

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 06/29/2007

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 03/21/2007

ACTION REQUESTED: New collection (Request for a new OMB Control Number)
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200703-0648-006
AGENCY ICR TRACKING NUMBER:
TITLE: Economic Performance in the Commercial Stone Crab and Lobster Fisheries in Florida
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0560
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: 06/30/2010 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	0	0	0
New	58	58	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	58	58	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: John F. Morrall III
Acting Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Socioeconimc Survey of Stone Crab Fishermen	NA	Socioeconomic Survey of Stone Crab Fishermen	

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
ECONOMIC PERFORMANCE IN THE COMMERCIAL STONE CRAB
AND LOBSTER FISHERIES IN FLORIDA
OMB CONTROL NO.: 0648-xxxx**

A. JUSTIFICATION

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

The objective of the proposed work is to collect data with which to establish socio-economic baselines in the commercial stone crab and lobster fisheries assess the financial and economic performance of the industry, and develop economic models to evaluate future management proposals. This project builds upon a previous data collection (OMB Control No.: 0648-0534, expiration date 01/31/2009) by National Oceanic and Atmospheric Administration (NOAA)'s National Ocean Service and Thomas J. Murray & Associates to monitor fishing activities, including the commercial stone crab and lobster fisheries, within the Florida Keys National Marine Sanctuary. An abbreviated and modified form of the previous survey instrument will be used to collect data from stone crab fishermen that land in counties along the west coast of Florida and from lobster/stone crab fishermen that land in the Miami River area. Data will not be collected in the Florida Keys, which was surveyed in the previous study. The University of Miami, which is our contractor, will train interviewers, conduct in-person interviews, accurately enter data into a database, and provide the completed survey forms to the Southeast Fisheries Science Center (SEFSC). The SEFSC anticipates the need for approximately 150-175 voluntary, in-person interviews from approximately 770 commercial stone crab and lobster fishermen who live in areas outside of the previous study area. The data collection will occur between May and October 2007 when the stone crab fishery is closed.

The need for social and economic information and the authorization to collect these data are found in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), [as amended in 2007](#), Executive Order 12866 ([58 FR 51735 \[1993\]](#)), the Regulatory Flexibility Act ([5 U.S.C. 601 et seq.](#)), the National Environmental Policy Act ([42 U.S.C. 4371 et seq.](#)), and Executive Order 12898 ([59 FR 7629 \[1994\]](#)). The Magnuson-Stevens Act requires that fishery management plans include a Fishery Impact Statement to describe and assess the likely effects of the conservation and management measures on participants in the fisheries being managed, fishing communities dependent on these fisheries, and participants in fisheries in adjacent areas. Executive Order 12866 requires economic analyses of the benefits and costs to society of each proposed regulatory alternative, and a determination of whether the rule is significant. Under the RFA, the Small Business Administration needs to determine whether a proposed rule has a significant impact on a substantial number of small entities that are to be directly regulated, including an assessment of the change in short-term accounting profits for small entities. Under the National Environmental Policy Act, analyses must be conducted to determine whether federal actions significantly affect the human environment, which requires a number of different types of economic analyses. Executive Order 12898 requires federal agencies to address environmental justice concerns by identifying "disproportionately high and adverse human health and environmental effects...on minority populations and low-income populations."

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.

By whom and how frequently data will be used:

Upon completion of the survey, information to be acquired with this data collection will be used by economists employed by the SEFSC to prepare an assessment of economic performance in the commercial stone crab and lobster fisheries. Thereafter, data will be used periodically by economists with the SEFSC and Gulf of Mexico Fishery Management Council to estimate the likely economic effects of proposed regulations, with the frequency of use to be determined by the frequency with which new regulations are proposed. Analyses based on these data will be made available to fishery managers and the public in support of the fishery management process.

How and for what purpose the data will be used:

The proposed questionnaire is attached. Page 1 is to be completed by the interviewer and documents the process of contacting randomly selected fishermen and scheduling an interview. Information on page 1 will not be entered into the final database that is provided to the SEFSC. Page 2 includes the statement of public reporting burden. Pages 3-9 include the questions to be asked of each respondent.

General Information

The respondent's The Saltwater Products License (SPL) number will be recorded. The SPL number is the key identifying variable in the Florida trip ticket database. The State of Florida requires fishermen to file trip reports with information about landings by species. We plan to summarize information about catches as reported in the trip ticket database rather than lengthen each interview by asking fishermen about their landings in the stone crab, lobster and other fisheries. In addition, the SPL number is unique for each fisherman, and represents the variable used to create the sampling universe of stone crab fishermen. See Part B, responses #1 and #2 for a description of the sampling universe and sampling procedures based on SPL number.

Questions 1-4 ask for basic demographic information, such as age and ethnicity of the respondent and the number of persons in the household. Ethnicity data will be used to categorize the results of analysis of proposed regulations in order to address environmental justice concerns.

Question 5 asks if the respondent belongs to a fish house. Many fishermen are directly employed by fish houses and others simply sell their catch to a fish house without a formal agreement requiring them to land the fish with the fish house. This item provides information about the extent of contractual arrangements within the fishery, which may affect geographic mobility in response to regulation.

Question 6 asks for the fisherman's primary hauling port/dock. This information provides the connection between fishing activities and the communities that benefit from these activities.

Question 7 asks for the fisherman's years of experience in the commercial fishing industry. Years of experience in commercial fishing is a measure of personal investment in fishing as a career choice, and a potentially important measure of skill in a production function. Also, this information is an important indicator of the respondent's willingness to adapt to changes in economic and/or regulatory conditions in their fishery, with the hypothesis that fishermen with longer tenures and greater personal investment in fishing would be more willing and able to adapt to changing conditions in the fishery.

Questions 8-10 pertain to the issue of economic dependency on commercial fishing. Fishery regulations are likely to have the greatest adverse consequences to fishermen for whom commercial fishing is a major source of personal and household income. Question 8 asks the respondent to assess his or her level of involvement in commercial fishing as an occupation. The key distinction is whether he/she is part time or full time in the commercial fishery. Separate responses appear for charter boat operators who do not consider themselves to be commercial fishermen but still sell some of their catch. Similarly, some fishermen that are normally considered recreational fishermen may on occasion sell their catches. Questions 9 and 10 ask about the relative importance of commercial fishing as a source of personal and household income. Fishermen with other sources of income (such as other jobs, pensions, investments and working spouses) are better able to absorb reductions in fishery income due to regulation, at least temporarily, while alternative fisheries or employments are being sought.

Vessel and Gear Information

Questions 11-13 ask about vessel length and age and horsepower of its engines, which are fixed factors in each fisherman's production function and serve as explanatory variables for industry-wide studies of production and cost.

Question 14 asks about numbers of total traps fished, whereas Question 20b asks about traps fished per trip. It is expected that total traps fished will exceed traps fished per trip because competition among fishermen often compels them to fish as much bottom space as possible by deploying large numbers of traps, each with long soak times because it is infeasible to check (i.e., pull) each trap on a single trip. Questions 14-16 ask about fish traps in addition to stone crab and lobster traps because some stone crab fishermen along the west coast of Florida use fish traps to land groupers during the May-October closed season for stone crab.

Data about revenues, costs and profits are used to monitor the health of a fishery and study the effects of proposed regulations. Estimates of landings and revenues can be obtained from trip reports submitted to the State of Florida trip ticket database. However, data about costs are not available elsewhere. Relevant costs include marginal costs per trip, marginal costs per trap, and fixed costs per boat for the overall fishing operation. Questions 16 and 17 pertain to the marginal cost per trap. Questions 18 and 19 pertain to fixed costs per boat. Question 20 pertains to marginal costs per trip.

Question 15 asks about the expected lifetime of stone crab, lobster traps and fish traps so that the cost of new traps can be depreciated when estimating the marginal cost of owning an additional trap. Depreciation for traps will be determined from the cost of a new trap (Question 16) and the expected lifetime of stone crab and lobster traps (Question 14).

Question 16 asks about the cost of adding or replacing traps and the number of new or replacement traps built or bought. Hence, Question 16 determines current outlays for new traps and establishes the cost of a new trap to be used in the calculation of depreciation.

Question 17 asks about maintenance and repair costs, which vary directly with the amount of gear used in the fishery. Hence, they are an important component of the marginal cost of owning and operating each unit of gear fished. Separate estimates of maintenance and repair will be requested for each gear type to enable studies about the costs and benefits of changes in the number of gear used for each fishing activity as a result of switching behavior among fishing activities as fishermen respond to regulation.

Capital Investment in Boat and Gear

Question 18 asks for the fair market value of the vessel, gear and trap certificates. Market value is used to determine the opportunity cost of capital invested in the fishery, which is used to determine if economic rents are earned in the overall fishing operation. The market value of traps and trap certificates is used to estimate the opportunity cost of traps as one component of the marginal cost per trap. The stone crab and lobster fisheries are managed by the State of Florida with trap certificate programs. Trap certificates are transferable privileges to deploy traps, with the total number of traps in the fisheries limited by the State. Therefore, trap certificates have market value as fishermen must buy additional certificates to expand their scales of operation in the fishery, and may sell certificates to contract their scales of operation.

Question 19 asks for cash expenses associated with ownership of the respondent's boat during 2006, such as dock space, insurance, loan payments, and office and vehicle expenses. We expect that Question 19 will be the most difficult for fishermen to recall accurately, and interviewers will prompt respondents to check their income tax records if they seem unable to answer the question with certainty.

Fishing Activity During 2006

Question 20 represents the heart of the survey because trip-level data will be used to estimate the expected economic effects of regulation on the profitability of different kinds of trips, and the possibility that fishermen will either continue to fish as before or change their fishing strategies in response to proposed regulation. Therefore, this question asks for detailed information about fishing effort and harvesting costs in the stone crab and lobster fisheries and the respondent's most important other fishing activity. Responses will be recorded in the table on the page following Question 20, with Column A pertaining to stone crab trips, Column B pertaining to lobster trips, and Column C pertaining to the respondent's most important other fishing activity. Participation in both stone crab and lobster fisheries is common in the Florida Keys, but not along the west coast of Florida or in the Miami River area where this survey will be conducted. Therefore, we anticipate that the majority of respondents will complete Column A or B and Column C in the table associated with this question.

Question 20a asks respondents to identify the three most important species landed in each type of trip. Stone crab and lobster trips primarily harvest one species—either stone crabs or lobsters. However, other gears are less selective, and we expect responses for the other fishing activity in

Column C to vary considerably among respondents. Respondents along the west coast of Florida probably participate in the stone crab, grouper and/or mackerel fisheries, while respondents in the Miami River area probably participate in the lobster, mackerel and/or yellowtail snapper fisheries. Information from Question 20 will be combined with information about fishing effort and landings from the Florida Trip Ticket database, but we need to match the kind of fishing trip described in Column C with the same kind of trips from the Trip Ticket database. The purpose of asking for the top three species (Question 20a) and gear type (Question 20b) is to assist in the process of classifying trips from the trip ticket database and then matching with our survey data.

Questions 20b and 20c ask for various measures of fishing effort, including the type and amount of gear used, average crew size, the average duration of trips in terms of days absent from port. Fishing effort is an important determinant of production and cost per trip, both of which can change as a result of regulation.

Question 20d asks for expected trip costs. Trip costs for fuel, oil, ice, bait, food, and the frequent loss of tackle vary predictably per trip, and separate estimates are requested for each type of fishing. Payment to crew members represents one of the largest cost components. Fishing is a highly uncertain business, and typically, payments to the crew, captain and boat owner are calculated as a percentage of revenues after deducting trip costs so that all share in the risk and reward of variable catch rates. This question asks for cash outlays to crew members, including captain if he/she is not the owner. Payments to owner-operators are usually deposited in their business accounts from which they earn a salary. In addition, they devote considerable non-fishing time to their businesses. Hence, it would be difficult for owner-operators to impute and report an accurate labor cost per trip for themselves.

Question 20e asks for expected revenues per trip. In theory, fishermen base their decisions about whether to take another trip on the difference between average revenues and average costs per trip, or whether to switch to an alternative type of fishing trip by comparing net revenues per trip among fishing activities. Also, the sum of trip revenues minus trip costs must be sufficient during the year to pay the owner for his labor, fixed costs and opportunity cost of capital invested in the business.

Many stone crab fishermen along the west coast of Florida use fish traps to catch groupers between May and October when the stone crab season is closed. However, fish traps will be prohibited in federal waters beginning in February 2007. The proposed survey will interview fishermen during the first year in which they will have had to adapt to this regulation. The purpose of Question 21 is to obtain information about likely losses to fishermen from the upcoming prohibition on the use of fish traps in the Gulf. Column D in the table will ask fishermen about their 2006 activities with fish traps, while column E will be used to find out how they adjusted and how it affected their harvesting costs and revenues per trip.

Performance under the Certificate Program

Questions in Part 2 of the proposed questionnaire concern the views held by stone crab fishermen on the 2000 Stone Crab Trap Certificate Program (Florida Statutes 370.13). Under the program, fishermen have been allocated a fixed number of certificates, each of which corresponds to a stone crab trap that can be used to fish each stone crab season. Unlike the other trap certificate program which concerns the spiny lobster fishery (Florida Statutes 370.142) and

which has included an active reduction, the stone crab certificate program has allowed for more gradual, passive reductions. Thus, this section provides for an excellent opportunity by which to contrast the perceived efficacy and equity of the present system, especially as compared to the aforementioned spiny lobster certificate program.

Questions 1 through 4 concern the allocation (i.e. number of trap certificates provided to the fisherman as part of the stone crab certificate program). Question 1 asks the number of traps generally fished prior to the certificate program, and Question 2 asks how many traps were allocated. The difference, if any, will assist in establishing a potential basis for the fisherman's subsequent views on the program, as these may be related to perceived gains or losses at the allocation stage. Accordingly, Question 3 asks if the amount of certificates awarded were fair or not, and Question 4 follows up with asking about changes in effort since the allocation.

Questions 5-10 are open-ended because we do not know the entire range of responses that may be given. Some possible outcomes can be envisioned, but we do not want to influence the respondents by telegraphing categories of responses or coaxing particular responses by having them pre-coded on the questionnaire. The open-ended nature of each question will be treated as a discovery technique intended to result in a better understanding of fishers' operational strategies and views towards management.

Question 5 addresses the present level of effort, in terms of the number of traps fished currently, to determine why the fisherman has elected to fish the trap total that he/she does currently.

Question 6 concerns the changes in catch-per-unit-effort (CPUE), as measured by the amount landed per trap, since the inception of the certificate program. The information gathered from this question is important in understanding both how the program is perceived and (on a firm level) how the program has performed (notwithstanding other resource condition changes).

Question 7 asks whether the fisherman's fishing areas have changed since the certificate program began and if so, then why. One of the expected results of the program over time is that CPUE will increase and that fishing areas may contract (if not in distance from port, then in total area). However, a mitigating factor in the past three years has been the increase in fuel prices, and thus the question is asked using an open-ended format, thereby allowing the respondent to expatiate on sundry conditions that may have affected fishing areas. Respondents will be encouraged to point out fishing areas on maps of Florida waters.

Question 8 addresses the changes in fishery participation at the fishermen's dock since the inception of the program. Participation in the spiny lobster fishery declined considerably since the implementation of the spiny lobster trap certificate program¹, and this question examines whether such changes have occurred under the stone crab trap certificate program.

Questions 9 through 11 consider the overall effects of the stone crab trap certificate program, as

¹ Larkin, S., and J. W. Milon. 2000. Tradable Effort Permits: A Case Study of the Florida Spiny Lobster Trap Certificate Program. International Institute of Fisheries Economics and Trade Conference, Corvallis, OR, July 10-14, 2000. World Wide Web Document. URL: <http://oregonstate.edu/dept/IIFET/2000/papers/larkin.pdf>; Shivlani, M. P., and J. W. Milon. 2000. Socio-cultural Effects of a Market-based Fishery Management Program in the Florida Keys. *Coastal Management* 28: 133-147.

these relate to the overall performance of the program and how that may compare to the spiny lobster trap certificate program, and especially whether the industry would favor an active reduction component in the program if it were to result in other fishery benefits. Under the present framework, effort in the stone crab fishery is not expected to decrease for several years², and Questions 10 and 11 explore fishermen's views on the acceptability of such a program, compared to a more active reduction model (under different benefit scenarios). The information gathered will provide an important benchmark that can be used to compare active and passive reduction programs, both in terms of their acceptability and overall performance.

How the data collection complies with all applicable Information Quality Guidelines:

Data and analyses based on this data collection will comply with agency guidelines to assure the utility, objectivity and integrity of information. As explained in the preceding paragraphs, the information gathered has utility. NOAA's National Marine Fisheries Service (NMFS), and in particular the SEFSC, 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 Part A, response #10 of this Supporting Statement for more information regarding confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA Fisheries SEFSC decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of the 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.

Trained interviewers will collect data during face-to-face personal interviews with commercial stone crab and lobster fishermen. Personal interview is the preferred method of collecting this information as a means to establish better rapport and interaction with respondents. Interviewers are better able to explain the intent of each question and understand the context of the answer, especially for open-ended questions about performance under the new trap certificate program for the stone crab fishery. Questionnaires will be filled out the old-fashioned way with pencil or pen, and data will be scanned into a database at a later date. Interviewers will not use laptops or other computers to electronically record responses during each interview. Although electronic recording of information during the interview would hasten the analyst's access to the database, it is our belief that it would lengthen the duration of each interview and would eliminate any paper record that could be consulted when suspicious or unusual observations are encountered during an analysis.

The questionnaire will be available for public printing off the internet (site to be determined), and individuals who have been randomly selected for the survey may fill in the form and send it to us electronically. However, information that may be submitted by members of the public who have not been randomly selected for the survey will not be used. We do not plan to expend

² Sharp, W. 2006. Stone Crab Stock Assessment Consent Agenda, October 20, 2006. Florida Fish and Wildlife Conservation Commission, Division of Marine Fisheries Management. World Wide Web Document, URL: http://www.floridaconservation.org/commission/2006/Dec/Presentations/stonecrab_SA_Dec06_%20Final.pdf.

research funds to establish a website through which respondents can submit data directly into a database since this is a small, one-time survey.

Data to be collected during the survey will not be made available to the public over the internet. Reports based on the survey will be available upon request.

4. Describe efforts to identify duplication.

The proposed data collection benefits in two ways from other reporting requirements or surveys. First, the State of Florida trip ticket program already collects trip-level information about landings by species. Therefore, the proposed questionnaire is shorter and less time-consuming to complete because it does not need to ask for information about catches.

Second, a previous survey (OMB Control No.: 0648-0534) already collected social and economic data from stone crab and lobster fishermen in the Florida Keys, and hence the proposed data collection will save research time and money by not including the Keys in the sampling universe. The proposed questionnaire is constructed to be as compatible as possible with that of the earlier survey so that data from the two surveys can be combined for analyses of the entire geographic range of the stone crab fishery. The combined data will account for the bulk of the lobster fishery, but the proposed data collection is not funded sufficiently to survey the lobster fishery along the east coast of Florida (see Part A, response #8 for additional discussion).

The proposed questionnaire is shorter than that used previously in the Florida Keys because there is no need to ask about fishermen's perceptions of the Florida Keys National Marine Sanctuary or for detailed information about trip-level landings, fishing effort and harvesting costs in fishing areas near the Sanctuary.

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

Commercial stone crab and lobster fishermen operate small businesses as defined by the Small Business Administration. The proposed data collection minimizes reporting burden by requesting that a sample of boats provide social and economic information. Boats not selected in the sample will not incur a reporting burden.

In addition, the survey is designed to collect information efficiently through face-to-face interviews with fishermen. Experienced interviewers will ask questions and record answers. There are no written forms or paperwork to be completed and submitted by fishermen. Interviews will be conducted at times and locations convenient for fishermen and all questions require short answers, except for the open-ended questions about performance under the trap certificate program for the stone crab fishery. Interviews are planned for the summer of 2007 to coincide with the annual closed season in the stone crab fishery, and after the normal April 15th deadline for the 2006 tax year so that fishermen (or their accountants) should have recently completed their annual compilations of costs. The questions about maintenance / repair and overhead costs are projected to be the most difficult to answer and may require fishermen to refer to their tax records. Furthermore, the reporting burden on respondents is minimized in that they

will not be asked to provide information on a continuing basis.

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

Economists in the SEFSC are charged with collecting economic data from fishermen in all commercial fisheries in the southeast for which federal fishery management plans exist. Data from the proposed data collection, when combined with data from the previous survey in the Florida Keys, will establish socio-economic baselines in the commercial stone crab and lobster fisheries with which to assess the current financial and economic performance of the industry, and will enable the development of economic models with which to evaluate future management proposals. If the proposed data collection is not conducted, then analyses of proposed management actions would be based on data from the previous survey of fishermen in the Florida Keys. While these data are adequate for the Keys, they will be subject to question when applied to fishermen who live in counties along the west coast of Florida where fishing conditions and opportunities are expected to be substantially different. Regulation based on incomplete data could be challenged.

The stone crab and lobster fisheries exist primarily in State waters and are managed primarily by the State of Florida. Federal fishery management plans exist and are amended infrequently. Therefore, we plan to collect data in these fisheries about once every 5-10 years, and update data from the baseline survey (i.e., the proposed data collection) with appropriate price indices published by the Bureau of Labor Statistics during the interim. If the proposed data collection were repeated less frequently, then analyses would continue to be based on data from the baseline survey as updated by appropriate price indices. The adequacy of the baseline data for regulatory analyses would depend on the degree to which economic conditions and harvesting costs in the fishery change over time and the frequency with which management plans are amended. Rapid changes in either type of condition would increase the risk of regulatory challenges if the data collection were repeated less frequently.

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

The data collection will be 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.

Public comments about the PRA notice:

A notice was published in the Federal Register on September 26, 2006 (71 FR 56106). We received one comment (in italics below) on October 3, 2006, via e-mail from Captain Ron

Rincones, who noted that surveys of the commercial lobster fishery should include counties along the east-central coast of Florida.

Subject: Lobster Survey

Hello, While the Keys are the primary commercial lobster harvest area. There are also many commercial lobster divers as well, in East Central Florida.

I mention this only because a recent survey from another agency regarding jewfish (goliath), neglected the East Central Florida area where they are quite numerous.

Regards,

Capt Ron Rincones

Our preliminary assessment of the potential respondent universe (see Part B, response #1) indicates that in 2004, 231 persons landed 441,300 pounds of lobsters in counties along the east coast of Florida and 847 persons landed 4,543,500 pounds of lobsters along the west coast of Florida, primarily in the Florida Keys. Data for 2005 were incomplete when obtained, but indicate that 195 persons landed 300,200 pounds of lobsters along the east coast of Florida and 740 persons landed 3,023,300 pounds along the west coast of Florida.

The proposed data collection will sample lobster fishermen in Miami-Dade County along the east coast of Florida, which included 98 fishermen who landed 328,700 pounds of lobsters in 2004 and 79 fishermen who landed 197,200 pounds of lobsters in 2005. Therefore, our data collection will miss fishermen who landed lobsters in east coast counties north of Miami, which is Captain Rincones's complaint. We agree that it would be desirable to include the entire east coast of Florida in our survey, but our budget was insufficient. Based on trip ticket data for 2004, our survey will miss 133 fishermen who landed 112,600 pounds of lobsters. Based on preliminary and incomplete data for 2005, our survey will miss 116 persons who landed 103,000 pounds. Also, the proposed survey will miss 56 fishermen who landed 7900 pounds of stone crabs from Broward through Nassau counties based on data for 2004, and 54 fishermen who landed 6900 pounds of stone crabs based on data for 2005.

Consultations with persons outside the agency:

A previous data collection (OMB Control No.: 0648-0534) by NOAA's National Ocean Service and Thomas J. Murray & Associates interviewed fishermen in the Florida Keys, which encompasses the bulk of the lobster fishery and a large portion of the stone crab fishery. Manoj Shivlani led the interviewing effort for Thomas J. Murray & Associates and will lead the interview team for the proposed data collection. The proposed questionnaire is an abbreviated and modified form of the previous questionnaire, which was successful according to Mr. Shivlani. He has consulted with us during the development of the proposed questionnaire and sampling design.

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

No payments or gifts will be provided to respondents.

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

The proposed survey will request information about trip-level costs and revenues and annual costs for commercial fishermen in the stone crab and lobster fisheries. Each record of the resulting database will include the respondent's SPL number so that data can be merged with information about the respondent's landings that is maintained by the State of Florida. Therefore, this information will be treated as confidential in accordance with NOAA Administrative Order 216-100, Confidential Fisheries Statistics. In addition, the Magnuson-Stevens Act protects the confidentiality of those who submit data for use in the fishery management process.

The integrity of the information will be protected by NOAA standards for security, confidentiality and privacy. It is Agency policy not to release confidential data, other than in aggregate form, as the Magnuson-Stevens Act protects the confidentiality of those submitting data. Data will not be available on-line and will not be distributed except by special request by analysts who need the data to support fishery regulations and have appropriate permissions for access to confidential data. Reports based on these data will not use people's names or other identifying information. Only group averages or group totals will be presented in any reports, publications, or oral presentations of the study's results.

The following assurance of confidentiality will be read to respondents prior to each interview.

“Thank you for agreeing to participate in our survey. These data will be used to write reports about the economics of commercial fishing activities in Florida's stone crab fishery. All of your information will be confidential. We will not use people's names in our reports, or write anything that could be used to identify you.

Public reporting burden for this collection of information is estimated to average one hour per response including the time for reviewing the instructions, searching the 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 aspects of this burden to Bob Walker, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149. This reporting is required under and is authorized under 50 CFR 622.5(a) (1) (v). Information submitted will be treated as confidential in accordance with NOAA Administrative Order 216-100. Notwithstanding any other provision of the 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 displays a currently valid OMB Control Number. The NMFS requires this information for the conservation and management of marine fishery resources.”

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 will be asked about sexual behavior and attitudes, religious beliefs, or other similar matters of a private and sensitive nature.

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

Data will be conducted via personal interviews with stone crab fishermen along the west coast of Florida and lobster fishermen in the Miami River area. Interviews will be conducted by a research team headed by Manoj Shivlani at the University of Miami. The budget for this data collection was based on an estimated cost per interview that would allow 150 interviews (see Part A, response #14). However, Mr. Shivlani has indicated that up to 175 interviews could be conducted if the actual cost per interview is less than anticipated. Therefore, estimates of burden hours are presented for 150 and 175 interviews. The maximum annualized burden hours would be 58.

Burden and Labor Costs to Respondents

	Total Burden - 150 interviews	Total Burden -175 interviews	Annual Burden – 150 interviews	Annual Burden – 175 interviews
Number of Respondents	150	175	50	58.3
Responses per Respondent	1	1	1	1
Total Responses	150	175	50	58.3
Average Hours per Response	1	1	1	1
Total Response Time (Hours)	150	175	50	58.3
Labor Cost to Respondents @ \$35/hour	\$5,250	\$6,125	\$1,750	\$2,042

The proposed data collection will be conducted during 2007 and will not be repeated until 5-10 years later (see Part A, response #6). Hence, the annualized estimate of total burden hours is calculated by averaging burden hours for the entire project over a three-year OMB cycle. Labor costs for respondents are calculated at \$35 per hour. This is an opportunity cost rather than a cash payment. We plan to keep the opportunity costs of time as low as possible by conducting interviews at times which would not interfere with fishermen's business or recreational activities. Interviews are planned between May and October of 2007 when the stone crab season is closed. Interviewers will contact fishermen and schedule interviews at times and places convenient to the fishermen.

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).

No recordkeeping requirements will be imposed on respondents. The proposed data collection is designed to collect information through face-to-face interviews with fishermen in which experienced interviewers will ask questions and record answers. There are no written forms or paperwork to be completed and submitted by fishermen, and no capital or start-up costs.

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

The cost of contracting with researchers at the University of Miami Rosenstiel School of Marine and Atmospheric Science to conduct the proposed data collection is \$42,000, which was determined as 150 interviews @ \$200 per interview plus 40% overhead for the University of Miami. Up to 175 interviews could be conducted if the actual cost per interview is less than the estimated \$200. Hence, the sampling design is based on an anticipated sample of 150-175 interviews.

The labor cost of SEFSC economists to identify the sampling universe and develop a sampling plan, develop the proposed questionnaire, and prepare the OMB 83i request form and Supporting Statement is approximately \$5,000.

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

This is a new data collection.

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

The objective of the proposed work is to collect data with which to establish socio-economic baselines in the commercial stone crab and lobster fisheries, assess the financial and economic performance of the industry, and develop economic models to evaluate future management proposals. Data will be collected between May and October 2007, and the final database should be available to SEFSC economists by February 2008.

A report will be prepared by SEFSC economists to provide a baseline snapshot of the current status of the population of commercial stone crab fishermen along the west coast of Florida. These descriptions will use simple statistical concepts such as means, medians, variances, ranges, coefficients of variation, and frequency distributions for each sampling stratum and for the population of commercial reef fishermen. The report may be published in a journal such as *Marine Fisheries Review* or posted on the SEFSC website.

Also, data will be used to develop economic models with which evaluate future management proposals. The results of these analyses probably will not be published. Economic effects of regulation on commercial fishermen are measured as changes in producers' surplus, which are approximated as changes in total revenues minus changes in costs of production. To account for

changes in producers' surplus in a realistic fashion, analyses should include changes in fishing patterns (i.e., participation rates among fishing activities).

The questionnaire was developed to enable analyses of cost, production and potential switching behavior among fishing activities. Trip costs can be estimated in terms of duration of trip, type of gear, vessel characteristics, and fishing location. Annual fixed costs can be estimated in terms of vessel characteristics. Data can be merged with Florida trip ticket data for analyses of production in terms of trip duration, gear type, average crew size, vessel characteristics and measures of fishing skill. Sample data can characterize the decision by each vessel owner to participate in each activity as a binary (yes-no) type variable. When all vessel owners are considered together, the likelihood of participation in any activity would then be estimated as a function of net operating revenues in that activity relative to net operating revenues in alternative activities, and sociological or demographic variables.

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.

The OMB control number and expiration date will be displayed.

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

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

(If your collection does not employ statistical methods, just say that and delete the following five questions from the format.)

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g. establishments, State and local governmental units, households, or persons) in the universe and the corresponding sample are to be provided in tabular form. The tabulation must also include expected response rates for the collection as a whole. If the collection has been conducted before, provide the actual response rate achieved.

Florida stone crab and spiny lobster fisheries:

The following table presents numbers of fishermen and landings for the stone crab and lobster fisheries in Florida, by county of landing during 2004. Corresponding data for 2005 were incomplete as of May 2006 when data were obtained from the Florida Trip Ticket database.

The stone crab fishery occurs primarily from Monroe County (i.e., the Florida Keys) and northward along the west coast of Florida. Fishermen in Monroe, Collier, Pinellas and Citrus counties account for approximately 80% of total landings of stone crab. The lobster fishery occurs primarily from Monroe County and northward along the east coast of Florida. Fishermen

in Monroe and Miami-Dade Counties account for approximately 97% of total landings of lobsters.

Commercial fishermen in Monroe County, including stone crab and lobster fishermen, were surveyed previously in studies sponsored by NOAA's National Ocean Service (OMB Control No.: 0648-0534). The proposed study will not duplicate these efforts. Instead, it will focus on stone crab and lobster fishermen in west coast counties and the Miami River area in Miami-Dade County, which encompass the bulk of the stone crab and lobster fishery other than in Monroe County. Study results will be presented as pertaining only to those areas that actually were sampled.

FISHERMEN WHO LANDED STONE CRABS AND/OR LOBSTERS IN FLORIDA, BY COUNTY IN 2004									
FL TRIP TICKET DATA OBTAINED ON MAY 26, 2006									
STATE	COUNTY	PEOPLE WITH STONE CRAB	PCT	POUNDS STONE CRAB	PCT	PEOPLE WITH LOBSTER	PCT	POUNDS LOBSTERS	PCT
FL East	Nassau	3	0.2%	193	0.0%	1	0.1%	228	0.0%
	Duval	5	0.4%	140	0.0%	9	0.8%	3,911	0.1%
	St. Johns	5	0.4%	602	0.0%	2	0.2%	585	0.0%
	Volusia	11	0.8%	3,117	0.1%	13	1.2%	3,827	0.1%
	Flagler	1	0.1%	121	0.0%	0	0.0%	0	0.0%
	Brevard	19	1.5%	2,005	0.1%	19	1.7%	10,106	0.2%
	Indian River	0	0.0%	0	0.0%	9	0.8%	1,887	0.0%
	St. Lucie	4	0.3%	144	0.0%	4	0.4%	676	0.0%
	Martin	1	0.1%	127	0.0%	19	1.7%	8,470	0.2%
	Palm Beach	1	0.1%	30	0.0%	48	4.3%	54,127	1.1%
	Broward	9	0.7%	1,422	0.0%	37	3.3%	28,788	0.6%
	Miami-Dade	42	3.2%	25,641	0.9%	98	8.8%	328,696	6.6%
	FL West	Monroe	503	38.8%	1,073,971	35.8%	820	74.0%	4,514,450
Collier		104	8.0%	687,242	22.9%	4	0.4%	22,128	0.4%
Lee		69	5.3%	104,511	3.5%	3	0.3%	41	0.0%
Charlotte		38	2.9%	17,772	0.6%	0	0.0%	0	0.0%
Sarasota		25	1.9%	48,511	1.6%	0	0.0%	0	0.0%
Manatee		47	3.6%	113,329	3.8%	0	0.0%	0	0.0%
Hillsborough		11	0.8%	3,066	0.1%	2	0.2%	86	0.0%
Pinellas		150	11.6%	325,493	10.9%	8	0.7%	5,632	0.1%
Pasco		29	2.2%	20,781	0.7%	1	0.1%	20	0.0%
Hernando		21	1.6%	17,024	0.6%	1	0.1%	301	0.0%
Citrus		68	5.2%	315,147	10.5%	0	0.0%	0	0.0%
Levy		29	2.2%	55,576	1.9%	0	0.0%	0	0.0%
Dixie		64	4.9%	90,522	3.0%	0	0.0%	0	0.0%
Taylor		12	0.9%	15,775	0.5%	0	0.0%	0	0.0%
Wakulla		19	1.5%	74,845	2.5%	5	0.5%	478	0.0%
Franklin		3	0.2%	2,494	0.1%	3	0.3%	222	0.0%
Bay		2	0.2%	75	0.0%	1	0.1%	10	0.0%
Walton	0	0.0%	0	0.0%	1	0.1%	126	0.0%	
Okaloosa	3	0.2%	33	0.0%	0	0.0%	0	0.0%	

TOTAL				2,999,705	100.0%			4,984,794	100.0%
-------	--	--	--	-----------	--------	--	--	-----------	--------

Potential Respondent Universe:

The potential respondent universe will be derived from lists of owners of trap certificates for the stone crab and lobster fisheries in Florida. These lists will be obtained from the State of Florida in late spring 2007 to insure that the respondent universe is as up-to-date as possible. A preliminary respondent universe based on data from the Florida Trip Ticket program is presented below, but this source would not be current enough to use as a respondent universe for sampling purposes.

Based on data for 2004, there were 770 fishermen who landed stone crab and/or lobsters in the study area. Some fishermen landed stone crabs and/or lobsters in more than one county. The table below tabulates only one occurrence for each fisherman according to the county in which the plurality of pounds were landed. However, pounds are tabulated in the county of landing. The column labeled 'People with SPL' includes 644 fishermen who landed stone crab only, 94 fishermen who landed lobsters only, and 32 fishermen who landed both stone crab and lobsters. The number of potential respondents in the final respondent universe probably will differ and will reflect entry into the fishery and exit out of the fishery between 2004 and late spring 2007.

PRELIMINARY POTENTIAL RESPONDENT UNIVERSE FOR SURVEY OF STONE CRAB AND LOBSTER FISHERMEN, BY COUNTY IN 2004					
FL TRIP TICKET DATA OBTAINED ON MAY 26, 2006					
STATE	COUNTY	PEOPLE WITH SPL	PCT	POUNDS STONE CRAB / LOBSTER	PCT
FL East	Miami-Dade	113	14.7%	354,336	15.6%
FL West	Collier	103	13.4%	709,370	31.2%
	Lee	69	9.0%	104,552	4.6%
	Charlotte	30	3.9%	17,772	0.8%
	Sarasota	20	2.6%	48,511	2.1%
	Manatee	45	5.8%	113,329	5.0%
	Hillsborough	6	0.8%	3,151	0.1%
	Pinellas	150	19.5%	331,124	14.6%
	Pasco	18	2.3%	20,801	0.9%
	Hernando	19	2.5%	17,325	0.8%
	Citrus	64	8.3%	315,147	13.8%
	Levy	27	3.5%	55,576	2.4%
	Dixie	61	7.9%	90,522	4.0%
	Taylor	9	1.2%	15,775	0.7%
	Wakulla	24	3.1%	75,323	3.3%
	Franklin	6	0.8%	2,716	0.1%
	Bay	3	0.4%	85	0.0%
	Walton	0	0.0%	126	0.0%
	Okaloosa	3	0.4%	33	0.0%
TOTAL		770	100.0%	2,275,572	100.0%

Allocation of Sampling Effort by Area:

The distribution of annual landings per fisherman is skewed, with a relatively small number of fishermen accounting for a disproportionately large share of total landings. This phenomenon occurs because fishermen are heterogeneous in their experiences and abilities, and because the local abundance of stone crabs and lobsters is not uniform across all fishing areas. A simple random sample of fishermen would result in a relatively large number of low-volume fishermen and a relatively small number of high-volume fishermen. However, regulations probably would have their greatest effect on high-volume fishermen. Therefore, the proposed sampling plan is output-based rather than a simple random sample of fishermen as a means of assuring a more balanced representation of high-volume and low-volume fishermen in the final sample.

The previous table indicates that Collier, Pinellas, Citrus and Miami-Dade counties together account for approximately 75% of total annual landings of stone crab and lobster. The sampling plan divides the study area into five geographic areas: the four primary counties and a fifth area defined as all other counties combined. The number of fishermen to be sampled in each area will be proportional to each area’s contribution to total landings for all areas combined. Hence, Collier, Citrus and Miami-Dade Counties will be over-represented in the final sample when compared to their relative contributions to the total number of fishermen, and Pinellas and Other counties will be under-represented. Based on these data, Collier County would be allocated 31.2% of the interviews although it has only 13.4% of the fishermen. Similarly, the Other region would be allocated 24.9% of the interviews although it has 44.2% of the fishermen.

The final allocation of sampling effort will be based on data to be compiled in late spring 2007. Florida Trip Ticket data will be used if data for 2006 are reasonably complete. If data are not complete, then the allocation of effort will be based on the distribution of ownership of trap certificates by county as a proxy for landings.

PRELIMINARY ALLOCATION OF SAMPLING EFFORT BY AREA IN 2004		
FL TRIP TICKET DATA OBTAINED ON MAY 26, 2006		
SAMPLING AREA	POUNDS STONE CRAB /LOBSTER	PERCENT
Miami-Dade	354,336	15.6%
Collier	709,370	31.2%
Pinellas	331,124	14.6%
Citrus	315,147	13.8%
Other	565,595	24.9%
TOTAL	2,275,572	100.0%

Expected Response Rate:

Fishermen will be randomly selected to be interviewed, with the probability of selection differing among sampling areas. The desired number of interviews in an area is the product of the total number of interviews for the entire project and the percent of interviews in each area. The probability of selection is the ratio of the desired number of interviews in each area divided by the total number of fishermen in that area.

It is recognized that for a variety of reasons we will not be able to complete interviews with all fishermen who are randomly selected for inclusion in the study. Therefore, the sampling plan includes an allowance for non-response. The expected response rate of 76% is equal to the response rate that was realized in the previously cited survey of commercial fishermen in the Florida Keys (OMB Control No.: 0648-0534), which included fishermen that would be in our respondent universe if they had not already been surveyed. In that survey, researchers completed 298 interviews from 391 commercial fishermen who were contacted.

We believe that 76% is a realistic expectation because it was achieved in a recently completed survey by the same researchers who will conduct the proposed study, with a questionnaire that included some of the same questions as on the proposed questionnaire, and on a respondent universe that covered the same fisheries and fishing practices as utilized by potential respondents in the proposed study. These researchers have been selected for the proposed survey based on their familiarity with local fishing communities and practices in Florida and their experience in administering these types of intercept surveys. Nevertheless, we plan several actions to maximize response rates, including

- a. Publicizing the survey: Local industry organizations and State and federal port agents will be contacted to provide a cooperative "umbrella". The primary benefit of this step is to minimize unfavorable misinformation based on rumors that may develop as the interviewing progresses. Interviewers can offer these sources as references for the validity and importance of the study.
- b. Using experienced and qualified interviewers: Manoj Shivilani has conducted numerous surveys of commercial fishermen in the Florida Keys and the US Caribbean, and has established a rapport with the fishing community that encourages participation and cooperation with his research.
- c. Training interviewers about the purposes of this survey, how the data will be used, and the importance of obtaining all the necessary data and in the detail required: The questionnaire will be reviewed, question-by-question, to ensure that each interviewer understands the intent of each one and knows whether a response to a question is in the proper context and makes sense. Manoj Shivilani will stress the importance of checking responses to key questions with respondents during and after the interview to make sure numbers add up and to provide respondents with a second chance to see if they make sense.
- d. Emphasizing the confidentiality of responses to assure respondents that information that identifies an individual with their responses will not be released.

The analysis of data will include a comparison of Florida Trip Ticket data for respondents and non-respondents to determine if non-respondents differ from respondents in terms of their

reported fishing effort and landings.

Sampling Plan:

We have contracted with Manoj Shivilani at the University of Miami Rosenstiel School of Marine and Atmospheric Science to conduct between 150 and 175 interviews with stone crab and lobster fishermen. The preliminary sampling plan in the table below is based on the maximum of 175 interviews, and includes an expected overall response rate of 76%. Therefore, approximately 230 contacts with fishermen will be required to yield 175 completed interviews. (Columns in the table below add to 231 contacts and 174 interviews because information is rounded to the nearest integer.) The preliminary sampling plan includes 27 interviews in Miami-Dade County, 55 interviews in Collier County, 26 interviews in Pinellas County, 24 interviews in Citrus County, and 43 interviews elsewhere. Sampling intensity will be greatest in Collier and Citrus Counties where average landings per fisherman are greatest, and will be lowest in Pinellas County and Other areas where average landings are lowest. The selection probabilities will be used to weight individual observations in all analyses that combine data across sampling areas.

The final sampling plan will be established during the late spring 2007, with the number of fishermen in each county to be determined by the locations of fishermen who own trap certificates.

PRELIMINARY SAMPLING PLAN BASED N A 76% RESPONSE RATE						
FL TRIP TICKET DATA OBTAINED ON MAY 26, 2006						
SAMPLING AREA	PEOPLE WITH SPL	POUNDS STONE CRAB / LOBSTER	PCT	NUMBER OF CONTACTS	EXPECTED NUMBER OF INTERVIEWS	SELECTION PROBABILITY
Miami-Dade	113	354,336	15.6%	36	27	24.1%
Collier	103	709,370	31.2%	72	55	53.0%
Pinellas	150	331,124	14.6%	34	25	17.0%
Citrus	64	315,147	13.8%	32	24	37.9%
Other	340	565,595	24.9%	57	43	12.8%
TOTAL	770	2,275,572	100.0%	231	174	22.7%

2. Describe the procedures for the collection, including: the statistical methodology for stratification and sample selection; the estimation procedure; the degree of accuracy needed for the purpose described in the justification; any unusual problems requiring specialized sampling procedures; and any use of periodic (less frequent than annual) data collection cycles to reduce burden.

The potential respondent universe will be stratified by area with unequal selection probabilities, as discussed in Part B, response #1. Members within each stratum will be assigned numbers from a uniform random number generator and then sorted according to number. Contact information for the first X members within each stratum will be provided to the research team, where X differs by stratum and refers to the number of fishermen to be contacted. Interviewers will make up to 8 attempts to contact each fisherman on the contact list, although more than 8

contacts will be attempted if the interviewer has the opportunity to do so before funding is exhausted.

Stratum means and totals and population means and totals will be estimated with the aid of standard statistical texts such as Cochran³ (1963) and Thompson⁴ (1992). More complex analyses of cost data using econometric regression techniques will be explored.

This is a one-time survey, although we anticipate the need to collect updated data every 5-10 years, with the periodicity of the data collection determined by the degree to which economic conditions and harvesting costs in the fishery change over time and the frequency with which management plans are amended. See Part A, response #6.

3. Describe the methods used to maximize response rates and to deal with nonresponse. The accuracy and reliability of the information collected must be shown to be adequate for the intended uses. For collections based on sampling, a special justification must be provided if they will not yield "reliable" data that can be generalized to the universe studied.

Commercial fishermen may be difficult to contact because of their unstructured work schedules, with fishing activity dependent on suitable weather conditions and regulated season openings and closures.

Several steps will be taken to maximize response rates. A contractor has been selected for his survey experience and familiarity with local fishing communities and practices in Florida. The personal interview format is preferred for this data collection over electronic reporting, mail or telephone surveys as a method of achieving better response rates and more accurate data because interviewers in face-to-face interviews can establish a better rapport with respondents. Trained interviewers will conduct in-person surveys at times and places that are convenient to fishermen as a means of minimizing potential disruptions to fishermen's fishing practices. Other methods used to maximize response rates are discussed in Part B, response #1.

4. Describe any tests of procedures or methods to be undertaken. Tests are encouraged as effective means to refine collections, but if ten or more test respondents are involved OMB must give prior approval.

Many of the questions in the proposed data collection were successfully used in a previous data collection (OMB Control No.: 0648-0534) by NOAA's National Ocean Service and Thomas J. Murray & Associates, who interviewed fishermen in the Florida Keys where the bulk of the lobster fishery and a large portion of the stone crab fishery is located. Manoj Shivlani led the interviewing effort for Thomas J. Murray & Associates and will lead the interview team for the proposed data collection. The proposed questionnaire is an abbreviated and modified form of the previous questionnaire. Mr. Shivilani plans to pre-test the proposed survey instrument in the field with 9 or fewer fishermen.

³ Cochran, William G. 1963. Sampling Techniques (second edition). John Wiley & Sons, Inc. New York, 413p.

⁴ Thompson, Steven K. 1992. Sampling. John Wiley & Sons, Inc. New York, 343p.

5. Provide the name and telephone number of individuals consulted on the statistical aspects of the design, and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

James Waters, industry economist employed by the SEFSC, identified the preliminary sampling universe to be studied and prepared the preliminary sampling design. He can be contacted by telephone at 252-728-8710 or by e-mail at Jim.Waters@noaa.gov. Data will be used primarily in analyses of proposed regulations by economists employed by the SEFSC (e.g., Waters) and the Gulf of Mexico Fishery Management Council.

Manoj Shivlani, research associate employed by the University of Miami Rosenstiel School of Marine and Atmospheric Science, will lead the research team of interviewers that will contact fishermen, conduct interviews, and enter the resulting data into a database for use by the SEFSC. He can be contacted by telephone at (305) 421-4608 or by e-mail at mshivlani@rsmas.miami.edu. He has consulted with us during the development of the proposed questionnaire and sampling design.

Interviewer Contact and Scheduling Log

This page is to be completed by the interviewer, and documents efforts to contact fishermen who have been randomly selected for this survey. Once this form is begun for a single person, please continue to use it for this individual throughout the contact and interview process. Please add any information as it becomes relevant. Note: Contact information will be saved in case we need to verify answers to some questions, but it will not be entered into the database with the fisherman's responses to the survey questions.

Interviewer: _____

1. Primary Contact Information for Selected Fisherman: Use this section to record information that can be used to contact the fisherman and schedule an interview.

SPL #	County
Last Name	First Name, Initial
Address	City
Telephone number	E-mail

2. Contact Log: Use this section to record each attempt to contact this fisherman.

Date/Time of contact	Method (phone #, email)	Result (e.g. scheduled an interview, left a message, busy signal, no answer, refused)

3. Indicate Time and Location for In-Person Interview:

Interview scheduled with (circle one): Owner Designee of Owner

Date/Time Scheduled: _____

Location: _____

Comments: _____

Socioeconomic Survey of Stone Crab Fishermen

Thank you for agreeing to participate in our survey. These data will be used to write reports about the economics of commercial fishing activities in Florida's stone crab fishery. All of your information will be confidential. We will not use people's names in our reports, or write anything that could be used to identify you.

Public reporting burden for this collection of information is estimated to average one hour per response including the time for reviewing the instructions, searching the 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 aspects of this burden to Bob Walker, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149. This reporting is required under and is authorized under 50 CFR 622.5(a) (1) (v). Information submitted will be treated as confidential in accordance with NOAA Administrative Order 216-100. Notwithstanding any other provision of the 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 displays a currently valid OMB Control Number. The NMFS requires this information for the conservation and management of marine fishery resources.

Thank you again for your help. This is a voluntary data collection that was approved by the Office of Management and Budget, OMB number 00648-xxxx. Please consider that we selected a random sample of boats to cover fishing activities in many areas, and we may end up with important gaps in our knowledge of the fishery if you decide not to participate in the survey.

The survey will take about an hour to complete. I would like to start by asking a few basic questions about you and your fishing operation.

GENERAL INFORMATION

Date of interview _____

Location of interview _____

Language in which conducted _____

SPL #(s) _____

1. Which of the following includes your age?

18-30 31-40 41-50 51-60 over 60

2. Are you Hispanic or Latino? YES NO

- if YES: Puerto Rican Mexican Cuban Other

3. What is your race (choose one or more)?

White Black or African American Asian
American Indian or Alaska Native
Native Hawaiian or other Pacific Islander

4. How many family members do you support (including yourself)?

Myself only 2 3 4 5 6 7 greater than 7

5. Do you belong to a fish house? YES NO

- If YES, then which one? _____

- If NO, to which fish houses do you usually sell your catch? _____

6. What is your primary port (town and county)?

7. For how many years have you been a commercial fisher?

< 1 yr 1-5 6-10 11-15 15-20 >20 yrs

8. How would you describe your fishing occupation?

Full-time Part-time Charterboat Recreational

9. What approximate percentage of your PERSONAL income (including your income from other jobs, pensions, investments, social security, etc.) is derived from commercial fishing? _____%

10. What approximate percentage of your total HOUSEHOLD income (including the income of your spouse and other working persons in your household) is derived from commercial fishing?
_____%

VESSEL AND GEAR INFORMATION

- 11. What is the length of your vessel? _____feet
- 12. How old is your vessel?_____ years
- 13. What is the total horsepower of its engines? _____hp

14. How many traps did you fish last season?

_____stone crab traps

_____lobster traps

_____fish traps

15. For how long do your traps last, on average?

Stone crab traps _____ years

Lobster traps _____ years

Fish traps _____ years

16. How many new and replacement traps did you build or buy last season, and what was the approximate total cost per trap?

Stone crab traps: Number _____ @ \$_____ per trap

Lobster traps: Number _____ @ \$_____per trap

Fish traps: Number _____ @ \$_____per trap

17. Please provide your best estimate for your total annual maintenance/repair expenses last season (include maintenance and repair costs for vessel, engines, electronics and all gears), and an itemized breakdown of maintenance/repair costs for each gear.

Total maintenance/repair: \$_____

Maintenance/repair on stone crab traps: \$_____

Maintenance/repair on lobster traps: \$_____

Maintenance/repair on fish traps: \$_____

Maintenance/repair on nets: \$_____

Maintenance/repair on longlines: \$_____

Maintenance/repair on dive gear: \$_____

Maintenance/repair on rods and reels: \$_____

Maintenance/repair on other gear: \$_____

CAPITAL INVESTMENT IN BOAT AND GEAR

18. Please provide your best estimate of the approximate fair market value of your boat and gear if you were to sell them sometime this year.

____ Vessel(s) and electronic equipment: \$ _____

Stone crab traps: Number _____ \$ _____

Stone crab certificates _____ \$ _____

Lobster traps: Number _____ \$ _____

Lobster trap certificates _____ \$ _____

Fish traps: Number _____ \$ _____

Nets: Number _____ \$ _____

Longline: Number _____ \$ _____

Dive gear: \$ _____

Rod / Reels: \$ _____

Other gears (_____): \$ _____

19. Please provide your best estimate for the overhead expenses associated with owning and operating your boat in 2006, including docking fees, insurance, interest payments, depreciation, office, vehicle and other business expenses. \$ _____

FISHING ACTIVITY DURING 2006

20. Please think about an average or typical trip in 2006 for stone crab, lobster and your most important fishing activity other than stone crab or lobster, and use columns A, B and C in the table below to answer the following questions. [USE COLUMNS A, B AND D IF THE MOST IMPORTANT OTHER FISHERY USED FISH TRAPS]

- Please identify the 3 main species landed in these fishing activities in 2006, the months in which you fished in them, and the main port where you landed.
- What was the main gear used on these trips, and how many units of gear did you use on each trip?
- On average, how long was each trip (measured in days per trip), and how many crew did you pay on each trip (excluding yourself if owner operator)?
- On average, how much did you spend per trip when fishing in each of these fisheries during 2006? [PLEASE VERIFY THAT THE TOTAL EXPENSE PER TRIP IN THE LAST ROW EQUALS THE SUM OF THE EXPENSES FOR FUEL, ICE, BAIT, CREW PAYMENTS, AND ALL OTHER EXPENSES]
- On average, how much revenue (before deducting expenses) did each trip make in each of these fisheries?

21. [SKIP IF RESPONDENT DID NOT USE FISH TRAPS IN 2006] The Gulf of Mexico Fishery Management Council prohibited the use of fish traps as of February 2007. Please use columns D and E in the table below to compare your previous fishing activity with fish traps and the new fishing activity that will substitute for the use of fish traps.

	(A) Stone Crab Trips	(B) Lobster Trips	(C) Trips in Most Important Other Fishery	(D) Trips with Fish Traps	(E) Substitute Fishery instead of Fish Traps
Fishery (list main species)	1: Stone crab 2: 3:	1: Lobster 2: 3:	1: 2: 3:	1: 2: 3:	1: 2: 3:
Months fished					
Port where trips were landed					
Primary gear used	Stone crab traps	Lobster traps		Fish Traps	
Number of gear per trip					
Average days per trip					
Number paid crew per trip (excluding owner-operator)					
Fuel and oil	\$	\$	\$	\$	\$
Ice	\$	\$	\$	\$	\$
Bait	\$	\$	\$	\$	\$
Food, supplies, and other trip expenses	\$	\$	\$	\$	\$
Crew costs (excluding owner- operator)	\$	\$	\$	\$	\$
Total cost per trip	\$	\$	\$	\$	\$
Total revenue per trip	\$	\$	\$	\$	\$

PERFORMANCE UNDER THE CERTIFICATE PROGRAM

1. What was the number of traps that you fished prior to the implementation of the stone crab Trap Certificate Program (TCP), if applicable?

_____ stone crab traps

2. How many certificates were you allocated at the start of the TCP, or when you entered the fishery (if after the TCP)?

_____ certificates

3. In your opinion, the number of certificates that you were allocated, based on your fishing activity, was:

- a. Excessive (I was given TOO many certificates)
- b. Exact amount (based on my needs)
- c. Fair (a bit lower than my needs, but manageable)
- d. Unfair (much lower than my needs)

4. How many stone crab traps do you fish now compared to the allocation?

- a. More than initially allocated
- b. Same as allocated
- c. Less than allocated

5. Why do you fish the number of stone crab traps that you do currently?

6. Has your catch per trap increased, stayed the same, or decreased since the beginning of the TCP, and why?

Increased Stayed the same Decreased

- Why?

7. Have you changed fishing areas since the trap certificate program began, and why? YES NO

- Why?

8. Since the beginning of the TCP, are there more, the same, or fewer fishermen who use stone crab traps in the area where you fish and / or in the area where you dock, and why?

Increased Stayed the same Decreased

- Why?

9. What has been or will be the overall effect of the stone crab trap certificate program? Please identify any problems it presents, its overall performance, and its long-term impacts on the fishery.

10. How does the performance of the stone crab trap certificate program compare with the active reduction part of the spiny lobster trap certificate program (if you have knowledge of the lobster certificate program)?

11. Would you favor an active trap reduction program for the stone crab fishery if it meant:

- a. More catch per stone crab trap
- b. Less competition
- c. Fewer other regulations
- d. None of the above—I would not favor active reduction under any circumstances

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.;

**Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of
2006 (Enrolled as Agreed to or Passed by Both House and Senate)**

SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.

- (a) IN GENERAL- Section 303(a) (16 U.S.C. 1853(a)) is amended--
- (1) by striking `and charter fishing' in paragraph (5) and inserting `charter fishing, and fish processing';
 - (2) by inserting `economic information necessary to meet the requirements of this Act,' in paragraph (5) after `number of hauls,';
 - (3) by striking `and' after the semicolon in paragraph (9)(A);
 - (4) by inserting `and' after the semicolon in paragraph (9)(B);
 - (5) by inserting after paragraph (9)(B) the following:
 - (C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;';
 - (6) by striking `fishery' the first place it appears in paragraph (13) and inserting `fishery, including its economic impact,';
 - (7) by striking `and' after the semicolon in paragraph (13);
 - (8) by striking `allocate' in paragraph (14) and inserting `allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector,';
 - (9) by striking `fishery.' in paragraph (14) and inserting `fishery and;'; and
 - (10) by adding at the end the following:
 - (15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.'
- (b) EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES- The amendment made by subsection (a)(10)--
- (1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect--
 - (A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and
 - (B) in fishing year 2011 for all other fisheries; and
 - (2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and
 - (3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the **Magnuson** -Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).
- (c) CLARIFICATION OF REBUILDING PROVISION- Section 304(e) (16 U.S.C. 1854(e)) is amended--
- (1) by striking `one year of' in paragraph (3) and inserting `2 years after';
 - (2) by inserting `and implement' after `prepare' in paragraph (3);

- (3) by inserting `immediately' after `overfishing' in paragraph (3)(A);
 - (4) by striking `ending overfishing and' in paragraph (4)(A); and
 - (5) by striking `one-year' in paragraph (5) and inserting `2-year'.
- (d) EFFECTIVE DATE FOR SUBSECTION (c)- The amendments made by subsection (c) shall take effect 30 months after the date of enactment of this Act.

**Executive Order 12866 of September 30, 1993, as amended by E.O. 13258 of February 26, 2002
and E.O. 13422 of January 18, 2007**

REGULATORY PLANNING AND REVIEW

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

With this Executive order, the Federal Government begins a program to reform and make more efficient the regulatory process. The objectives of this Executive order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. In pursuing these objectives, the regulatory process shall be conducted so as to meet applicable statutory requirements and with due regard to the discretion that has been entrusted to the Federal agencies.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Statement of Regulatory Philosophy and Principles.* (a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) *The Principles of Regulation.* To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable:

(1) Each agency shall identify in writing the specific market failure (such as externalities, market power, lack of information) or other specific problem that it intends to address (including, where applicable, the failures of public institutions) that warrant new agency action, as well as assess the significance of that problem, to enable assessment of whether any new regulation is warranted.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(4) In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

(5) When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

(7) Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation or guidance document.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(9) Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.

(10) Each agency shall avoid regulations and guidance documents that are inconsistent, incompatible, or duplicative with its other regulations and guidance documents or those of other Federal agencies.

(11) Each agency shall tailor its regulations and guidance documents to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations and guidance documents to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

Sec. 2. *Organization.* An efficient regulatory planning and review process is vital to ensure that the Federal Government's regulatory system best serves the American people.

(a) *The Agencies.* Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and guidance documents and assuring that the regulations and guidance documents are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order.

(b) *The Office of Management and Budget.* Coordinated review of agency rulemaking is necessary to ensure that regulations and guidance documents are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. The Office of Management and Budget (OMB) shall carry out that review function. Within OMB, the Office of Information and Regulatory Affairs (OIRA) is the repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency, this Executive order, and the President's regulatory policies. To the extent permitted by law, OMB shall provide guidance to agencies and assist the President and regulatory policy advisors to the President in regulatory planning and shall be the entity that reviews individual regulations and guidance documents, as provided by this Executive order.

(c) *Assistance.* In fulfilling his responsibilities under this Executive order, the President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President may, from time to time, consult.

Sec. 3. *Definitions.* For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Director of the Office of Science and Technology Policy; (7) the Deputy Assistant to the President and Director for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Chairman of the Council on Environmental Quality and Director of the Office on Environmental Quality; (12) the Assistant to the President for Homeland Security; and (13) the Administrator of OIRA, who also shall coordinate

communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

(b) “Agency,” unless otherwise indicated, means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(c) “Director” means the Director of OMB.

(d) “Regulation” means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

(1) Regulations issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(2) Regulations that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(3) Regulations that are limited to agency organization, management, or personnel matters; or

(4) Any other category of regulations exempted by the Administrator of OIRA.

(e) “Regulatory action” means any substantive action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) “Significant regulatory action” means any regulatory action that is likely to result in a regulation that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order.

(g) “Guidance document” means an agency statement of general applicability and future effect, other than a regulatory action, that sets forth a policy on a statutory, regulatory or technical issue or an interpretation of a statutory or regulatory issue

(h) “Significant guidance document” –

(1) means a guidance document disseminated to regulated entities or the general public that, for purposes of this order, may reasonably be anticipated to:

(A) lead to an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(B) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or

(D) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order; and

(2) does not include:

(A) Guidance documents on regulations issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(B) Guidance documents that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(C) Guidance documents on regulations that are limited to agency organization, management, or personnel matters;
or

(D) Any other category of guidance documents exempted by the Administrator of OIRA.

Sec. 4. *Planning Mechanism.* In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law:

(a) *Agencies' Policy Meeting.* The Director may convene a meeting of agency heads and other government personnel as appropriate to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

(b) *Unified Regulatory Agenda.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). Each agency shall prepare an agenda of all regulations under development or review, at a time and in a manner specified by the Administrator of OIRA. The description of each regulatory action shall contain, at a minimum, a regulation identifier number, a brief summary of the action, the legal authority for the action, any legal deadline for the action, and the name and telephone number of a knowledgeable agency official. Agencies may incorporate the information required under 5 U.S.C. 602 and 41 U.S.C. 402 into these agendas.

(c) *The Regulatory Plan.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. Unless specifically authorized by the head of the agency, no rulemaking shall commence nor be included on the Plan without the approval of the agency's Regulatory Policy Officer, and the Plan shall contain at a minimum:

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits of each rule as well as the agency's best estimate of the combined aggregate costs and benefits of all its regulations planned for that calendar year to assist with the identification of priorities;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order, and specific citation to such statute, order, or other legal authority;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

(F) The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

(2) Each agency shall forward its Plan to OIRA by June 1st of each year.

(3) Within 10 calendar days after OIRA has received an agency's Plan, OIRA shall circulate it to other affected agencies and the Advisors.

(4) An agency head who believes that a planned regulatory action of another agency may conflict with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency and the Advisors.

(5) If the Administrator of OIRA believes that a planned regulatory action of an agency may be inconsistent with the President's priorities or the principles set forth in this Executive order or may be in conflict with any policy or action taken or planned by another agency, the Administrator of OIRA shall promptly notify, in writing, the affected agencies and the Advisors.

(6) The Director may consult with the heads of agencies with respect to their Plans and, in appropriate instances, request further consideration or inter-agency coordination.

(7) The Plans developed by the issuing agency shall be published annually in the October publication of the Unified Regulatory Agenda. This publication shall be made available to the Congress; State, local, and tribal governments; and the public. Any views on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the public, or confer any unclaimed benefits on the public, should be directed to the issuing agency, with a copy to OIRA.

(d) *Regulatory Working Group.* Within 30 days of the date of this Executive order, the Administrator of OIRA shall convene a Regulatory Working Group ("Working Group"), which shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility and the Advisors. The Administrator of OIRA shall chair the Working Group and shall periodically advise the Director on the activities of the Working Group. The Working Group shall serve as a forum to assist agencies in identifying and analyzing important regulatory issues (including, among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities). The Working Group shall meet at least quarterly and may meet as a whole or in subgroups of agencies with an interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA, the Administrative Conference of the United States, or any other agency.

(e) *Conferences.* The Administrator of OIRA shall meet quarterly with representatives of State, local, and tribal governments to identify both existing and proposed regulations that may uniquely or significantly affect those governmental entities. The Administrator of OIRA shall also convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern.

Sec. 5. Existing Regulations. In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regulations promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

(b) The Administrator of OIRA shall work with the Regulatory Working Group and other interested entities to pursue the objectives of this section. State, local, and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.

(c) The Director, in consultation with the Advisors, may identify for review by the appropriate agency or agencies other existing regulations of an agency or groups of regulations of more than one agency that affect a particular group, industry, or sector of the economy, or may identify legislative mandates that may be appropriate for reconsideration by the Congress.

Sec. 6. Centralized Review of Regulations. The guidelines set forth below shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those agencies specifically exempted by the Administrator of OIRA:

(a) *Agency Responsibilities.* (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. In consultation with OIRA, each agency may also consider whether to utilize formal rulemaking procedures under 5 U.S.C. 556 and 557 for the resolution of complex determinations. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate one of the agency's Presidential Appointees to be its Regulatory Policy Officer, advise OMB of such designation, and annually update OMB on the status of this designation. The Regulatory Policy Officer shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

(3) In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and other applicable law, each agency shall develop its regulatory actions in a timely fashion and adhere to the following procedures with respect to a regulatory action:

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

(B) For each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA:

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(C) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(D) In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with subsections (a)(3)(B) and (C) of this section. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for OIRA to conduct its review, as set forth below in subsection (b)(2) through (4) of this section.

(E) After the regulatory action has been published in the Federal Register or otherwise issued to the public, the agency shall:

(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

(iii) Identify for the public those changes in the regulatory action that were made at the suggestion or recommendation of OIRA.

(F) All information provided to the public by the agency shall be in plain, understandable language.

(b) *OIRA Responsibilities.* The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency's regulatory actions are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

(1) OIRA may review only actions identified by the agency or by OIRA as significant regulatory actions under subsection (a)(3)(A) of this section.

(2) OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

(A) For any notices of inquiry, advance notices of proposed rulemaking, or other preliminary regulatory actions prior to a Notice of Proposed Rulemaking, within 10 working days after the date of submission of the draft action to OIRA;

(B) For all other regulatory actions, within 90 calendar days after the date of submission of the information set forth in subsections (a)(3)(B) and (C) of this section, unless OIRA has previously reviewed this information and, since that review, there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case, OIRA shall complete its review within 45 days; and

(C) The review process may be extended (1) once by no more than 30 calendar days upon the written approval of the Director and (2) at the request of the agency head.

(3) For each regulatory action that the Administrator of OIRA returns to an agency for further consideration of some or all of its provisions, the Administrator of OIRA shall provide the issuing agency a written explanation for such return, setting forth the pertinent provision of this Executive order on which OIRA is relying. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the Administrator of OIRA in writing.

(4) Except as otherwise provided by law or required by a Court, in order to ensure greater openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

(A) Only the Administrator of OIRA (or a particular designee) shall receive oral communications initiated by persons not employed by the executive branch of the Federal Government regarding the substance of a regulatory action under OIRA review;

(B) All substantive communications between OIRA personnel and persons not employed by the executive branch of the Federal Government regarding a regulatory action under review shall be governed by the following guidelines: (i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within 10 working days of receipt of the communication(s), all written communications, regardless of format, between OIRA personnel and any person who is not employed by the executive branch of the Federal Government, and the dates and names of individuals involved in all substantive oral communications (including meetings to which an agency representative was invited, but did not attend, and telephone conversations between OIRA personnel and any such persons); and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in subsection (b)(4)(C) of this section.

(C) OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information pertinent to regulatory actions under review:

(i) The status of all regulatory actions, including if (and if so, when and by whom) Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

(D) After the regulatory action has been published in the **Federal Register** or otherwise issued to the public, or after the agency has announced its decision not to publish or issue the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA under this section.

(5) All information provided to the public by OIRA shall be in plain, understandable language.

Sec. 7. Resolution of Conflicts. (a) To the extent permitted by law, disagreements or conflicts between or among agency heads or between OMB and any agency that cannot be resolved by the Administrator of OIRA shall be resolved by the President, with the assistance of the Chief of Staff to the President (“Chief of Staff”), acting at the request of the President, with the relevant agency head (and, as appropriate, other interested government officials). Presidential consideration of such disagreements may be initiated only by the Director, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review will not be undertaken at the request of other persons, entities, or their agents.

(b) Resolution of such conflicts shall be informed by recommendations developed by the Chief of Staff, after consultation with the Advisors (and other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). The development of these recommendations shall be concluded within 60 days after review has been requested.

(c) During the Presidential review period, communications with any person not employed by the Federal Government relating to the substance of the regulatory action under review and directed to the Advisors or their staffs or to the staff of the Chief of Staff shall be in writing and shall be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket(s). When the communication is not in writing, such Advisors or staff members shall inform the outside party that the matter is under review and that any comments should be submitted in writing.

(d) At the end of this review process, the President, or the Chief of Staff acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President’s decision with respect to the matter.

Sec. 8. Publication. Except to the extent required by law, an agency shall not publish in the **Federal Register** or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Director, as provided under section 7 of this order. Upon receipt of this request, the Director shall notify OIRA and

the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

Sec. 9. *Significant Guidance Documents.* Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with advance notification of any significant guidance documents. Each agency shall take such steps as are necessary for its Regulatory Policy Officer to ensure the agency's compliance with the requirements of this section. Upon the request of the Administrator, for each matter identified as, or determined by the Administrator to be, a significant guidance document, the issuing agency shall provide to OIRA the content of the draft guidance document, together with a brief explanation of the need for the guidance document and how it will meet that need. The OIRA Administrator shall notify the agency when additional consultation will be required before issuance of the significant guidance document.

Sec. 10. *Preservation of Agency Authority.* Nothing in this order shall be construed to impair or otherwise affect the authority vested by law in an agency or the head thereof, including the authority of the Attorney General relating to litigation.

Sec. 11. *Judicial Review.* Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 12. *Revocations.* Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.

Regulatory Flexibility Act
as amended by
Small Business Regulatory Enforcement Fairness Act

SECTIONS

- 601. Definitions
- 602. Regulatory agenda
- 603. Initial regulatory flexibility analysis
- 604. Final regulatory flexibility analysis
- 605. Avoidance of duplicative or unnecessary analyses
- 606. Effect on other law
- 607. Preparation of analyses
- 608. Procedure for waiver or delay of completion
- 609. Procedures for gathering comments
- 610. Periodic review of rules
- 611. Judicial review
- 612. Reports and intervention rights

SEC. 601. DEFINITIONS [CITE: 5 USC 601]

For purposes of this chapter—

- (1) the term “agency” means an agency as defined in section 551(1) of this title;
- (2) the term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term “rule” does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances;

- (3) the term “small business” has the same meaning as the term “small business concern” under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;
- (4) the term “small organization” means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;
- (5) the term “small governmental jurisdiction” means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the Federal Register;
- (6) the term “small entity” shall have the same meaning as the terms “small business”, “small organization” and “small governmental jurisdiction” defined in paragraphs (3), (4) and (5) of this section; and
- (7) the term “collection of information”--
 - (A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either--
 - (i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or
 - (ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and
 - (B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

- (8) recordkeeping requirement.--The term “recordkeeping requirement” means a requirement imposed by an agency on persons to maintain specified records.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1165; amended Pub. L. 104-121, title II, Sec. 241(a)(2), Mar. 29, 1996, 110 Stat. 864.)

SEC. 602. REGULATORY AGENDA [CITE: 5 USC 602]

- (a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain--
- (1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;
 - (2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and
 - (3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).
- (b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.
- (c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.
- (d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1166.)

SEC. 603. INITIAL REGULATORY FLEXIBILITY ANALYSIS [CITE: 5 USC 603]

- (a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities. The initial regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration. In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.
- (b) Each initial regulatory flexibility analysis required under this section shall contain--
- (1) a description of the reasons why action by the agency is being considered;
 - (2) a succinct statement of the objectives of, and legal basis for, the proposed rule;
 - (3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
 - (4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
 - (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.
- (c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as--
- (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

- (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
- (c) the use of performance rather than design standards; and
- (d) an exemption from coverage of the rule, or any part thereof, for such small entities.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1166; amended Pub. L. 104-121, title II, Sec. 241(a)(1), Mar. 29, 1996, 110 Stat. 864.)

SEC. 604. FINAL REGULATORY FLEXIBILITY ANALYSIS [CITE: 5 USC 604]

- (a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain--
 - (1) a succinct statement of the need for, and objectives of, the rule;
 - (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
 - (3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;
 - (4) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
 - (5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

- (b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public and shall publish in the Federal Register such analysis or a summary thereof.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1167; amended Pub. L. 104-121, title II, Sec. 241(b), Mar. 29, 1996, 110 Stat. 864.)

SEC. 605. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES [CITE: 5 USC 605]

- (a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.
- (b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.
- (c) In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, 604 and 610 of this title.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1167; amended Pub. L. 104-121, title II, Sec. 243(a), Mar. 29, 1996, 110 Stat. 866.)

SEC. 606. EFFECT ON OTHER LAW [CITE: 5 USC 606]

The requirements of sections 603 and 604 of this title do not alter in any manner standards otherwise applicable by law to agency action.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168.)

SEC. 607. PREPARATION OF ANALYSES [CITE: 5 USC 607]

In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168.)

SEC. 608. PROCEDURE FOR WAIVER OR DELAY OF COMPLETION [CITE: 5 USC 608]

- (a) An agency head may waive or delay the completion of some or all of the requirements of section 603 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 603 of this title impracticable.
- (b) Except as provided in section 605(b), an agency head may not waive the requirements of section 604 of this title. An agency head may delay the completion of the requirements of section 604 of this title for a period of not more than one hundred and eighty days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168.)

SEC. 609. PROCEDURES FOR GATHERING COMMENTS [CITE: 5 USC 609]

- (a) When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through the reasonable use of techniques such as—

- (1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;
 - (2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;
 - (3) the direct notification of interested small entities;
 - (4) the conduct of open conferences or public hearings concerning the rule for small entities including soliciting and receiving comments over computer networks; and
 - (5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.
- (b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter–
- (1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;
 - (2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;
 - (3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;
 - (4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

- (5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and
 - (6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.
- (c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.
 - (d) For purposes of this section, the term "covered agency" means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.
 - (e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:
 - (1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.
 - (2) Special circumstances requiring prompt issuance of the rule.
 - (3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1168; amended Pub. L. 104-121, title II, Sec. 244(a), Mar. 29, 1996, 110 Stat. 867.)

SEC. 610. PERIODIC REVIEW OF RULES [CITE: 5 USC 610]

- (a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date and for the review of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.
- (b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors--
- (1) the continued need for the rule;
 - (2) the nature of complaints or comments received concerning the rule from the public;
 - (3) the complexity of the rule;
 - (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and
 - (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.
- (c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1169.)

SEC. 611. JUDICIAL REVIEW [CITE: 5 USC 611]

- (a) (1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.
- (2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.
- (3) (A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.
- (B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than--
 - (i) one year after the date the analysis is made available to the public, or
 - (ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.
- (4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to--
 - (1) remanding the rule to the agency, and
 - (2) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

- (5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.
- (b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.
- (c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.
- (d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1169; amended Pub. L. 104-121, title II, Sec. 242, Mar. 29, 1996, 110 Stat. 865.)

SEC. 612. REPORTS AND INTERVENTION RIGHTS [CITE: 5 USC 612]

- (a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary and Small Business of the Senate and House of Representatives.
- (b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the effect of the rule on small entities.
- (e) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).

(Added Pub. L. 96-354, Sec. 3(a), Sept. 19, 1980, 94 Stat. 1170; amended Pub. L. 104-121, title II, Sec. 243(b), Mar. 29, 1996, 110 Stat. 866.)

The National Environmental Policy Act of 1969

The National Environmental Policy Act of 1969, as amended

(Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982)

An Act to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969."

Purpose

Sec. 2 [42 USC § 4321].

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

TITLE I

CONGRESSIONAL DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

Sec. 101 [42 USC § 4331].

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions,

programs, and resources to the end that the Nation may --

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Sec. 102 [42 USC § 4332].

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall --

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

- (i) the State agency or official has statewide jurisdiction and has the responsibility for such action,
- (ii) the responsible Federal official furnishes guidance and participates in such preparation,
- (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
- (iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and,

where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

Sec. 103 [42 USC § 4333].

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

Sec. 104 [42 USC § 4334].

Nothing in section 102 [42 USC § 4332] or 103 [42 USC § 4333] shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Sec. 105 [42 USC § 4335].

The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 201 [42 USC § 4341].

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation

in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Sec. 202 [42 USC § 4342].

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Sec. 203 [42 USC § 4343].

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of Title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

Sec. 204 [42 USC § 4344].

It shall be the duty and function of the Council --

1. to assist and advise the President in the preparation of the Environmental Quality Report required by section 201 [42 USC § 4341] of this title;
2. to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;
3. to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement

of such policy, and to make recommendations to the President with respect thereto;

4. to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;
5. to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;
6. to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;
7. to report at least once each year to the President on the state and condition of the environment; and
8. to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

Sec. 205 [42 USC § 4345].

In exercising its powers, functions, and duties under this Act, the Council shall --

1. consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order No. 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and
2. utilize, to the fullest extent possible, the services, facilities and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Sec. 206 [42 USC § 4346].

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates [5 USC § 5313]. The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates [5 USC § 5315].

Sec. 207 [42 USC § 4346a].

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

Sec. 208 [42 USC § 4346b].

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

Sec. 209 [42 USC § 4347].

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

The Environmental Quality Improvement Act, as amended (Pub. L. No. 91- 224, Title II, April 3, 1970; Pub. L. No. 97-258, September 13, 1982; and Pub. L. No. 98-581, October 30, 1984.

42 USC § 4372.

(a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91- 190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions ;under this chapter and Public Law 91-190, except that he may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of Title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by --

1. providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91- 190;
2. assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which

do not require individual project authorization by Congress, which affect environmental quality;

3. reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;
4. promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encouraging the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;
5. assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;
6. assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established throughout the Federal Government;
7. collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 3324(a) and (b) of Title 31 and section 5 of Title 41 in carrying out his functions.

42 USC § 4373. Each Environmental Quality Report required by Public Law 91-190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

42 USC § 4374. There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91- 190:

- (a) \$2,126,000 for the fiscal year ending September 30, 1979.
- (b) \$3,000,000 for the fiscal years ending September 30, 1980, and September 30, 1981.
- (c) \$44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.
- (d) \$480,000 for each of the fiscal years ending September 30, 1985 and 1986.

42 USC § 4375.


(a) There is established an Office of Environmental Quality Management Fund (hereinafter referred to as the "Fund") to receive advance payments from other agencies or accounts that may be used solely to finance --

1. study contracts that are jointly sponsored by the Office and one or more other Federal agencies; and

2. Federal interagency environmental projects (including task forces) in which the Office participates.

(b) Any study contract or project that is to be financed under subsection (a) of this section may be initiated only with the approval of the Director.

(c) The Director shall promulgate regulations setting forth policies and procedures for operation of the Fund.

[Back to Table of Contents](#) 

Presidential Documents

Title 3—

Executive Order 12898 of February 11, 1994

The President

Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1-1.*Implementation.*

1-101. *Agency Responsibilities.* To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. *Creation of an Interagency Working Group on Environmental Justice.*

(a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency (“Administrator”) or the Administrator’s designee shall convene an interagency Federal Working Group on Environmental Justice (“Working Group”). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5-502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. *Development of Agency Strategies.* (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. *Federal Agency Responsibilities for Federal Programs.* Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3-3. Research, Data Collection, and Analysis.

3-301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4-4. Subsistence Consumption of Fish and Wildlife.

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or

wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. *Public Participation and Access to Information.* (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6-6. *General Provisions.*

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance

of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton

THE WHITE HOUSE,
February 11, 1994.

CHAMBER ACTION

1 The State Resources Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled
7 An act relating to saltwater fisheries; amending s.
8 370.0603, F.S.; authorizing use of the Marine Resources
9 Conservation Trust Fund to fund the stone crab reduction,
10 blue crab effort management, spiny lobster trap
11 certificate, and trap retrieval programs; requiring
12 proceeds from certain fees, fines, and penalties to be
13 deposited in the Marine Resources Conservation Trust Fund;
14 amending s. 370.13, F.S., relating to stone crab
15 regulation; authorizing the Fish and Wildlife Conservation
16 Commission to waive or defer replacement tag fees under
17 certain circumstances; amending s. 370.135, F.S., relating
18 to blue crab regulation; establishing certain endorsement
19 fees for the taking of blue crabs; establishing an annual
20 trap tag fee; authorizing the commission to waive or defer
21 replacement tag fees under certain circumstances;
22 requiring the deposit of certain proceeds into the Marine
23 Resources Conservation Trust Fund; specifying the use of

HB 1345 CS

2006
CS

24 such proceeds; requiring the commission to waive
25 endorsement and tag fees for certain program participants;
26 providing administrative penalties for certain violations;
27 prohibiting the unauthorized possession of trap gear or
28 removal of trap contents and providing penalties therefor;
29 providing penalties for certain other prohibited
30 activities relating to traps, lines, buoys, and trap tags;
31 providing penalties for fraudulent reports related to
32 endorsement transfers; prohibiting certain activities
33 during endorsement suspension and revocation; preserving
34 state jurisdiction for certain convictions; providing
35 requirements for certain license renewal; appropriating
36 certain fee revenues to the commission for blue crab
37 effort management program costs; requiring the commission
38 to create an advisory board; amending s. 370.142, F.S.,
39 relating to the spiny lobster trap certificate program;
40 authorizing the commission to waive or defer replacement
41 tag fees under certain circumstances; providing
42 administrative penalties for certain violations of the
43 spiny lobster trap certificate program; amending s.
44 370.143, F.S.; revising provisions for certain trap
45 retrieval programs and fees; providing a recurring
46 appropriation; providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:
49

HB 1345 CS

2006
CS

50 Section 1. Paragraph (j) is added to subsection (1) of
51 section 370.0603, Florida Statutes, and paragraphs (c) and (d)
52 of subsection (2) of that section are amended, to read:

53 370.0603 Marine Resources Conservation Trust Fund;
54 purposes.--

55 (1) The Marine Resources Conservation Trust Fund within
56 the Fish and Wildlife Conservation Commission shall serve as a
57 broad-based depository for funds from various marine-related and
58 boating-related activities and shall be administered by the
59 commission for the purposes of:

60 (j) Funding the stone crab trap reduction program under s.
61 370.13, the blue crab effort management program under s.
62 370.135, the spiny lobster trap certificate program under s.
63 370.142, and the trap retrieval program under s. 370.143.

64 (2) The Marine Resources Conservation Trust Fund shall
65 receive the proceeds from:

66 (c) All fees collected pursuant to ss. 370.063, 370.13,
67 370.135, 370.142, 370.143, and 372.5704.

68 (d) All fines and penalties pursuant to ss. ~~s.~~ 370.021,
69 370.13, 370.135, and 370.142.

70 Section 2. Paragraph (b) of subsection (1) of section
71 370.13, Florida Statutes, is amended to read:

72 370.13 Stone crab; regulation.--

73 (1) FEES AND EQUITABLE RENT.--

74 (b) Certificate fees.--

75 1. For each trap certificate issued by the commission
76 under the requirements of the stone crab trap limitation program
77 established by commission rule, there is an annual fee of 50

HB 1345 CS

2006
CS

78 cents per certificate. Replacement tags for lost or damaged tags
79 cost 50 cents each. In the event of a major natural disaster,
80 such as a hurricane or major storm, which causes massive trap
81 losses within an area declared by the Governor to be a disaster
82 emergency area, the commission may temporarily defer or
83 permanently waive replacement tag fees, ~~except that tags lost in~~
84 ~~the event of a major natural disaster declared as an emergency~~
85 ~~disaster by the Governor shall be replaced for the cost of the~~
86 ~~tag as incurred by the commission.~~

87 2. The fee for transferring trap certificates is \$1 per
88 certificate transferred, except that the fee for eligible crew
89 members is 50 cents per certificate transferred. Eligible crew
90 members shall be determined according to criteria established by
91 rule of the commission. Payment must be made by money order or
92 cashier's check, submitted with the certificate transfer form
93 developed by the commission.

94 3. In addition to the transfer fee, a surcharge of \$1 per
95 certificate transferred, or 25 percent of the actual value of
96 the transferred certificate, whichever is greater, will be
97 assessed the first time a certificate is transferred outside the
98 original holder's immediate family.

99 4. Transfer fees and surcharges only apply to the actual
100 number of certificates received by the purchaser. A transfer of
101 a certificate is not effective until the commission receives a
102 notarized copy of the bill of sale as proof of the actual value
103 of the transferred certificate or certificates, which must also
104 be submitted with the transfer form and payment.

HB 1345 CS

2006
CS

105 5. A transfer fee will not be assessed or required when
106 the transfer is within a family as a result of the death or
107 disability of the certificate owner. A surcharge will not be
108 assessed for any transfer within an individual's immediate
109 family.

110 6. The fees and surcharge amounts in this paragraph apply
111 in the 2005-2006 license year and subsequent years.

112 Section 3. Subsection (1) of section 370.135, Florida
113 Statutes, is amended, and subsections (3), (4), (5), and (6) are
114 added to that section, to read:

115 370.135 Blue crab; regulation.--

116 (1) No person, firm, or corporation shall transport on the
117 water, fish with or cause to be fished with, set, or place any
118 trap designed for taking blue crabs unless such person, firm, or
119 corporation is the holder of a valid saltwater products license
120 issued pursuant to s. 370.06 and the trap has a current state
121 number permanently attached to the buoy. The trap number shall
122 be affixed in legible figures at least 1 inch high on each buoy
123 used. The saltwater products license must be on board the boat,
124 and both the license and the crabs shall be subject to
125 inspection at all times. Only one trap number may be issued for
126 each boat by the commission upon receipt of an application on
127 forms prescribed by it. This subsection shall not apply to an
128 individual fishing with no more than five traps. ~~It is a felony~~
129 ~~of the third degree, punishable as provided in s. 775.082, s.~~
130 ~~775.083, or s. 775.084, for any person willfully to molest any~~
131 ~~traps, lines, or buoys, as defined herein, belonging to another~~
132 ~~without the express written consent of the trap owner. Any~~

HB 1345 CS

2006
CS

133 ~~person receiving a judicial disposition other than dismissal or~~
134 ~~acquittal on a charge of willful molestation of a trap, in~~
135 ~~addition to the penalties specified in s. 370.021, shall lose~~
136 ~~all saltwater fishing privileges for a period of 24 calendar~~
137 ~~months. It is unlawful for any person to remove the contents of~~
138 ~~or take possession of another harvester's trap without the~~
139 ~~express written consent of the trap owner available for~~
140 ~~immediate inspection. Unauthorized possession of another's trap~~
141 ~~gear or removal of trap contents constitutes theft. Any person~~
142 ~~receiving a judicial disposition other than dismissal or~~
143 ~~acquittal on a charge of theft of or from a trap pursuant to~~
144 ~~this section or s. 370.1107 shall, in addition to the penalties~~
145 ~~specified in s. 370.021 and the provisions of this section,~~
146 ~~permanently lose all his or her saltwater fishing privileges~~
147 ~~including his or her saltwater products license and blue crab~~
148 ~~endorsement. In such cases endorsements, landings history, and~~
149 ~~trap certificates are nontransferable. In addition, any person,~~
150 ~~firm, or corporation receiving a judicial disposition other than~~
151 ~~dismissal or acquittal for violating this subsection or s.~~
152 ~~370.1107 shall also be assessed an administrative penalty of up~~
153 ~~to \$5,000. Immediately upon receiving a citation for a violation~~
154 ~~involving theft of or from a trap and until adjudicated for such~~
155 ~~a violation, or receiving a judicial disposition other than~~
156 ~~dismissal or acquittal for such a violation, the person, firm,~~
157 ~~or corporation committing the violation is prohibited from~~
158 ~~transferring any blue crab endorsements, landings history, or~~
159 ~~trap certificates.~~

160 (3) (a) Endorsement fees.--

Page 6 of 19

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1345-02-c2

HB 1345 CS

2006
CS

161 1. The fee for a hard-shell blue crab endorsement for the
162 taking of hard-shell blue crabs, as required by rule of the
163 commission, is \$125, \$25 of which must be used solely for trap
164 retrieval under s. 370.143 and rule 68B-55, Florida
165 Administrative Code.

166 2. The fee for a soft-shell blue crab endorsement for the
167 taking of soft-shell blue crabs, as required by rule of the
168 commission, is \$250, \$25 of which must be used solely for trap
169 retrieval under s. 370.143 and rule 68B-55, Florida
170 Administrative Code.

171 3. The fee for a nontransferable blue crab endorsement for
172 the taking of hard-shell blue crabs, as required by rule of the
173 commission, is \$125, \$25 of which must be used solely for trap
174 retrieval under s. 370.143 and rule 68B-55, Florida
175 Administrative Code.

176 4. The fee for an incidental-take blue crab endorsement
177 for the taking of blue crabs as bycatch in shrimp trawls and
178 stone crab traps, as established by commission rule, is \$25.

179 (b) Trap tag fees.--For each trap tag issued by the
180 commission under the requirements of the blue crab effort
181 management program established by commission rule, there is an
182 annual fee of 50 cents per tag. The fee for replacement tags for
183 lost or damaged tags is 50 cents each plus shipping. In the
184 event of a major natural disaster, such as a hurricane or major
185 storm, which causes massive trap losses within an area declared
186 by the Governor to be a disaster emergency area, the commission
187 may temporarily defer or permanently waive replacement tag fees.

HB 1345 CS

2006
CS

188 (c) Disposition of fees, surcharges, and civil penalties
189 and fines.--Endorsement fees, trap tag fees, civil penalties and
190 finer, replacement trap tag fees, and trap retrieval fees shall
191 be deposited in the Marine Resources Conservation Trust Fund.
192 Not more than 50 percent of the revenues generated under this
193 section may be used for the operation and administration of the
194 blue crab effort management program. The remaining revenues
195 generated under this section shall be used for trap retrieval,
196 management of the blue crab fishery, public education
197 activities, research, and enforcement activities in support of
198 the blue crab effort management program.

199 (d) Waiver of fees.--For the 2006-2007 license year, the
200 commission shall waive all fees under this subsection for all
201 persons who qualify by September 30, 2006, to participate in the
202 blue crab effort management program established by commission
203 rule.

204 (4) (a) Untagged trap penalties.--In addition to any other
205 penalties provided in s. 370.021 for any person, firm, or
206 corporation that violates rule 68B-45.007(6) (b), Florida
207 Administrative Code, the following administrative penalties
208 apply:

209 1. For a first violation, the commission shall assess an
210 administrative penalty of up to \$1,000 and the blue crab
211 endorsement holder's blue crab fishing privileges may be
212 suspended for the remainder of the current license year.

213 2. For a second violation that occurs within 24 months
214 after any previous such violation, the commission shall assess
215 an administrative penalty of up to \$2,000 and the blue crab

216 endorsement holder's blue crab fishing privileges may be
 217 suspended for 12 calendar months.

218 3. For a third violation that occurs within 36 months
 219 after any two previous such violations, the commission shall
 220 assess an administrative penalty of up to \$5,000 and the blue
 221 crab endorsement holder's blue crab fishing privileges may be
 222 suspended for 24 calendar months.

223 4. A fourth violation that occurs within 48 months after
 224 any three previous such violations shall result in permanent
 225 revocation of all of the violator's saltwater fishing
 226 privileges, including having the commission proceed against the
 227 endorsement holder's saltwater products license in accordance
 228 with s. 370.021.

229
 230 Any person assessed an administrative penalty under this
 231 paragraph shall, within 30 calendar days after notification, pay
 232 the administrative penalty to the commission or request an
 233 administrative hearing under ss. 120.569 and 120.57. The
 234 proceeds of all administrative penalties collected under this
 235 paragraph shall be deposited in the Marine Resources
 236 Conservation Trust Fund.

237 (b) Trap theft; prohibitions and penalties.--It is
 238 unlawful for any person to remove or take possession of the
 239 contents of another harvester's trap without the express written
 240 consent of the trap owner, which must be available for immediate
 241 inspection. Unauthorized possession of another harvester's trap
 242 gear or removal of trap contents constitutes theft. Any person
 243 convicted of theft of or from a trap pursuant to this paragraph

HB 1345 CS

2006
CS

244 shall, in addition to the penalties specified in s. 370.021 and
245 the provisions of this section, permanently lose all of his or
246 her saltwater fishing privileges, including saltwater products
247 licenses, blue crab endorsements, and all trap tags allotted to
248 him or her by the commission. In such cases, endorsements are
249 nontransferable. In addition, any person, firm, or corporation
250 convicted of a violation of this paragraph shall also be
251 assessed an administrative penalty of up to \$5,000. Immediately
252 upon receiving a citation for a violation involving theft of or
253 from a trap and until adjudicated for such a violation or upon
254 receipt of a judicial disposition other than dismissal or
255 acquittal on such a violation, the violator is prohibited from
256 transferring any blue crab endorsement.

257 (c) Criminal activities.--Any person, firm, or corporation
258 convicted of violating commission rules that prohibit any of the
259 following commits a felony of the third degree, punishable as
260 provided in s. 775.082, s. 775.083, or s. 775.084:

261 1. The willful molestation of any blue crab trap, line, or
262 buoy that is the property of any licenseholder, without the
263 permission of that licenseholder.

264 2. The bartering, trading, leasing, or sale, or conspiring
265 or aiding in such barter, trade, lease, or sale, or supplying,
266 agreeing to supply, aiding in supplying, or giving away blue
267 crab trap tags unless the action is duly authorized by the
268 commission as provided by commission rules.

269 3. The making, altering, forging, counterfeiting, or
270 reproducing of blue crab trap tags.

271 4. Possession of altered, forged, counterfeit, or
272 imitation blue crab trap tags.

273 5. Possession of commission-issued original trap tags and
274 commission-issued replacement trap tags, the sum of which
275 exceeds by 1 percent the number of traps allowed by rule of the
276 commission.

277 6. Engaging in the commercial harvest of blue crabs during
278 the time the licenseholder's blue crab endorsements are under
279 suspension or revocation.

280
281 Any person, firm, or corporation convicted of a violation of
282 this paragraph shall be assessed an administrative penalty of up
283 to \$5,000, and all of the blue crab endorsements possessed by
284 the person, firm, or corporation may be suspended for up to 24
285 calendar months. Immediately upon receiving a citation involving
286 a violation of this paragraph and until adjudicated for such a
287 violation, or if convicted of such a violation, the person,
288 firm, or corporation committing the violation is prohibited from
289 transferring any blue crab endorsements.

290 (d) Endorsement transfers; fraudulent reports;
291 penalties.--For any person, firm, or corporation convicted of
292 fraudulently reporting the actual value of transferred blue crab
293 endorsements, the commission may automatically suspend or
294 permanently revoke the seller's or the purchaser's blue crab
295 endorsements. If the endorsement is permanently revoked, the
296 commission shall also permanently deactivate the endorsement
297 holder's blue crab trap tag accounts.

HB 1345 CS

2006
CS

298 (e) Prohibitions during endorsement suspension and
 299 revocation.--During any period of suspension or revocation of a
 300 blue crab endorsement holder's endorsements, he or she shall,
 301 within 15 days after notice provided by the commission, remove
 302 from the water all traps subject to that endorsement. Failure to
 303 do so shall extend the period of suspension or revocation for an
 304 additional 6 calendar months.

305 (5) For purposes of this section, a conviction is any
 306 disposition other than acquittal or dismissal.

307 (6) An endorsement may not be renewed until all fees and
 308 administrative penalties imposed under this section are paid.

309 Section 4. Paragraphs (b) and (c) of subsection (2) of
 310 section 370.142, Florida Statutes, are amended to read:

311 370.142 Spiny lobster trap certificate program.--

312 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
 313 PENALTIES.--The Fish and Wildlife Conservation Commission shall
 314 establish a trap certificate program for the spiny lobster
 315 fishery of this state and shall be responsible for its
 316 administration and enforcement as follows:

317 (b) Trap tags.--Each trap used to take or attempt to take
 318 spiny lobsters in state waters or adjacent federal waters shall,
 319 in addition to the crawfish trap number required by s.

320 370.14(2), have affixed thereto an annual trap tag issued by the
 321 commission. Each such tag shall be made of durable plastic or
 322 similar material and shall, based on the number of certificates
 323 held, have stamped thereon the owner's license number. To
 324 facilitate enforcement and recordkeeping, such tags shall be
 325 issued each year in a color different from that of each of the

HB 1345 CS

2006
CS

326 | previous 3 years. The annual certificate fee shall be \$1 per
327 | certificate. Replacement tags for lost or damaged tags may be
328 | obtained as provided by rule of the commission. In the event of
329 | a major natural disaster, such as a hurricane or major storm,
330 | which causes massive trap losses within an area declared by the
331 | Governor to be a disaster emergency area, the commission may
332 | temporarily defer or permanently waive replacement tag fees.

333 | (c) Prohibitions; penalties.--

334 | 1. It is unlawful for a person to possess or use a spiny
335 | lobster trap in or on state waters or adjacent federal waters
336 | without having affixed thereto the trap tag required by this
337 | section. It is unlawful for a person to possess or use any other
338 | gear or device designed to attract and enclose or otherwise aid
339 | in the taking of spiny lobster by trapping that is not a trap as
340 | defined in rule 68B-24.006(2), Florida Administrative Code.

341 | 2. It is unlawful for a person to possess or use spiny
342 | lobster trap tags without having the necessary number of
343 | certificates on record as required by this section.

344 | 3. It is unlawful for any person to willfully molest, take
345 | possession of, or remove the contents of another harvester's
346 | trap without the express written consent of the trap owner
347 | available for immediate inspection. Unauthorized possession of
348 | another's trap gear or removal of trap contents constitutes
349 | theft. Any person receiving a judicial disposition other than
350 | dismissal or acquittal on a charge of theft of or from a trap
351 | pursuant to this subparagraph or s. 370.1107 shall, in addition
352 | to the penalties specified in ss. 370.021 and 370.14 and the
353 | provisions of this section, permanently lose all his or her

HB 1345 CS

2006
CS

354 saltwater fishing privileges, including his or her saltwater
355 products license, crawfish endorsement, and all trap
356 certificates allotted to him or her through this program. In
357 such cases, trap certificates and endorsements are
358 nontransferable. Any person receiving a judicial disposition
359 other than dismissal or acquittal on a charge of willful
360 molestation of a trap, in addition to the penalties specified in
361 ss. 370.021 and 370.14, shall lose all saltwater fishing
362 privileges for a period of 24 calendar months. In addition, any
363 person, firm, or corporation charged with violating this
364 paragraph and receiving a judicial disposition other than
365 dismissal or acquittal for violating this subparagraph or s.
366 370.1107 shall also be assessed an administrative penalty of up
367 to \$5,000. Immediately upon receiving a citation for a violation
368 involving theft of or from a trap, or molestation of a trap, and
369 until adjudicated for such a violation or, upon receipt of a
370 judicial disposition other than dismissal or acquittal of such a
371 violation, the person, firm, or corporation committing the
372 violation is prohibited from transferring any crawfish trap
373 certificates and endorsements.

374 4. In addition to any other penalties provided in s.
375 370.021, a commercial harvester, as defined by rule 68B-
376 24.002(1), Florida Administrative Code, who violates the
377 provisions of this section, or the provisions relating to traps
378 of chapter 68B-24, Florida Administrative Code, shall be
379 punished as follows:

380 a. If the first violation is for violation of subparagraph
381 1. or subparagraph 2., the commission shall assess an additional

HB 1345 CS

2006
CS

382 civil penalty of up to \$1,000 and the crawfish trap number
383 issued pursuant to s. 370.14(2) or (6) may be suspended for the
384 remainder of the current license year. For all other first
385 violations, the commission shall assess an additional civil
386 penalty of up to \$500.

387 b. For a second violation of subparagraph 1. or
388 subparagraph 2. which occurs within 24 months of any previous
389 such violation, the commission shall assess an additional civil
390 penalty of up to \$2,000 and the crawfish trap number issued
391 pursuant to s. 370.14(2) or (6) may be suspended for the
392 remainder of the current license year.

393 c. For a third or subsequent violation of subparagraph 1.,
394 subparagraph 2., or subparagraph 3. which occurs within 36
395 months of any previous two such violations, the commission shall
396 assess an additional civil penalty of up to \$5,000 and may
397 suspend the crawfish trap number issued pursuant to s. 370.14(2)
398 or (6) for a period of up to 24 months or may revoke the
399 crawfish trap number and, if revoking the crawfish trap number,
400 may also proceed against the licenseholder's saltwater products
401 license in accordance with the provisions of s. 370.021(2)(h).

402 d. Any person assessed an additional civil penalty
403 pursuant to this section shall within 30 calendar days after
404 notification:

405 (I) Pay the civil penalty to the commission; or

406 (II) Request an administrative hearing pursuant to the
407 provisions of s. 120.60.

HB 1345 CS

2006
CS

408 e. The commission shall suspend the crawfish trap number
409 issued pursuant to s. 370.14(2) or (6) for any person failing to
410 comply with the provisions of sub-subparagraph d.

411 5.a. It is unlawful for any person to make, alter, forge,
412 counterfeit, or reproduce a spiny lobster trap tag or
413 certificate.

414 b. It is unlawful for any person to knowingly have in his
415 or her possession a forged, counterfeit, or imitation spiny
416 lobster trap tag or certificate.

417 c. It is unlawful for any person to barter, trade, sell,
418 supply, agree to supply, aid in supplying, or give away a spiny
419 lobster trap tag or certificate or to conspire to barter, trade,
420 sell, supply, aid in supplying, or give away a spiny lobster
421 trap tag or certificate unless such action is duly authorized by
422 the commission as provided in this chapter or in the rules of
423 the commission.

424 6.a. Any person who violates the provisions of
425 subparagraph 5., or any person who engages in the commercial
426 harvest, trapping, or possession of spiny lobster without a
427 crawfish trap number as required by s. 370.14(2) or (6) or
428 during any period while such crawfish trap number is under
429 suspension or revocation, commits a felony of the third degree,
430 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

431 b. In addition to any penalty imposed pursuant to sub-
432 subparagraph a., the commission shall levy a fine of up to twice
433 the amount of the appropriate surcharge to be paid on the fair
434 market value of the transferred certificates, as provided in

HB 1345 CS

2006
CS

435 subparagraph (a)1., on any person who violates the provisions of
436 sub-subparagraph 5.c.

437 c. In addition to any penalty imposed pursuant to sub-
438 subparagraph a., any person receiving any judicial disposition
439 other than acquittal or dismissal for a violation of
440 subparagraph 5. shall be assessed an administrative penalty of
441 up to \$5,000, and the crawfish endorsement under which the
442 violation was committed may be suspended for up to 24 calendar
443 months. Immediately upon issuance of a citation involving a
444 violation of subparagraph 5. and until adjudication of such a
445 violation, and after receipt of any judicial disposition other
446 than acquittal or dismissal for such a violation, the person
447 holding the crawfish endorsement listed on the citation is
448 prohibited from transferring any spiny lobster trap
449 certificates.

450 7. Any certificates for which the annual certificate fee
451 is not paid for a period of 3 years shall be considered
452 abandoned and shall revert to the commission. During any period
453 of trap reduction, any certificates reverting to the commission
454 shall become permanently unavailable and be considered in that
455 amount to be reduced during the next license-year period.
456 Otherwise, any certificates that revert to the commission are to
457 be reallocated in such manner as provided by the commission.

458 8. The proceeds of all civil penalties collected pursuant
459 to subparagraph 4. and all fines collected pursuant to sub-
460 subparagraph 6.b. shall be deposited into the Marine Resources
461 Conservation Trust Fund.

HB 1345 CS

2006
CS

462 9. All traps shall be removed from the water during any
463 period of suspension or revocation.

464 Section 5. Subsections (1), (2), and (3) of section
465 370.143, Florida Statutes, are amended to read:

466 370.143 Retrieval of spiny lobster, ~~crawfish,~~ and stone
467 crab, blue crab, and black sea bass traps during closed season;
468 commission authority; fees.--

469 (1) The Fish and Wildlife Conservation Commission is
470 authorized to implement a trap retrieval program for retrieval
471 of spiny lobster, ~~crawfish,~~ and stone crab, blue crab, and black
472 sea bass traps remaining in the water during the closed season
473 for each species. The commission is authorized to contract with
474 outside agents for the program operation.

475 (2) A retrieval fee of \$10 per trap retrieved shall be
476 assessed trap owners. However, for each person holding a spiny
477 lobster endorsement, ~~crawfish stamp number~~ or a stone crab
478 endorsement, or a blue crab endorsement issued under rule of the
479 commission, the retrieval fee shall be waived for the first five
480 traps retrieved. Traps recovered under this program shall become
481 the property of the commission or its contract agent, as
482 determined by the commission, and shall be either destroyed or
483 resold to the original owner. Revenue from retrieval fees shall
484 be deposited in the Marine Resources Conservation Trust Fund and
485 used solely for operation of the trap retrieval program.

486 (3) Payment of all assessed retrieval fees shall be
487 required prior to renewal of the trap owner's saltwater products
488 license ~~and stone crab and or crawfish endorsements.~~ Retrieval

HB 1345 CS

2006
CS

489 | fees assessed under this program shall stand in lieu of other
490 | penalties imposed for such trap violations.

491 | Section 6. Beginning in the 2006-2007 fiscal year, the sum
492 | of \$132,000 is appropriated from the Marine Resources
493 | Conservation Trust Fund to the Fish and Wildlife Conservation
494 | Commission on a recurring basis for the purposes of implementing
495 | the blue crab effort management program pursuant to s.
496 | 370.135(3)(b), Florida Statutes, and providing for the
497 | administrative costs of the Blue Crab Advisory Board as created
498 | by commission rule.

499 | Section 7. This act shall take effect July 1, 2006.

(h) The project's cost effectiveness in relation to the quantity, quality, and type of data expected to be collected (up to five points);

(i) The procedures to be used to check on the quality of the data as it is collected and handled (quality assurance/quality control) (up to five points);

(j) Are a continuation of an ongoing multi-year project effort which has provided reliable and useful data and demonstrated high compliance with prior grant agreement terms and conditions (up to three points);

(k) Are endorsed by the local government reef coordinator whose county has a written artificial reef monitoring plan in place and who will provide multi-year monitoring (two points); and

(l) Project proposals that address unresolved scientific issues or provide data relevant to artificial reef management (up to five points).

(3) Ranking of other complex planning, research, and evaluation projects. These projects will be funded based upon ability of the project to meet state or local artificial reef planning and management needs, availability of funds, and likelihood of successful completion of the project objectives. These project applications will include a detailed formal proposal that includes but is not limited to:

(a) Purpose of the project and specific measurable objective(s);

(b) Detailed scope of work;

(c) Complete explanation of how funds are to be spent;

(d) A description of sampling methodologies and statistical analyses;

(e) A time table; and

(f) Qualifications of investigators.

Specific Authority 370.25(2), (4) FS. Law Implemented Article IV, Section 9, Florida Constitution, 370.25(2) FS. History—New 7-1-01.

68E-9.006. Project Funding.

Project funding limits. The Commission may provide up to \$60,000 per state fiscal year for an artificial reef project, based on the criteria set forth in Rule 68E-9.003, F.A.C., above. During any given funding year the combined funding available to all the applicants applying from a given county shall not exceed twenty percent of the total artificial reef project funds available. The Commission may consider project funding in excess of \$60,000 for a single project depending on the availability of funds, the total number of applications received, and the nature and scope of project applications which provide the following:

(1) Expanded economic opportunities, particularly in depressed areas.

(2) Research and evaluation projects on traditional or new artificial reef materials or designs.

(3) Experimental artificial reef construction designed to:

(a) Provide improvements in habitat quality, durability or stability over that of conventional reuse material; and

(b) Provide reefs which enhance the conservation/preservation of fisheries resources through design and placement resulting in reduction of directed fishing pressure and over fishing.

(4) Development of local or regional artificial reef management plans and supporting studies.

(5) Multi-county regional reef construction or assessment projects.

Specific Authority 370.25(2), (4) FS. Law Implemented Article IV, Section 9, Florida Constitution, 370.25(2) FS. History—New 7-1-01.

68E-9.007. Forms and Instructions.

(1) Project Administration Forms. Information required by the Commission must be placed on the prescribed forms, titles and numbers of which are listed below. Such forms and instructions may be obtained without cost by writing:

Florida Fish and Wildlife Conservation Commission, Division of Marine Fisheries, 620 South Meridian Street Box MF-MFM, Tallahassee, Florida 32399-1600.

(2) This list of forms includes:

(a) FWCC-AR01 Artificial Reef Program Construction Grant Application.

(b) FWCC-AR02 Artificial Reef Program Monitoring Grant Application.

Specific Authority 370.25(2), (4) FS. Law Implemented 370.25(2) FS. History—New 7-1-01.

CHAPTER 68E-18 SPINY LOBSTER TRAP CERTIFICATE PROGRAM

Section

- 68E-18.001. Introduction: Purpose and Intent.
- 68E-18.002. Definitions.
- 68E-18.003. Certificate Allocations and Fees.
- 68E-18.004. Spiny Lobster Trap Tags.
- 68E-18.005. Transfer of Certificates.
- 68E-18.006. Rental or Leasing of Trap Tags.
- 68E-18.007. Trap Reduction.
- 68E-18.008. Suspension of Certificates and Crawfish Endorsement.
- 68E-18.009. Re-allotment of Reverted Certificates. (Repealed)
- 68E-18.010. Commission Policy Regarding the Assessment of Administrative Penalties.

68E-18.001. Introduction: Purpose and Intent.

The Legislature amended Chapter 370, F.S., to establish the Florida Spiny Lobster Trap Certificate Program, to promote stabilization, efficiency and resource protection in the lobster fishery by reducing the number of

permitted traps. The following requirements, standards and regulations are established to implement and comply with the intent of Section 370.142, F.S.

Specific Authority 370.142(6) FS. Law Implemented 370.142 FS. History—New 5-16-95, Formerly 62R-18.001.

68E-18.002. Definitions.

(1) “A1-certificates” are trap certificates that have never been transferred from the original certificate holder.

(2) “A2-certificates” are trap certificates that have been transferred to or from an immediate family member for which no surcharge has been collected.

(3) “Active Certificates” are those certificates for which all licenses, certificate fees, and surcharges have been paid in full and are current, and the holder’s Saltwater Product License (SPL), Crawfish Endorsement (C-number), and certificates are not inactive.

(4) “Allotted certificates” and “allocated certificates” mean the number of lobster trap certificates assigned to an individual certificate holder and maintained by the Commission after the initial allocation is established for an individual SPL number with a C-number. The certificate balance is that number of certificates as adjusted from time to time by program reductions pursuant to Fish and Wildlife Conservation Commission (FWC) rule, lawful acquisition or transfer of certificates to or from other certificate holders, and other adjustments as are lawful or otherwise appropriate under the program.

(5) “B-certificates” are trap certificates that have been transferred outside a trap certificate holder’s immediate family and for which a surcharge is due or has been collected.

(6) “C-number” refers to the Crawfish Endorsement on a SPL.

(7) “Certificate holder” is an individual who holds a valid SPL with a current C-number and who received an initial allotment of trap certificates, or obtained trap certificates transferred from another trap certificate holder, or otherwise has acquired trap certificates and these certificates are assigned to his or her SPL/C-number. The certificates may be active or inactive.

(8) “Commission” means the Fish and Wildlife Conservation Commission.

(9) “Fair market value” means the actual price paid for each certificate.

(10) “Immediate Family” for purposes of the Lobster Trap Certificate Program means mother, father, sister, brother, spouse, son, daughter, step-son, step-daughter, step-father, step-mother, half sister, half brother, son-in-law, or daughter-in-law of the individual certificate holder.

(11) “Inactive certificates” are those certificates which are allocated to a certificate holder

but are not available for transfer or issuance of trap tags because the certificate holder has not paid all required license fees, certificate fees, and surcharges and/or the certificate holder’s SPL, C-number, or other required licenses, endorsements or authorizations are otherwise under suspension, revocation, or inactive.

(12) “Initial allocation” of certificates is the number of certificates established in 1993 for SPL/C-number holders at the beginning of the Lobster Trap Certificate Program based on the best benchmark year landings made by that licenseholder.

(13) “Issued Certificates” means those certificates which have been paid for, are current, and are assigned to an SPL/C-number account.

(14) “Lobster trap” is any device or gear, as defined in Rule 68B-24.006, F.A.C., which is used to aid in the taking of lobster. Only authorized lobster traps may be used, and trap tags obtained from trap certificate allocations may only be affixed to authorized lobster traps. The use of a trap tag does not create any authorization whatsoever to use any gear not otherwise lawful to use or aid in the taking of lobster.

(15) “Spiny lobster” or “crawfish” or “lobster” means any crustacean of the species *Panulirus argus*, or any part thereof.

(16) “Standardized trap reduction” and “annual trap reduction” means the four percent (4%) annual trap reduction established pursuant to Rule 68B-24.009, F.A.C.

(17) “Transferred certificates” means a change in title from one certificate holder to another SPL and C-number holder. A transfer is a final transaction and is accomplished by submittal of a completed application, payment of all necessary fees, recording of the transfer in the Commission records, and documentation of the transfer furnished to the previous and new owner of the certificates.

(18) “Temporary transfers” means any use of a valid trap tag issued pursuant to an active trap certificate by someone other than the owner of the certificate. This includes but is not limited to leasing, renting, loaning, lending or other commercial or non-commercial arrangement for the use of the tag during the fishing season. If the owner suffers a hardship or emergency that requires another person to pull the owners traps in response to the hardship or emergency, this use is not subject to the transfer fee under the provisions of a temporary transfer. However, the pull must be authorized and documented pursuant to subsection 68B-24.006(7), F.A.C.

(19) “Transfer period” means that period of time when individuals holding trap certificates can transfer their certificates to another individual’s certificate allocation. The transfer time shall begin June 15 be coincident with the

first placement of traps for the regular lobster season (currently August 1) and end midnight March 1.

(20) "Trap reduction schedule" means the reduction schedule established by the FWC in Rule 68B-24.009, F.A.C., as provided for in Section 370.142(3), F.S.

(21) "Trap tag" or "lobster trap tag" is a physical, durable, annual lobster trap identification and authorization label, furnished annually by the Commission to the certificate holder. One trap tag may be obtained by the certificate holder for each trap certificate held. The trap tag must be firmly affixed to the lobster trap each fishing season in order to place the trap in the water and use the trap to aid in the taking of lobster.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History—New 5-16-95, Formerly 62R-18.002, Amended 7-1-01, 4-11-04, 7-15-04.

68E-18.003. Certificate Allocations and Fees.

(1) The number of allotted certificates is determined upon an initial allocation pursuant to establishment of the program to certificate holders that had a SPL with a C-number during the benchmark years (i.e., the 1988-1989, 1989-1990, or the 1990-1991 lobster fishing seasons) and maintained it through 1992, and/or other lawful acquisition of certificates by a certificate holder.

The initial allocation was determined pursuant to Section 370.142(2)(a)1., F.S., by using a certificate holder's highest year landings of lobster from one (1) of the three (3) designated benchmark years to calculate the number of certificates based on the poundage landed and reported to the Commission during the best (e.g., highest reported poundage of lobster) benchmark year.

(a) The initial allocation may be adjusted through an appeal process to the Lobster Trap Certificate Technical Advisory and Appeals Board as established in Section 370.142(2)(a)1., F.S. Subsequent adjustment of the initial allocation number of certificates by the Commission may be made based on a recommendation by the Appeals Board, or other administrative or judicial proceeding.

(b) A certificate allocation may be adjusted by transfer of certificates to or from any certificate holder to another as further described in this rule.

(c) After the initial allocations have been made to current SPL/C-number holders in the first year of the program, a person wishing to enter the fishery may acquire an SPL/C-number and obtain a certificate allocation through the transfer or other lawful acquisition of trap certificates to his or her license.

1. The allocation and number of certificates is administered and maintained by the Commission.

2. The certificate holder will be advised annually as to the number of certificates assigned to his or her C-number, the amount due to the Commission for the certificates in the current year, and any arrearage of costs or fees due.

3. Certificates will only be issued in whole numbers of certificates; there are no fractional certificates.

4. There must be one or more certificates allocated to a certificate holder in order for the certificate holder to have an allocation. A person may have an SPL/C-number with no trap certificates; a person may not have a certificate allocation without certificates assigned to their C-number.

(2) Any certificates for which the annual certificate fee is not paid for a period of three (3) years shall be considered abandoned and shall revert to the Commission. During any period of trap reduction, any certificates reverting to the Commission shall become permanently unavailable and be considered in that amount to be reduced during the next license-year period. A report of all certificates reduced is furnished by the Division of Marine Fisheries to the FWC pursuant to the annual evaluation process required in Section 370.142(3), F.S. Certificates reduced from the certificate inventory are not recoverable or otherwise available for use or reissue during the remainder of any year in which there is an annual reduction.

(3) The charges for a certificate will accumulate for each year not paid until that certificate is removed from the certificate pool pursuant to (2) above. All prior certificates must be paid for to keep the allotment current, regardless of annual reduction in the allotment total.

(4) Partial payments of fees for certificates will not be accepted.

(5) Certificate fees for current year season certificates not received by the Commission by March 1 for the current lobster fishing season will not be accepted.

(6) Any payment by an invalid check is cause for suspension of all current certificates if valid payment is not received within thirty (30) days of notification of the invalid check. Payment shall include any returned check charges incurred by the Commission.

(7) Certificates shall not be issued or allocated until all licenses, fees, and surcharges have been paid in full and are current, and the holder's SPL and C-number are not otherwise inactive.

(8) Trap tags shall not be issued to certificate holders until all licenses, certificate fees,

Spiny Lobster Trap Certificate Program

68E-18.005

surcharges and any other outstanding fees to the Commission have been paid in full and are current, and the holder's SPL, C-number, and certificates are not otherwise inactive.

(9) Reasons or circumstances resulting in inactive certificates include:

(a) a certificate holder has his SPL suspended, revoked, or fails to renew his SPL;

(b) a certificate holder has his C-number suspended, revoked, or fails to renew his C-number;

(c) the annual certificate fees have not been paid in full;

(d) the certificate holder is deceased;

(e) the certificates or necessary licenses are in arrears on payment of required annual fees; and,

(f) the certificate holder has failed to obtain such additional authorizations or endorsements to licenses.

Specific Authority 370.142(6) FS. Law Implemented 370.142 FS. History—New 5-16-95, Formerly 62R-18.003.

68E-18.004. Spiny Lobster Trap Tags.

(1) No lobster trap shall be used on or in the waters of the state without a current year trap tag firmly affixed thereto. Traps with tags that are not firmly affixed by nails, staples, or otherwise securely fastened as may be provided by the Commission, shall be considered untagged for enforcement purposes.

(2) Lost or damaged tags may be replaced upon proper verification of loss, as defined in (3) below, and payment of the replacement tag fee designated for that year have been made. Damaged tags must be turned in to the Commission. Payment for replacement tags must be made before the replacement tags are issued to the certificate holder.

(3) Cost of replacement tags will reasonably reflect the actual cost charged to the Commission by the vendor manufacturing the tags, plus a fee of three (3) dollars per order to cover processing and handling.

(4) Notification of lost or damaged tags shall be a written report made to the Commission of the tag numbers lost or damaged ("Spiny Lobster Trap Tag Replacement form"), Form No. FWC 30-203, September 1995, hereby incorporated by reference, may be obtained by contacting the local Division of Law Enforcement Office. In addition, a report must be filed concurrently with the local Division of Law Enforcement stating the location of where the traps were lost and the circumstances of the loss.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History—New 5-16-95, Amended 2-11-96, Formerly 62R-18.004, Amended 7-1-01.

68E-18.005. Transfer of Certificates.

(1) Trap certificates shall only be transferred by the Commission during the June 15 –

March 1 transfer period designated in Rule 68E-18.002, F.A.C.

(2) Payment of all outstanding license fees, trap tag fees, surcharges and any other charges owed to the Commission by either party in the transfer transaction must be completed within the transfer period. All fees and charges shall be resolved and current before any transfers shall be made by the Commission and before trap certificates and tags are issued to the receiving holder.

(3) No surcharge will be assessed for any transfer within an individual's immediate family.

(4) All transfers must be submitted on a Commission form ("Spiny Lobster Trap Tag Transfer"), Form No. FWC 20-173, December 1993, which is hereby incorporated by reference, may be obtained by contacting the local Division of Law Enforcement Office, and notarized. No other form will be accepted. Both parties to the transfer must state the value paid and received for the certificates and list the tag audit numbers included in the transfer. Fraudulent statements of value paid or received for certificates by either the transferor or transferee will result in the denial of the transfer, and refer the matter to the appropriate authorities for other disposition.

(5) The transferor shall designate in detail which certificates (A1, A2 or B) are being transferred, and in what combination thereof.

(6) The transferee shall have a valid SPL and a current C-number before any transfer will be authorized. A certificate holder who intends to close their trap certificate account by transfer of all certificates to another person's account, and who is not eligible for the restricted species endorsement, shall be exempt from the requirements of Rule 68B-24.0055, F.A.C., for purposes of completing the transfer. However, the transferor shall not be issued a crawfish endorsement on an actual saltwater products license without the restricted species endorsement. The transferee is responsible for ensuring that all transfer/surcharge fees are paid to the Commission. Transfer fees and surcharges will be assessed only on those trap certificates actually received from the transferor by the transferee.

(7) If any application for the transfer of certificates containing errors is received by the Commission after February 15, the Commission will make a reasonable effort to obtain a completed application by March 1; however, if such efforts are not successful within that time frame, the Commission will deny the request to transfer certificates during the current lobster season and return the applicable fees submitted to the applicant.

(8) If the certificate holder is deceased, the estate of the certificate holder may distribute the certificates by transferring possession of

the certificates to a current SPL and C-number holder. The transfer of certificates shall be made upon lawful order of the probate court, or other lawful notice and designation pursuant to Chapter 732 or 733, F.S., by the personal representative or other person authorized by law to settle the estate. Transfers from an estate of a deceased certificate holder are subject to the ordinary fees and processing requirements of these rules and the Lobster Trap Certificate Program.

(9) Only active certificates may be transferred.

(10) Upon transfer, the transferred certificate becomes part of the receiving certificate holder's allocation of certificates.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History—New 5-16-95, Amended 4-7-99, Formerly 62R-18.005, Amended 7-1-01, 7-15-04.

68E-18.006. Rental or Leasing of Trap Tags.

(1) A certificate holder who has received trap tags for a current fishing year may authorize the use of his tags by another certificate holder or person who has all current licenses and authorizations required to use lobster traps.

(2) The person owning the tags and the person who has the use of the tags must report the discrete number of each tag involved in the transaction to the Commission.

(3) The authorized use of a certificate holder's trap tags by another must be renewed each fishing season. The maximum period for this authorization is the fishing season in which the use is granted. Such written authorization must be carried aboard the vessel utilizing the trap tags authorized for use from another certificate holder.

(4) The report of the transaction must be made in writing to the local Division of Law Enforcement office before trap tags are affixed to a trap or placed in the water.

(5) Failure to report authorized use of trap tags by another will result in suspension of each tag involved for the current lobster fishing season. Only the C-number and buoy colors assigned to the vessel utilizing another's authorized trap tags shall be displayed aboard such vessel and on each trap buoy.

(6) The user may not further authorize any other person to use the tags obtained from another certificate holder pursuant to this section.

Specific Authority 370.142(6) FS. Law Implemented 370.142 FS. History—New 5-16-95, Formerly 62R-18.006.

68E-18.007. Trap Reduction.

(1) Beginning July 1, 2001, and in each subsequent year until such time as only 400,000 trap certificates are available to the fishery, the number of trap certificates shall be reduced pursuant to Rule 68B-24.009, F.A.C.

(2) If the percentage reduction results in a fractional number, that partial trap represented in the fraction will be rounded off. For example, a calculation of an annual or standardized reduction percentage times the certificate allocation yields the product eighteen and one half (18.5); in this application, the certificate allocation would be reduced by eighteen (18) certificates. If a calculation of an annual or standardized reduction percentage times the certificate allocation yields the product 18.6; in this application, the certificate allocation would be reduced by nineteen (19) certificates. For all certificate holders, any reduction will never be less than one (1) certificate.

(3) Any certificate allocation reduced to zero trap certificates will be deleted from the Commission's active certificate allocation records. The certificate allocation may only be reduced to zero by sale or transfer of certificates out of the certificate holder's allocation, forfeiture, or other lawful process.

(4) During trap reduction, B-certificates will be reduced prior to the reduction of any A-certificates.

(5) Certificates allocated but not issued shall be included in an active reduction, should an active reduction be necessary in a given year pursuant to Rule 68B-24.009, F.A.C. Each allocation will be reduced whether the tags are purchased and issued or not.

(6) Failure to pay certificate fees and other charges in any year will not exempt a certificate holder from having their certificates reduced as part of the annual reduction. All charges and fees on active and inactive certificates must be paid, including charges and fees on certificates lost to reduction.

(7) If an individual has more than one (1) C-number and the additional C-numbers have allocated certificates, the reduction shall apply to certificates allocated to each C-number; that is, each C-number allocation shall be reduced according to the percentage reduction authorized for that year.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History—New 5-16-95, Formerly 62R-18.007, Amended 7-1-01.

68E-18.008. Suspension of Certificates and Crawfish Endorsement.

(1) Falsification of information is cause for suspension of certificates and/or the C-number. Failure to comply with program rules and requirements will result in applications, transfers, and other benefits of the program being denied, and appropriate sanctions and penalties on the non-complying certificate holder, including suspension or forfeiture of certificates, being imposed.

(2) Any voided or incomplete payment, such as by an invalid or returned check, will result

in the suspension of the subject certificates if full payment is not received within thirty days of notification of an invalid check or other incomplete payment. The certificates in a non-paid status will be treated pursuant to Rule 68E-18.003(2) and (3), F.A.C., thereafter.

(3) Any trap tag used by a certificate holder on unauthorized gear will be forfeited.

Specific Authority 370.142(6) FS. Law Implemented 370.142 FS. History—New 5-16-95, Formerly 62R-18.008.

68E-18.009. Re-allotment of Reverted Certificates.

[Repealed 7-1-01]

Specific Authority 370.142(6) FS. Law Implemented 370.142 FS. History—New 5-16-95, Formerly 62R-18.009, Repealed 7-1-01.

68E-18.010. Commission Policy Regarding the Assessment of Administrative Penalties.

It shall be the policy of the Commission to assess administrative penalties pursuant to Section 370.142(2)(c)4., F.S., for a violation involving use of spiny lobster traps without current year trap tags as required by Section 370.142(2)(b), F.S.

(1) For a first violation of the referenced regulation, a penalty of up to \$1000 shall be assessed and the crawfish trap number (also known as the crawfish endorsement) issued pursuant to Section 370.142(2), F.S., may be suspended for the remainder of the current license year. The Commission shall assess these penalties as follows:

(a) \$25 per untagged trap for the possession or use of up to and including twenty (20) untagged lobster traps;

(b) \$1000 and suspension of the crawfish endorsement for the remainder of the current license year for possession or use of twenty-one (21) or more untagged lobster traps.

(2) For a second violation of the referenced regulation occurring within twenty-four (24) months of any previous such violation, an administrative penalty of up to \$2000 shall be assessed and the crawfish endorsement may be suspended for the remainder of the current license year. The Commission shall assess these penalties as follows:

(a) \$50 per untagged trap for the possession or use of nine (9) or fewer such traps plus suspension of the crawfish endorsement for the remainder of the current license year;

(b) \$75 per untagged trap for possession or use of ten (10) up to and including twenty (20) such traps plus suspension of the crawfish endorsement for the remainder of the current license year;

(c) \$2000 and suspension of the crawfish endorsement for the remainder of the current license year for possession or use of twenty-one (21) or more untagged spiny lobster traps.

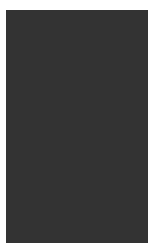
(3) For a third or subsequent violation within thirty-six (36) months of any previous two (2) such violations, an administrative penalty of up to \$5000 shall be assessed and the crawfish endorsement may be suspended for up to twenty-four (24) months or permanently revoked or the Commission may proceed against the saltwater products license pursuant to Section 370.021(2)(e), F.S. The Commission shall assess these penalties as follows:

(a) \$100 per untagged spiny lobster trap and suspension of the crawfish endorsement for twelve (12) months for possession or use of one (1) to nine (9) untagged traps;

(b) \$250 per untagged spiny lobster trap and suspension of the crawfish endorsement for twenty-four (24) months for possession or use of ten (10) to nineteen (19) untagged traps;

(c) \$5000 and revocation of the crawfish endorsement and saltwater products license for possession or use of twenty (20) or more untagged spiny lobster traps.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 370.142 FS. History—New 7-9-02.



TITLE 50--WILDLIFE AND FISHERIES

CHAPTER VI--FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC
AND ATMOSPHERIC ADMINISTRATION,
DEPARTMENT OF COMMERCE

PART 622--FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC--Table of Contents

Subpart A--General Provisions

Sec. 622.5 Recordkeeping and reporting.

Participants in fisheries governed in this part are required to keep records and report as follows.

(a) Commercial vessel owners and operators--(1) Requirements by species--(i) Coastal migratory pelagic fish. The owner or operator of a vessel that fishes for or lands coastal migratory pelagic fish for sale in or from the Gulf, Mid-Atlantic,

[[Page 155]]

or South Atlantic EEZ or adjoining state waters, or whose vessel is issued a commercial permit for king or Spanish mackerel, as required under Sec. 622.4(a)(2)(iii) or (iv), who is selected to report by the SRD, must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(ii) Gulf reef fish. The owner or operator of a vessel for which a commercial permit for Gulf reef fish has been issued, as required under Sec. 622.4(a)(2)(v), or whose vessel fishes for or lands reef fish in or from state waters adjoining the Gulf EEZ, who is selected to report by the SRD must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(A) Fish traps. In addition to the other reporting requirements in paragraph (a)(1)(ii) of this section, the owner or operator of a vessel for which a fish trap endorsement has been issued, as required under Sec. 622.4(a)(2)(i), must comply with the following requirements.

(1) Inspection. The RA will establish a 1-month period for mandatory inspection of all fish trap gear, permits, and vessels. The RA will provide written notification of the inspection period to each owner of a vessel for which a fish trap endorsement has been issued as required under Sec. 622.4(a)(2)(i). Each such owner or operator must contact the Special Agent-in-Charge, NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL (SAC) or his designee by telephone (727-570-5344) to schedule an inspection during the 1-month period. Requests for inspection must be made between 8:00 a.m. and 4:30 p.m. Monday through Friday and must be made at least 72 hours in advance of the desired inspection date. Inspections will be conducted Monday through Friday between 8:00 a.m. and 4:30 p.m. only. On the inspection date, the owner or operator must make all fish trap gear with attached trap tags and buoys and all applicable permits available for inspection on land. Vessels must also be made available for inspection as directed by the SAC or his designee. Upon completion of the inspection and a determination that all fish trap gear, permits, and vessels are in compliance, an owner or operator may resume fishing with the lawful gear. However, an owner or operator who fails to comply with the inspection requirements during the 1-month inspection period or during

any other random inspection may not use or possess a fish trap in the Gulf EEZ until the required inspection or reinspection, as directed by the SAC, has been completed and all fish trap gear, permits, and vessels are determined to be in compliance with all applicable regulations.

(2) Trip reports. For each fishing trip on which a fish trap will be used or possessed, an owner or operator of a vessel for which a fish trap endorsement has been issued, as required under Sec. 622.4(a)(2)(i), must submit a trip initiation report and a trip termination report to the SAC or his designee, by telephone, using the following 24-hour toll-free number--800-305-0697.

(i) Trip initiation report. The trip initiation report must be submitted before beginning the trip and must include: vessel name; official number; number of traps to be deployed; sequence of trap tag numbers; date, time, and point of departure; and intended time and date of trip termination.

(ii) Trip termination report. The trip termination report must be submitted immediately upon returning to port and prior to any offloading of catch or fish traps. The trip termination report must include: vessel name; official number; name and address of dealer where catch will be offloaded and sold; the time offloading will begin; notification of any lost traps; and notification of any traps left deployed for any reason.

(B) [Reserved]

(iii) Gulf shrimp. The owner or operator of a vessel that fishes for shrimp in the Gulf EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide information for any fishing trip, as requested by the SRD, including, but not limited to, vessel identification, gear, effort, amount of shrimp caught by species, shrimp condition (heads on/heads off), fishing areas and depths, and person to whom sold.

[[Page 156]]

(iv) South Atlantic snapper-grouper. (A) The owner or operator of a vessel for which a commercial permit for South Atlantic snapper-grouper has been issued, as required under Sec. 622.4(a)(2)(vi), or whose vessel fishes for or lands South Atlantic snapper-grouper in or from state waters adjoining the South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(B) The wreckfish shareholder under Sec. 622.15, or operator of a vessel for which a commercial permit for wreckfish has been issued, as required under Sec. 622.4(a)(2)(vii), must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(C) The wreckfish shareholder under Sec. 622.15, or operator of a vessel for which a commercial permit for wreckfish has been issued, as required under Sec. 622.4(a)(2)(vii), must make available to an authorized officer upon request all records of offloadings, purchases, or sales of wreckfish.

(v) South Atlantic golden crab. The owner or operator of a vessel for which a commercial permit for golden crab has been issued, as required under Sec. 622.4(a)(2)(x), who is selected to report by the SRD must maintain a fishing record on a form available from the SRD.

(2) Reporting deadlines. (i) Completed fishing records required by paragraphs (a)(1)(i), (ii), and (iv) of this section must be submitted to the SRD postmarked not later than 7 days after the end of each fishing trip. If no fishing occurred during a calendar month, a report so stating must be submitted on one of the forms postmarked not later than 7 days after the end of that month. Information to be reported is indicated on the form and its accompanying instructions.

(ii) Reporting forms required in paragraph (a)(1)(v) of this section must be submitted to the SRD postmarked not later than 30 days after sale of the golden crab offloaded from a trip. If no fishing occurred during a calendar month, a report so stating must be submitted on one of the forms postmarked not later than 7 days after the end of that month.

Information to be reported is indicated on the form and its accompanying instructions.

(b) Charter vessel/headboat owners and operators-- Coastal migratory pelagic fish, reef fish, and snapper-grouper. The owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish, South Atlantic coastal migratory pelagic fish, Gulf reef fish, or South Atlantic snapper-grouper has been issued, as required under Sec. 622.4(a)(1), or whose vessel fishes for or lands such coastal migratory pelagic fish, reef fish, or snapper-grouper in or from state waters adjoining the Gulf or South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

(2) Reporting deadlines--(i) Charter vessels. Completed fishing records required by paragraph (b)(1) of this section for charter vessels must be submitted to the SRD weekly, postmarked not later than 7 days after the end of each week (Sunday). Information to be reported is indicated on the form and its accompanying instructions.

(ii) Headboats. Completed fishing records required by paragraph (b)(1) of this section for headboats must be submitted to the SRD monthly and must either be made available to an authorized statistical reporting agent or be postmarked not later than 7 days after the end of each month. Information to be reported is indicated on the form and its accompanying instructions.

(c) Dealers--(1) Coastal migratory pelagic fish. (i) A person who purchases coastal migratory pelagic fish from a fishing vessel, or person, that fishes for or lands such fish in or from the EEZ or adjoining state waters who is selected to report by the SRD must submit information on forms provided by the SRD. This information must be submitted to the SRD at monthly intervals, postmarked not later than 5

[[Page 157]]

days after the end of each month. Reporting frequency and reporting deadlines may be modified upon notification by the SRD. If no coastal migratory pelagic fish were received during a calendar month, a report so stating must be submitted on one of the forms, in accordance with the instructions on the form, and must be postmarked not later than 5 days after the end of the month. The information to be reported is as follows:

- (A) Dealer's or processor's name and address.
- (B) County where fish were landed.
- (C) Total poundage of each species received during that month, or other requested interval.
- (D) Average monthly price paid for each species.
- (E) Proportion of total poundage landed by each gear type.

(ii) Alternate SRD. For the purposes of paragraph (c)(1)(i) of this section, in the states from New York through Virginia, or in the waters off those states, ``SRD'' means the Science and Research Director, Northeast Fisheries Science Center, NMFS (see Table 1 of Sec. 600.502 of this chapter), or a designee.

(2) Gulf red drum. A dealers or processor who purchases red drum harvested from the Gulf who is selected to report by the SRD must report to the SRD such information as the SRD may request and in the form and manner as the SRD may require. The information required to be submitted must include, but is not limited to, the following:

- (i) Dealer's or processor's name and address.
- (ii) State and county where red drum were landed.
- (iii) Total poundage of red drum received during the reporting period, by each type of gear used for harvest.

(3) Gulf reef fish. A person who purchases Gulf reef fish from a fishing vessel, or person, that fishes for or lands such fish in or from the EEZ or adjoining state waters must maintain records and submit information as follows:

- (i) A dealer must maintain at his/her principal place of business a

record of Gulf reef fish that he/she receives. The record must contain the name of each fishing vessel from which reef fish were received and the date, species, and quantity of each receipt. A dealer must retain such record for at least 1 year after receipt date and must provide such record for inspection upon the request of an authorized officer or the SRD.

(ii) When requested by the SRD, a dealer must provide information from his/her record of Gulf reef fish received the total poundage of each species received during the month, average monthly price paid for each species by market size, and proportion of total poundage landed by each gear type. This information must be provided on forms available from the SRD and must be submitted to the SRD at monthly intervals, postmarked not later than 5 days after the end of the month. Reporting frequency and reporting deadlines may be modified upon notification by the SRD. If no reef fish were received during a calendar month, a report so stating must be submitted on one of the forms, postmarked not later than 5 days after the end of the month.

(iii) The operator of a car or truck that is used to pick up from a fishing vessel reef fish harvested from the Gulf must maintain a record containing the name of each fishing vessel from which reef fish on the car or truck have been received. The vehicle operator must provide such record for inspection upon the request of an authorized officer.

(4) Gulf shrimp. A person who purchases shrimp from a vessel, or person, that fishes for shrimp in the Gulf EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide the following information when requested by the SRD:

(i) Name and official number of the vessel from which shrimp were received or the name of the person from whom shrimp were received, if received from other than a vessel.

(ii) Amount of shrimp received by species and size category for each receipt.

(iii) Exvessel value, by species and size category, for each receipt.

(5) South Atlantic snapper-grouper. (i) A person who purchases South Atlantic snapper-grouper that were harvested from the EEZ or from adjoining state waters and who is selected to report by the SRD and a dealer who has been issued a dealer permit for wreckfish, as

[[Page 158]]

required under Sec. 622.4(a)(4), must provide information on receipts of South Atlantic snapper-grouper and prices paid, by species, on forms available from the SRD. The required information must be submitted to the SRD at monthly intervals, postmarked not later than 5 days after the end of the month. Reporting frequency and reporting deadlines may be modified upon notification by the SRD. If no South Atlantic snapper-grouper were received during a calendar month, a report so stating must be submitted on one of the forms, postmarked not later than 5 days after the end of the month. However, during complete months encompassed by the wreckfish spawning-season closure (that is, February and March), a wreckfish dealer is not required to submit a report stating that no wreckfish were received.

(ii) A dealer reporting South Atlantic snapper-grouper other than wreckfish may submit the information required in paragraph (c)(5)(i) of this section via facsimile (fax).

(iii) A dealer who has been issued a dealer permit for wreckfish, as required under Sec. 622.4(a)(4), must make available to an authorized officer upon request all records of offloadings, purchases, or sales of wreckfish.

(6) South Atlantic golden crab. A dealer who receives from a fishing vessel golden crab harvested from the South Atlantic EEZ and who is selected by the SRD must provide information on receipts of, and prices paid for, South Atlantic golden crab to the SRD at monthly intervals, postmarked not later than 5 days after the end of each month. Reporting frequency and reporting deadlines may be modified upon notification by the SRD.

(7) South Atlantic rock shrimp. (i) A dealer who has been issued a permit for rock shrimp, as required under Sec. 622.4(a)(4), and who is selected by the SRD must provide information on receipts of rock shrimp and prices paid on forms available from the SRD. The required information must be submitted to the SRD at monthly intervals postmarked not later than 5 days after the end of each month. Reporting frequencies and reporting deadlines may be modified upon notification by the SRD.

(ii) On demand, a dealer who has been issued a dealer permit for rock shrimp, as required under Sec. 622.4(a)(4), must make available to an authorized officer all records of offloadings, purchases, or sales of rock shrimp.

(d) Individuals with coral or live rock permits. (1) An individual with a Federal allowable octocoral permit must submit a report of harvest to the SRD. Specific reporting requirements will be provided with the permit.

(2) A person with a Federal aquacultured live rock permit must report to the RA each deposition of material on a site. Such reports must be postmarked not later than 7 days after deposition and must contain the following information:

(i) Permit number of site and date of deposit.

(ii) Geological origin of material deposited.

(iii) Amount of material deposited.

(iv) Source of material deposited, that is, where obtained, if removed from another habitat, or from whom purchased.

(3) A person who takes aquacultured live rock must submit a report of harvest to the RA. Specific reporting requirements will be provided with the permit. This reporting requirement is waived for aquacultured live rock that is landed in Florida.

(e) Additional data and inspection. Additional data will be collected by authorized statistical reporting agents and by authorized officers. A person who fishes for or possesses species in or from the EEZ governed in this part is required to make the applicable fish or parts thereof available for inspection by the SRD or an authorized officer upon request.

(f) Commercial vessel, charter vessel, and headboat inventory. The owner or operator of a commercial vessel, charter vessel, or headboat operating in a fishery governed in this part who is not selected to report by the SRD under paragraph (a) or (b) of this section must provide the following information when interviewed by the SRD:

(1) Name and official number of vessel and permit number, if applicable.

(2) Length and tonnage.

(3) Current home port.

(4) Fishing areas.

[[Page 159]]

(5) Ports where fish were offloaded during the last year.

(6) Type and quantity of gear.

(7) Number of full- and part-time fishermen or crew members.

[61 FR 34940, July 3, 1996, as amended at 61 FR 43956, Aug. 27, 1996; 61 FR 47448, Sept. 9, 1996; 63 FR 10567, Mar. 4, 1998; 63 FR 57590, Oct. 28, 1998; 64 FR 59126, Nov. 2, 1999; 64 FR 68935, Dec. 9, 1999; 67 FR 43565, June 28, 2002]

2007. The Department will send a letter to DHX requesting additional documentation establishing entry date and/or shipment date to support its September filing.

Cash Deposit Requirements

Pursuant to Section 1632 of the Pension Protection Act of 2006 (H.R. 4), which was signed into law on August 17, 2006, U.S. Customs and Border Protection ("CBP") is no longer allowing collection of bonds or other types of securities in lieu of a cash deposit for new shippers for each entry of subject merchandise during the period April 1, 2006, through June 30, 2009, except for goods from Canada and Mexico. Therefore, CBP must collect a cash deposit of estimated antidumping duties on each entry of subject merchandise entered, or withdrawn from warehouse, for consumption. We note that the Department transmitted to CBP a set of instructions concerning this provision of the law where cash deposits are now required for all new shippers of the subject merchandise. The instructions can be viewed on the Import Administration Web site, (<http://ia.ita.doc.gov/download/customs/suspension-of-bonding-privilege-for-new-shippers.pdf>).

Interested parties may submit applications for disclosure of business proprietary information under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d).

Dated: September 20, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-15739 Filed 9-25-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Performance in the Commercial Stone Crab and Lobster Fisheries in Florida

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 November 27, 2006.

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 Jim Waters, (252) 728-8710 or Jim.Waters@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service proposes to collect socio-economic data from commercial fishermen in Florida's stone crab and lobster fisheries. The survey intends to collect economic information about revenues, variable and fixed costs, capital investment and other auxiliary and demographic information. The data gathered will be used to describe economic performance and to evaluate the socio-economic impacts of future Federal regulatory actions. The information will improve fishery management decision making and satisfy legal requirements under Executive Order 12866, the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801, *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, the National Environmental Policy Act, and other pertinent statutes.

II. Method of Collection

The Southeast Fisheries Science Center plans to conduct approximately 150-175 voluntary, in-person interviews from approximately 1,000 commercial stone crab and lobster fishermen who do not live in the Florida Keys. A stratified random sampling strategy will be employed, with strata defined by county.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 175.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 175.

Estimated Total Annual Cost to Public: \$0.

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: September 21, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6-15733 Filed 9-25-06; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Protected Areas Federal Advisory Committee

AGENCY: National Ocean Service, NOAA, Department of Commerce.

ACTION: Notice requesting nominations for the Marine Protected Areas Federal Advisory Committee.

SUMMARY: The Department of Commerce is seeking nominations for membership on the Marine Protected Areas Federal Advisory Committee (Committee). The Marine Protected Areas Federal Advisory Committee was established to advise the Secretary of Commerce and the Secretary of the Interior in implementing Section 4 of Executive Order 13158, specifically on strategies and priorities for developing the national system of marine protected areas (MPAs) and on practical approaches to further enhance and expand protection of new and existing MPAs.

Nominations are sought for highly qualified non-Federal scientists, resource managers, and people representing other interests or