 101. Short title.
- Sec. 102. Purpose.
- Sec. 103. Definitions.
- Sec. 104. Permitting.
- Sec. 105. Responsibilities of the Secretary.
- Sec. 106. Unlawful activities.
- Sec. 107. Enforcement provisions.
- Sec. 108. Civil penalties and permit sanctions.
- Sec. 109. Criminal offenses.
- Sec. 110. Forfeitures.
- Sec. 111. Effective date.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE  
MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

- Sec. 201. Short title.
- Sec. 202. Representation of United States under convention.
- Sec. 203. Requests for scientific advice.
- Sec. 204. Authorities of Secretary of State with respect to convention.
- Sec. 205. Interagency cooperation.
- Sec. 206. Rulemaking.
- Sec. 207. Prohibited acts and penalties.
- Sec. 208. Consultative committee.
- Sec. 209. Administrative matters.
- Sec. 210. Definitions.
- Sec. 211. Authorization of appropriations.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

- Sec. 301. Short title.
- Sec. 302. Research and monitoring activities.
- Sec. 303. Definitions.
- Sec. 304. Advisory committee procedures.
- Sec. 305. Regulations and enforcement of Convention.
- Sec. 306. Fines and permit sanctions.
- Sec. 307. Authorization of appropriations.
- Sec. 308. Report and savings clause.
- Sec. 309. Management and Atlantic yellowfin tuna.
- Sec. 310. Study of bluefin tuna regulations.
- Sec. 311. Sense of the Congress with respect to ICCAT negotiations.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

- Sec. 401. Findings.

- Sec. 402. Amendment to the Fishermen's Protective Act of 1967.
- Sec. 403. Reauthorization.
- Sec. 404. Technical corrections.

## TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

- Sec. 501. Short title.
- Sec. 502. Fishing prohibition.

## TITLE VI—DRIFTNET MORATORIUM

- Sec. 601. Short title.
- Sec. 602. Findings.
- Sec. 603. Prohibition.
- Sec. 604. Negotiations.
- Sec. 605. Certification.
- Sec. 606. Enforcement.

## TITLE VII—YUKON RIVER SALMON ACT

- Sec. 701. Short title.
- Sec. 702. Purposes.
- Sec. 703. Definitions.
- Sec. 704. Panel.
- Sec. 705. Advisory committee.
- Sec. 706. Exemption.
- Sec. 707. Authority and responsibility.
- Sec. 708. Continuation of agreement.
- Sec. 709. Administrative matters.
- Sec. 710. Authorization of appropriations.

## TITLE VIII—MISCELLANEOUS

- Sec. 801. South Pacific tuna amendment.
- Sec. 802. Foreign fishing for Atlantic herring and Atlantic mackerel.

## TITLE I—HIGH SEAS FISHING COMPLIANCE

**SEC. 101. SHORT TITLE.**

This title may be cited as the “High Seas Fishing Compliance Act of 1995”.

**SEC. 102. PURPOSE.**

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of permitting, reporting, and regulation for vessels of the United States fishing on the high seas.

**SEC. 103. DEFINITIONS.**

As used in this Act—

(1) The term “Agreement” means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term “FAO” means the Food and Agriculture Organization of the United Nations.

(3) The term “high seas” means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

High Seas  
Fishing  
Compliance Act  
of 1995.  
16 USC 5501  
note.

16 USC 5501.

16 USC 5502.

- (4) The term “high seas fishing vessel” means any vessel of the United States used or intended for use—
- (A) on the high seas;
  - (B) for the purpose of the commercial exploitation of living marine resources; and
  - (C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.
- (5) The term “international conservation and management measures” means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.
- (6) The term “length” means—
- (A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and
  - (B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel’s documentation.
- (7) The term “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.
- (8) The term “Secretary” means the Secretary of Commerce.
- (9) The term “vessel of the United States” means—
- (A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;
  - (B) a vessel owned in whole or part by—
    - (i) the United States or a territory, commonwealth, or possession of the United States;
    - (ii) a State or political subdivision thereof;
    - (iii) a citizen or national of the United States;
- or
- (iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized

to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms “vessel subject to the jurisdiction of the United States” and “vessel without nationality” have the same meaning as in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. 1903(c)).

**SEC. 104. PERMITTING.**

16 USC 5503.

(a) **IN GENERAL.**—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this section.

(b) **ELIGIBILITY.**—

(1) Any vessel of the United States is eligible to receive a permit under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a permit would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a permit to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) **APPLICATION.**—

(1) The owner or operator of a high seas fishing vessel may apply for a permit under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

- (F) the type of vessel;
- (G) the vessel's length; and
- (H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) **CONDITIONS.**—The Secretary shall establish such conditions and restrictions on each permit issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

Regulations.

(2) The permit holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

Regulations.

(e) **FEES.**—

(1) The Secretary shall by regulation establish the level of fees to be charged for permits issued under this section. The amount of any fee charged for a permit issued under this section shall not exceed the administrative costs incurred in issuing such permits. The permitting fee may be in addition to any fee required under any regional permitting regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) **DURATION.**—A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

16 USC 5504.

**SEC. 105. RESPONSIBILITIES OF THE SECRETARY.**

(a) **RECORD.**—The Secretary shall maintain an automated file or record of high seas fishing vessels issued permits under section 104, including all information submitted under section 104(c)(2).

(b) **INFORMATION TO FAO.**—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any permit granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the permit;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of permit application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

Federal Register,  
publication.

#### SEC. 106. UNLAWFUL ACTIVITIES.

16 USC 5505.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e);

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a permit issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has

the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or permit issued under this title; or

(10) to violate any provision of this title or any regulation or permit issued under this title.

16 USC 5506.

**SEC. 107. ENFORCEMENT PROVISIONS.**

(a) **DUTIES OF SECRETARIES.**—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or permit issued under this title.

(b) **DISTRICT COURT JURISDICTION.**—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) **POWERS OF ENFORCEMENT OFFICERS.**—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used

or employed in, the violation of any provision of this title or any regulation or permit issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or permit issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

Records.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

#### SEC. 108. CIVIL PENALTIES AND PERMIT SANCTIONS.

16 USC 5507.

##### (a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

##### (b) PERMIT SANCTIONS.—

(1) In any case in which—



(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any permit issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions and restrictions on such permit.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the

United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a permit sanction is imposed under subsection (b) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

#### SEC. 109. CRIMINAL OFFENSES.

16 USC 5508.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

#### SEC. 110. FORFEITURES.

16 USC 5509.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a

result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

16 USC 5501  
note.

**SEC. 111. EFFECTIVE DATE.**

This title shall take effect 120 days after the date of enactment of this Act.

Washington, DC 20230 (or via the Internet at [DHynek@doc.gov](mailto:DHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of the information collection instrument and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910-3282 (phone 301-713-2276, ext. 154).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The operators of vessels licensed under the High Seas Fishing Compliance Act are required to report their catch and fishing effort when fishing on the high seas. The requirement is for fishery management purposes and to provide data to international organizations. Vessels already maintaining logbooks under other specific regulations are not required to maintain an additional logbook.

**II. Method of Collection**

Paper logbook pages are submitted.

**III. Data**

*OMB Number:* 0648-0349.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 550.

*Estimated Time Per Response:* 5 minutes per day for days fish are caught; and 1 minute per day for days when fish are not caught.

*Estimated Total Annual Burden Hours:* 850.

*Estimated Total Annual Cost to Public:* 3,000.

**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: January 14, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-1338 Filed 1-25-05; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 011905C]

**Proposed Information Collection; Comment Request; High Seas Fishing Vessel Identification Requirements**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**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 March 28, 2005.

**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](mailto:DHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910-3282 (phone 301-713-2276, ext. 154).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The operators of vessels licensed under the High Seas Fishing Compliance Act are required to mark their vessels in 3 locations (port and starboard sides of the deckhouse or hull, and on a weatherdeck) with their official number or radio call sign. The requirement is for enforcement purposes.

**II. Method of Collection**

No information is submitted, only displayed on the vessel.

**III. Data**

*OMB Number:* 0648-0348.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 50.

*Estimated Time Per Response:* 45 minutes (15 minutes for each of 3 locations).

*Estimated Total Annual Burden Hours:* 37.

*Estimated Total Annual Cost to Public:* \$1,000.

**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: January 14, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-1339 Filed 1-25-05; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 011805D]

**Proposed Information Collection; Comment Request; High Seas Fishing Permit Application Information**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**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 March 28, 2005.

**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](mailto:DHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910-3282 (phone 301-713-2276, ext. 154).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

U.S. vessels that fish on the high seas (waters beyond the U.S. exclusive economic zone) are required to possess a permit issued under the High Seas Fishing Compliance Act. Applicants must submit information to identify their vessels and intended fishing areas. The application information is used to process applications and to maintain a register of vessels authorized to fish on the high seas.

**II. Method of Collection**

Paper forms must be mailed to NOAA.

**III. Data**

*OMB Number:* 0648-0304.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 100.

*Estimated Total Annual Cost to Public:* \$10,000.

**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: January 14, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 05-1341 Filed 1-25-05; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 011805E]

**New England Fishery Management Council; Habitat Oversight Committee; Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

**ACTION:** Notice of a public meeting.

**SUMMARY:** The New England Fishery Management Council's Habitat Oversight Committee will meet in February 2005. Recommendations from the Committee will be brought to the full Council for formal consideration and action, if appropriate. Agenda topics can be found in the **SUPPLEMENTARY INFORMATION** section of this notice.

**DATES:** The meeting will be held on Wednesday, February 16, 2005, beginning at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Radisson Hotel Plymouth Harbor, 180 Water Street, Plymouth, MA 02360; phone: (508) 747-4900.

*Council address:* New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council; phone: (978) 465-0492.

**SUPPLEMENTARY INFORMATION:** The Habitat Oversight Committee (Committee) will continue work on elements of the Essential Fish Habitat (EFH) Omnibus Amendment 2 including, but not limited to: progress on improved gear descriptions; a strategy for the prioritization of habitat protection; the Habitat Evaluation Working Group; Habitat Areas of Particular Concern (HAPC) candidate proposals (received to date); and the evaluation of non-fishing impacts on EFH. The Committee will be updated on

the planning for Marine Protected Area (MPA) education and outreach workshop(s) to assist the Council develop its MPA policy. Final preparation of a public comment letter on the Cape Wind Draft Environmental Impact Statement is also on the agenda. Other topics will be discussed at the Committee's discretion.

The Committee will meet jointly with the Habitat Plan Development Team and the Chair and Vice-Chair of the Habitat Advisory Panel in the afternoon to continue work on a strategy for the prioritization of habitat protection.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least five days prior to the meeting dates.

Dated: January 19, 2005.

**Emily Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 05-1340 Filed 1-25-05; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 011405B]

**Endangered Species; File No. 1475**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Receipt of permit application addendum.

**SUMMARY:** The Florida Fish and Wildlife Conservation Commission (FFWCC), Florida Marine Research Institute (Richard E. Matheson, Principal Investigator), 1481 Market Circle, Unit 1, Port Charlotte, FL 33953, has submitted a request to modify their permit application (File No. 1475). The original application requested