

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 07/03/2008

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 04/21/2008

ACTION REQUESTED: New collection (Request for a new OMB Control Number)
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200804-0648-003
AGENCY ICR TRACKING NUMBER:
TITLE: Non-commercial Permit and Reporting Requirements in the Main Hawaiian Islands Bottomfish Fishery
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0577
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: 07/31/2011 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	0	0	0
New	95,010	31,687	39,000
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	95,010	31,687	39,000
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: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Non-commercial permit application for MHI bottomfish fishery	NA	Main Hawaiian Islands Non-Commercial Bottomfish Permit Application	
Permit Appeals			50 CFR 665
Noncommercial Bottomfish Trip Reports	NA	Main Hawaiian Islands Non-commercial Bottomfish Fishing Trip Report	

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.

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

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
NON-COMMERCIAL PERMIT AND REPORTING REQUIREMENTS
IN THE MAIN HAWAIIAN ISLANDS BOTTOMFISH FISHERY
OMB CONTROL NO.: 0648-0xxx**

A. JUSTIFICATION

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

The Magnuson-Stevens Fishery Conservation and Management Act ([Magnuson Act](#)) established regional fishery management councils, including the Western Pacific Fishery Management Council (Council), to develop fishery management plans for fisheries in the U.S. Exclusive Economic Zone (EEZ). These plans, if approved by the Secretary of Commerce, are implemented by Federal regulations, which are enforced by the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Coast Guard (USCG), in cooperation with State agencies to the extent possible. The fishery management plans are intended to regulate fishing to ensure sustained productivity and achievement of optimum yield from the resources for the benefit of the United States.

The Council prepared, and the Secretary approved, an amendment to the Fishery Management Plan (FMP) for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region, to be implemented through regulations at [50 CFR Part 665](#). The regulations will require all non-commercial participants (including vessel owners, operators, and crew) in the boat-based bottomfish fishery in the main Hawaiian Islands (MHI) to obtain a federal bottomfish permit. This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and serves as a link between the National Marine Fisheries Service (NMFS) and fishermen.

All vessel owners or operators in this fishery will also be required to submit a completed logbook form at the completion of each fishing trip. These logbook reporting sheets will document the species and amount of species caught during the trip. The reporting requirements are crucial to ensure that NMFS and the Council will be able to monitor the fishery and have fishery-dependent information to develop an estimate of an Annual Catch Limit (annual Total Allowable Catch) for the fishery, evaluate the effectiveness of management measures, determine whether changes in fishery management programs are necessary, and estimate the impacts and implications of alternative management measures.

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.

Permits

Information is collected via a permit application process. Permits are valid for one calendar year and may be renewed annually. Information from the permit application form will allow the

NMFS, Pacific Islands Region, to confirm the identity of the permit holder and applicant, and to determine whether the applicant qualifies for the permit. Vessel-related information such as vessel documentation or registration, ownership, managing ownership, etc., are used by the NMFS to determine whether the applicant is an owner of a U.S. documented/registered vessel. The information may also be used by NOAA Enforcement, the USCG and the Council. Private information will not be disseminated to the public, and will be reported only in non-confidential or aggregate form.

Logbook Forms

The completed logbook forms are required to be submitted to the NMFS by vessel owners or operators within 48 hours of the end of each fishing trip. The reporting requirements provide the information needed by NMFS and the Council to regulate and monitor the fisheries managed under the FMP and to evaluate the effectiveness of management by assessing the status of stocks and the status of the fisheries. The information provides a basis for determining whether changes in management are needed to sustain the productivity of the stocks or to address economic problems in the fishery. The information is also used to provide the basis for evaluating the magnitude and distribution of impacts resulting from changes to the regulations. Specifically, the information collected through the logbooks will enable the NMFS to develop a total allowable catch (TAC) for the fishery annually, and to effectively monitor the TAC for the bottomfish fishery (beginning in 2009 for the non-commercial sector). Without the information, the NMFS and the Council would be unable to determine whether management is achieving the objectives of the FMP and preventing overfishing, the principal requirement of the Magnuson-Stevens Act. Information from the logbooks is used by enforcement agents of the NMFS, State of Hawaii, and USCG to monitor compliance with fishing regulations and reporting requirements.

The information will not be disseminated to the public except in non-confidential or aggregate form in summary and analytical reports. Any of the information that might be used to support publicly disseminated information would first be aggregated and/or summarized to maintain the confidentiality of the information pertaining to the individual vessels.

NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with Federal law and regulations, and NOAA policies for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

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

Permits

At this time, the information will be collected on paper forms and does not require any knowledge of automated, electronic, mechanical or other forms of information technology. There is the possibility of allowing participants to submit their permit applications online but this

would only be an option. A web-based national fisheries permit system is currently under development.

Logbook Forms

At this time, the information will be collected on paper forms and does not require any knowledge of automated, electronic, mechanical or other forms of information technology. An option for allowing participants to submit their logbook applications online is under development.

4. Describe efforts to identify duplication.

Permits

There is no similar State of Hawaii permit requirement for the non-commercial MHI bottomfish fishery.

Logbook Forms

There is no similar State of Hawaii catch and effort reporting program for the non-commercial MHI bottomfish fishery. The State of Hawaii has a voluntary creel survey program that covers shore-based and boat-based fisheries in the MHI that is general in scope and does not provide full coverage of the non-commercial bottomfish fishery.

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

Permits

This would not require collection of information from small businesses or other small commercial entities.

Logbook Forms

This would not require collection of information from small businesses or other small entities.

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

Permits

Without this collection or if it is collected less frequently, the NMFS will be unable to properly evaluate activity, participation, and reporting compliance in the non-commercial MHI bottomfish fishery. It will be difficult to monitor the fisheries and their participants, determine entry and exit patterns, and provide information needed to ensure full impact analysis for fisheries management programs. Without this information enforcement agents will not be able to identify current fishery participants for compliance monitoring purposes and the NMFS would be unable to consult with permit holders on regulatory changes. For example, when the TAC for the fishery is reached, the NMFS would need to contact participants to inform them the fishery will be closed.

Logbook Forms

Logbook reporting is needed in the non-commercial MHI bottomfish fishery to get an accurate count of the effort level and amount of harvest in this fishery. Currently, the only estimates of harvest in the fishery come from the commercial bottomfish fishery and for effective fishery

management, it is essential to have the complete picture of effort and harvest from all participants.

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

None.

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

A proposed rule, RIN 0648-AU22, was published for comment in the Federal Register on February 1, 2008 (73 FR 6101). No comments were received that affected the information collection requirements. A final rule was published in the *Federal Register* on April 4, 2008 (73 FR 18450).

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

No payments or gifts are provided

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

Under Section 402(b) of the Magnuson-Stevens Act, amended in 2006, and NOAA Administrative Order 216-100, information submitted in accordance with regulatory requirements under the Act is confidential. This includes personal and proprietary information contained in the permits and logbooks.

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 are asked of a sensitive nature.

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

The NMFS expects to receive an estimated 800 – 5,000 non-commercial MHI bottomfish permit applications each year. It would take an estimated 20 minutes for an applicant to complete a permit application for a maximum burden of 1,667 hours per year for permit applications.

Preparation of a permit appeal would take an estimated two hours and no more than ten per year would be expected, for an estimate burden of 20 hours.

The NMFS expects that 800 - 1800 vessels may make between 10 – 50 trips per year, averaging 1 day per trip, and generating a maximum of 90,000 (1800 x 50) daily trip logsheets per year. A trip report would take about 20 minutes per logsheet, resulting in a maximum burden of 30,000 hours per year for reporting.

Total responses: $5,000 + 10 + 90,000 = 95,010$.

Total hours: $1,667 + 20 + 30,000 = 31,687$.

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

There is no “start up” capital cost for complying with this requirement. Paper forms provided by the NMFS will be used by the respondents for providing information. Use of electronic forms is an option that will be provided later, but would be voluntary on the respondent’s part and presumably would be used only if the respondent already possessed the requisite equipment. The maximum estimated cost to respondents for postage, faxes, copies, etc., related to this collection is $\$7.80 \times 5,000 = \$39,000$ per year.

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

The estimated annual cost to the Federal government to administer this collection of information is up to \$510,800 per year. This includes the cost to process permit applications and issue permits at \$50,000 per year (5,000 permits x 30 min/permit x \$20/hr), printing daily catch and effort logsheet forms at \$10,800 per year (90,000 logsheets x \$0.12 per sheet), and processing of log forms at \$450,000 per year, which is calculated by the cost of staff time for receiving and entering logsheet form data (90,000 logsheets x 15 min/logsheets x \$20/hr).

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 program.

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

No formal scientific publications based on these collections are planned at this time. NMFS and the Council will use the data (*primarily in an aggregated, non-confidential format*) for developing allowable catch limits for the MHI bottomfish fishery, management reports, and fishery management plan amendments and evaluations. However, subsequent use of the data collected over a series of years may include scientific papers and publications.

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

N/A.

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

N/A.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods are employed.



Main Hawaiian Islands Non-commercial Bottomfish Fishing Trip Report

U.S. Department of Commerce, National Oceanic and Atmospheric Administration
National Marine Fisheries Service, Pacific Islands Region

Serial No. _____

(Please Print)

Vessel Operator/Owner Name _____
(First, Middle Initial and Last)

MHI Non-commercial BF (NCBF) Permit No.

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Vessel Name _____

HA No.

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 OR USCG No.

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Port of Landing _____

Trip Start Date

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Month Day Year

Trip End Date

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2	0		
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Month Day Year

Avg. No. Hooks per Line _____ [First Drop Only] Wind Speed (kt) / Direction _____ / _____ Wave Height (ft) _____ Current Speed (kt)/Direction _____ / _____

Day	BF Area Code	Position of First Drop in an Area		Depth Fished	Fishing Method	No. Hours	No. Lines	Anch. Y/N	Did Not Catch	Species	No. Kept	Lbs. Kept (Estimate)	No. Released		No. Lost
		Latitude	Longitude										Alive	Dead	
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
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		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										

Protected Species Interactions:	Species:	No. Uninjured	No. Injured	No. Dead
Marine Mammals				
Turtles				
Seabirds				

Crew: Permit No:

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Permit No:

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Permit No:

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Permit No:

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Permit No:

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I certify that the above information is complete and true to the best of my knowledge:

Vessel Operator/Owner Signature: _____

Date: _____

Paperwork Reduction Act Information

Public reporting burden for this collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS Pacific Islands Regional Administrator, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

This information is being collected to provide information needed by NMFS to regulate and monitor bottomfish management unit species under the Fishery Management Plan for Bottomfish and Seamount Groundfish in the Western Pacific Region (FMP) and to evaluate the effectiveness of management by assessing the status of stocks and the status of the fisheries. The information will provide a basis for determining whether changes in management are need to sustain the productivity of the stocks or to respond to interactions between fishing vessels and protected species and to address economic problems in the fishery. The information is also used to provide a basis for evaluating the magnitude and distribution of impacts resulting from changes to the regulations. Responses to the collection are required under 50 CFR 665.14. Proprietary data provided concerning the vessel and/or business of the respondents are handled as confidential under the Magnuson-Stevens Fishery Conservation and Management Act (Sec. 402(b)).

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 of information displays a currently valid OMB Control Number.

(Revised: 03/28/2008)

Instructions for MHI Non-Commercial Bottomfish Trip Report

Please print all entries except for the signature at the bottom. Submit one (or more) logsheet(s) for each bottomfishing trip you make, or for any trip in which you catch a bottomfish. Do not report more than one trip on one logsheet.

1. Write in the full name (first, middle initial and last) of the Vessel Operator (captain) or Owner who is preparing and submitting the report. One character per box. If the operator does not submit the report, the vessel owner is responsible to submit the report.
2. Write the Federal MHI Non-commercial Bottomfish (NCBF) Permit number of the person submitting the report.
3. Write in Vessel Name, and either the State of Hawaii vessel registration (HA) number or the U.S. Coast Guard Documentation number. One character per box.
4. Write the port of landing (where you landed the vessel).
5. Write the dates of the start of your trip (for example, 10/21/2008) and end of the trip.
6. Write the average number of hooks you use on your lines.
7. Write the wind, wave, and current information in for only the first time you drop the lines to fish on the trip.
8. Catch and Effort Table – the section with the grids is where you write in your fishing activity.
 - Day – write in the day of the month (1 to 31) for the catch that day.
 - BF Area Code – using the special BF Area Code chart provided in the logbook, enter the code for the area you are fishing. If you move to a new area, please start a new line and enter the area code.
 - Position - Enter the latitude and longitude to the nearest degree (°) and minute (‘) of the first drop that you make in any area. If you move to a new area, enter the position of the first drop in the new area.
 - Depth Fished - Write the depth (in fathoms) that you fished your lines.
 - Fishing Method - Write in the Fishing Method code for your fishing method using the code list provided.
 - Hours - Write the number of hours fished in that area on that day.
 - Lines - Write the average number of lines used for that fishing day.
 - Anch. Y/N - Write “Y” or “N” to indicate if you anchored while you fished. Blanks indicate “N”.
 - Did Not Catch - If you did not catch any fish in the area you fished on that day, please put a checkmark (✓) in the Did Not Catch box.
 - Species - Write in the name of the fish you caught using the Species List provided.
 - No. Kept - Write in the number of fish of that species you caught and kept (even if you used it for bait later). Use a line for each species.
 - Lbs. Kept - Write in the estimated weight of the fish kept of each species. Use a line for each species.
 - No. Released - If you released any of the fish you caught, identify the species and write in the number you released Alive or Dead. This number should be separate from those “caught and kept”.
 - No. Lost - If you lost any fish of this species due to sharks or other predators, please mark the number in No. Lost.
 - Therefore, number of (caught and kept)+(released alive)+(released dead)+(lost)=total catch.

9. When the day, area (location), fishing method, or species changes, please start a new line in the table. If you run out of lines, please use another page and mark the page number on the bottom right of the page where it says Page ___ of ___, so we know how many pages were used for this trip.
10. If you directly interact with any marine mammal, turtle, or seabird on your trip, please write in the species (name) and the number that were uninjured, injured, or dead as a result of the fishing operation using the protected species list provided.
11. Write in the Federal MHI Non-commercial Bottomfish Permit (NCBF) or State of Hawaii Commercial Marine License (CML) numbers of all persons fishing with you (Crew) on this trip. **Each person participating on the trip is required to have a NCBF permit or CML.** Check the box following the permit numbers if the number you wrote is a CML number.
12. Sign and date the logsheet at the bottom. Your signature signifies that the information you provided is complete and true to the best of your knowledge. If the vessel operator fails to submit a logsheet, it is the vessel owner's responsibility to submit the logsheet. It is a violation of federal law to file false information or fail to make, keep, maintain or submit a logbook (50 CFR § 665.15(d)).
13. Mail or deliver the logsheets to the Fishery Monitoring and Statistics Division at the NMFS Pacific Islands Fisheries Science Center, 2570 Dole St., Honolulu, HI 96822, within 72 hours (3 days) after the end of each trip. Please call (808) 983-5326 if you have questions or need more logsheets.

(Revised: 03/28/2008)

FEDERAL FISHERIES PERMIT APPLICATION FORM

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE
PACIFIC ISLANDS REGION

OMB Control No: 0648-xxxx

Expiration Date: xx/xx/xxxx

For Office Use:

GC _____

Issued _____

Transmit _____

2008

Mail or deliver this application to:

NMFS Pacific Islands Regional Office
ATTN: Permits
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
Tel: (808) 944-2200

MAIN HAWAIIAN ISLANDS NON-COMMERCIAL BOTTOMFISH PERMIT

Please Print unless signature required.

APPLICANT INFORMATION (required for every applicant)

APPLICANT NAME: _____
First, Middle, & Last Name or Business Name (if owner of vessel)

DATE OF BIRTH: ____/____/____

VESSEL OWNER?: Yes / No (Check only one) If **Yes**, complete Vessel Information section below.

MAILING ADDRESS: _____
Street/PO Box City State ZIP Code

PHONE (____) _____; **CELL PHONE** (____) _____; **FAX** (____) _____

EMAIL: _____

APPLICANT SIGNATURE: _____ **DATE:** ____/____/____

Please check whether: you want the permit to be mailed to you , or you will pick it up at PIRO.

VESSEL INFORMATION (for Vessel Owners only)

VESSEL NAME: _____ ***VESSEL REGISTRATION OR USCG NO.:** _____

VESSEL CALL SIGN: _____ (if available)

DATE OF INCORPORATION (if a business): ____/____/____ Taxpayer Identification Number
(If vessel owner is a business)

Privacy Act Statement: Federal Regulations (at 50 CFR Part 665) authorize collection of this information. This information is used to verify the identity of the applicant(s) and to accurately retrieve confidential records related to federal commercial fishery permits. The primary purpose for requesting the TIN is for the collection and reporting on any delinquent amounts arising of such person's relationship with the government pursuant to the Debt Collection Improvement Act of 1996 (Public Law 104-134). Personal information is confidential and protected under the Privacy Act (5 U.S.C. 552a). Business information may be disclosed to the public.

BUSINESS CONTACT: _____ **/TITLE:** _____
(If vessel owned by a business) (First, Middle, & Last Name, if not same as vessel owner) (corporate officer, business owner, partner)

All fields required for a complete application, unless otherwise indicated. It is prohibited to file false information on any application for a fishing permit (50 CFR § 665.15(b)).

*** NOTE:** To register a vessel, you must submit a copy of the vessel's current U.S. Coast Guard Certificate of Documentation (documented vessel) or registration certificate from the Hawaii Division of Boating and Recreation (undocumented vessel) showing current vessel owner. Please submit a check or money order payable to Department of Commerce, NOAA, for the non-refundable processing fee of \$ _____. An application that is lacking required information, vessel registration or documentation, or payment will be considered incomplete. You will be notified of any deficiency. If you fail to correct the deficiency within 30 days following the date of the notice of deficiency, the application will be considered abandoned (Code of Federal Regulations, Title 50, Section 665.13).
Revised: 03/28/2008

(side two)

OMB Control No: 0648-xxxx
Expiration Date: xx/xx/xxxx

PAPERWORK REDUCTION ACT INFORMATION

Public reporting burden for this collection is estimated as follows: 20 minutes for main Hawaiian Islands non-commercial bottomfish permit and 2 hours for all permit denial appeals. Each burden includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to NMFS Pacific Islands Regional Administrator, 1601 Kapiolani Blvd. Suite 1110, Honolulu, Hawaii 96814-4700.

This information is being collected to ensure accurate and timely records about the persons licensed to participate in fisheries under Federal regulations in the Western Pacific Region. This will enable NMFS and the Western Pacific Fishery Management Council to (a) determine who would be affected by changes in management; (b) inform license holders of changes in fishery regulations; and (c) determine whether the objectives of the fishery program are being achieved by monitoring entry and exit patterns and other aspects of the fisheries. The information is used in analyzing and evaluating the potential impacts of regulatory changes on persons in the regulated fisheries as well as in related fisheries. Responses to the collection are required to obtain the benefit of a license for the fishery involved (ref. 50 CFR 665.13). Data provided concerning the vessel and/or business of the respondents are handled as confidential under the Magnuson-Stevens Fishery Conservation and Management Act (Sec. 402(b)). 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 of information displays a currently valid OMB Control Number.

Title 50: Wildlife and Fisheries

Subpart E—Bottomfish and Seamount Groundfish Fisheries

Source: 61 FR 34572, July 2, 1996, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.

§ 665.61 Permits.

(a) *Applicability.* ((1) The owner of any vessel used to fish for bottomfish management unit species in the Northwestern Hawaiian Islands Subarea, Pacific Remote Island Areas Subarea, or Guam Subarea must have a permit issued under this section and the permit must be registered for use with that vessel.

(2) The PIRO will not register a single vessel for use with a Ho'omaluu Zone permit and a Mau Zone permit at the same time.

(3) Mau Zone permits issued before June 14, 1999 become invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (i) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The Ho'omaluu Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(4) A fishing vessel of the United States must be registered for use under a Guam bottomfish permit if that vessel is a large vessel and is used to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area.

(b) *Submission.* (1) An application for a permit required under this section must be submitted to the PIRO as described in §665.13. (2) *Ho'omaluu Zone limited access permit.* In addition to an application under §665.13(c), each applicant for a Ho'omaluu Zone permit must also submit a supplementary information sheet provided by the PIRO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) A copy of landings receipts or other documentation, with a certification from a state or Federal agency that this information is accurate, to demonstrate participation in the NWHI bottomfish fishery; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentages of ownership of the partnership or corporation.

(3) *Mau Zone limited access permit.* The PIRO will not accept applications for a new Mau Zone permit after June 14, 1999. In addition to an application under §665.13(c), each applicant for a Mau Zone permit must also submit a supplementary information sheet provided by the PIRO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) Copy of State of Hawaii catch report(s) to demonstrate that the permitted vessel had made qualifying landings of bottomfish from the Mau Zone; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentage of ownership of the partnership or corporation.

(c) *Sale or transfer of Ho'omaluu limited access permits to new vessel owners.* (1) A Ho'omaluu zone permit may not be sold or otherwise transferred to a new owner.

(2) A Ho'omaluu zone permit or permits may be held by a partnership or corporation. If 50 percent or more of the ownership of the vessel passes to persons other than those listed in the original application, the permit will lapse and must be surrendered to the Regional Administrator.

(d) *Transfer of Ho'omaluu Zone limited access permits to replacement vessels.* (1) Upon application by the owner of a permitted vessel, the Regional Administrator will transfer that owner's permit to a replacement vessel owned by that owner, provided that the replacement vessel does not exceed 60 ft (18.3 m) in length. The replacement vessel must be put into service no later than 12 months after the owner applies for the transfer, or the transfer shall be void.

(2) An owner of a permitted vessel may apply to the Regional Administrator for transfer of that owner's permit to a replacement vessel greater than 60 ft (18.3 m) in length. The Regional Administrator may transfer the permit upon determining, after consultation with the Council and considering the objectives of the limited access program, that the replacement vessel has catching power that is comparable to the rest of the vessels holding permits for the fishery, or has catching power that does not exceed that of the original vessel, and that the transfer is not inconsistent with the objectives of the program. The Regional Administrator shall consider vessel length, range, hold capacity, gear limitations, and other appropriate factors in making determinations of catching power equivalency and comparability of the catching power of vessels in the fishery.

(e) *Ho'omaluu Zone limited access permit renewal.* (1) A qualifying landing for Ho'omaluu Zone permit renewal is a landing of at least 2,500 lb (1,134 kg) of bottomfish management unit species from the Ho'omaluu Zone or a landing of at least 2,500 lb (1,134 kg) of fish from the Ho'omaluu Zone, of which at least 50 percent by weight was bottomfish management unit species. A permit is eligible for renewal for the next calendar year if the vessel covered by the permit made three or more qualifying landings during the current calendar year.

(2) The owner of a permitted vessel that did not make three or more qualifying landings of bottomfish in a year may apply to the Regional Administrator for waiver of the landing requirement. If the Regional Administrator finds that failure to make three landings was due to circumstances beyond the owner's control, the Regional Administrator may renew the permit. A waiver may not be granted if the failure to make three landings was due to general economic conditions or market conditions, such that the vessel operations would not be profitable.

(f) *Issuance of new Ho'omaluu Zone limited access permits.* The Regional Administrator may issue new Ho'omaluu Zone limited access permits under §665.13 if the Regional Administrator determines, in consultation with the Council, that bottomfish stocks in the Ho'omaluu Zone are able to support additional fishing effort.

(g) *Eligibility for new Ho'omaluu Zone limited access permits.* When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) *Point system.* (i) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made three or more of any of the following types of landings in the NWHI:

(A) Any amount of bottomfish management unit species, regardless of weight, if made on or before August 7, 1985;

(B) At least 2,500 lb (1,134 kg) of bottomfish management unit species, if made after August 7, 1985; or

(C) At least 2,500 lb (1,134 kg) of any fish lawfully harvested from the NWHI, of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

(ii) One point will be assigned for each year in which the applicant was owner or captain of a vessel that landed at least 6,000 lb (2,722 kg) of bottomfish from the main Hawaiian Islands.

(iii) For any one year, points will be assigned under either paragraph (g)(1)(i) or (g)(1)(ii) of this section, but not under both paragraphs.

(iv) Before the Regional Administrator issues an Ho'omalu zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) *Restrictions.* An applicant must own at least a 25-percent share in the vessel that the permit would cover, and only one permit will be assigned to any vessel.

(3) *Order of issuance.* New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(4) *Notification.* The Regional Administrator shall place a notice in the Federal Register and shall use other means to notify prospective applicants of the opportunity to file applications for new permits under this program.

(h) *Eligibility for new Mau Zone limited access permits.* (1) The PIRO will issue an initial Mau Zone permit to a vessel owner who qualifies for at least three points under the following point system:

(i) An owner who held a Mau Zone permit on or before December 17, 1991, and whose permitted vessel made at least one qualifying landing of bottomfish management unit species on or before December 17, 1991, shall be assigned 1.5 points.

(ii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1991, shall be assigned 0.5 point.

(iii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1992, shall be assigned 1.0 point.

(iv) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1993, shall be assigned 1.5 points.

(v) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1994, shall be assigned 2.0 points.

(vi) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1995, shall be assigned 2.5 points.

(vii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1996, shall be assigned 3.0 points.

(viii) Before the PIRO issues a Mau Zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) For purposes of this paragraph §665.61(h), a "qualifying landing" means any amount of bottomfish management unit species lawfully harvested from the Mau Zone and offloaded for sale. No points shall be assigned to an owner for any qualifying landings reported to the State of Hawaii more than 1 year after the landing.

(3) More than one Mau Zone permit may be issued to an owner of two or more vessels, provided each of the owner's vessels for which a permit will be registered for use has made the required qualifying landings for the owner to be assigned at least three eligibility points.

(4) A Mau Zone permit holder who does not own a vessel at the time initial permits are issued must register the permit for use with a vessel owned by the permit holder within 12 months from the date the permit was issued. In the interim, the permit holder may register the permit for use with a leased or chartered vessel. If within 12 months of initial permit issuance, the permit holder fails to apply to the PIRO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(5) For each of paragraphs (h)(1)(i) through (h)(1)(viii) of this section, the PIRO shall assign points based on the landings of one permitted vessel to only one owner if the vessel did not have multiple owners during the time frame covered by the subordinate paragraphs. If a vessel had multiple owners during a time frame covered by any of paragraphs (h)(1)(i) through (h)(1)(viii) of this section (including joint owners, partners, or shareholders of a corporate owner), the PIRO will assign the points for that subordinate paragraph to a single owner if only one owner submits an application with respect to the landings of that vessel during that time frame. If multiple owners submit separate applications with respect to the same landings of the same vessel during the same time frame, then the PIRO shall:

(i) Adhere to any written agreement between the applicants with respect to who among them shall be assigned the aggregate point(s) generated by landings during such time frame(s), or

(ii) If there is no agreement:

(A) Shall issue the applicants a joint permit provided the vessel's landings during such time frames generated at least three points, or

(B) In the event the vessel's landings during such time frame(s) generated less than three points, shall not assign any points generated by the vessel's landings during such time frame(s).

(i) *Ownership requirements and registration of Mau Zone limited access permits for use with other vessels.* (1) A Mau Zone permit

may be held by an individual, partnership, or corporation. No more than 49 percent of the underlying ownership interest in a Mau Zone permit may be sold, leased, chartered, or otherwise transferred to another person or entity. If more than 49 percent of the underlying ownership of the permit passes to persons or entities other than those listed in the original permit application supplemental information sheet, then the permit expires and must be surrendered to the PIRO.

(2) A Mau Zone permit holder may apply under §665.13 to the PIRO to register the permit for use with another vessel if that vessel is owned by the permit holder, and is no longer than 60 ft (18.3 m).

(3) If a Mau Zone permit holder sells the vessel, for which the permit is registered for use, the permit holder must within 12 months of the date of sale apply to the PIRO to register the permit for use with a vessel owned by the permit holder. If the permit holder has not applied to register a replacement vessel within 12 months, then the permit expires.

(4) If a permitted vessel owned by the permit holder is sold or becomes unseaworthy, the Mau Zone permit with which the vessel was registered may be registered for use with a leased or chartered vessel for a period not to exceed 12 months from the date of registration of the leased or chartered vessel. If by the end of that 12-month period the permit holder fails to apply to the PIRO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(j) *Mau Zone limited access permit renewal.* (1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of bottomfish management unit species per trip during the calendar year. Only one landing of bottomfish management unit species per fishing trip to the Mau Zone will be counted toward the landing requirement.

(2) If the vessel for which the permit is registered for use fails to meet the landing requirement of paragraph (j)(1) of this section, the owner may apply to the Regional Administrator for a waiver of the landing requirement. Grounds for a waiver are limited to captain incapacitation, vessel breakdowns, and the loss of the vessel at sea if the event prevented the vessel from meeting the landing requirement. Unprofitability is not sufficient for waiver of the landing requirement.

(3) Failure of the permit holder to register a vessel for use under the permit does not exempt a permit holder from the requirements specified in this paragraph.

(k) *Appeals of permit actions.* (1) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, or revocation of his or her permit to the Regional Administrator.

(2) In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action appealed, and the reasons therefore, and must be submitted within 30 days of the appealed action. The appellant may request an informal hearing on the appeal.

(3) The Regional Administrator, in consultation with the Council, will decide the appeal in accordance with the FMP and implementing regulations and based upon information relative to the application on file at NMFS and the Council, the summary record kept of any hearing, the hearing officer's recommended decision, if any, and any other relevant information.

(4) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. The applicant or permit holder may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. The Regional Administrator's decision on the application is the final administrative decision of the Department of Commerce, and is effective on the date the Administrator signs the decision.

[64 FR 22812, Apr. 28, 1999, as amended at 70 FR 29657, May 24, 2005; 71 FR 53607, Sept. 12, 2006; 71 FR 64477, Nov. 2, 2006]

§ 665.62 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter and §665.15, it is unlawful for any person to do any of the following:

(a) Fish for bottomfish or seamount groundfish using gear prohibited under §665.64.

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalulu Zone, the Mau Zone, or the Pacific Remote Island Areas without the appropriate permit registered for use with that vessel issued under §665.13.

(c) Serve as primary operator or relief operator on a vessel with a Mau or Ho'omalulu Zone permit without completing a protected species workshop conducted by NMFS, as required by §665.61.

(d) Fail to notify the USCG at least 24 hours prior to making any landing of bottomfish taken in the Ho'omalulu Zone, as required by §665.63.

(e) Fish within any protected species study zone in the NWHI without notifying the Regional Administrator of the intent to fish in these zones, as required under §665.63.

(f) Falsify or fail to make or file all reports of bottomfish management unit species landings taken in the Pacific Remote Island Areas, containing all data in the exact manner, as specified in §665.14(a).

(g) Use a large vessel that does not have a valid Guam bottomfish permit registered for use with that vessel to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area in violation of §665.61(a).

(h) Use a large vessel to fish for bottomfish management unit species within the Guam large vessel bottomfish prohibited area, as defined in §665.70(b).

(i) Land or transship, shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area, bottomfish management unit species that were harvested in violation of §665.62(h).

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999; 70 FR 29657, May 24, 2005; 71 FR 53607, Sept. 12, 2006; 71 FR 64477, Nov. 2, 2006]

§ 665.63 Notification.

(a) The owner or operator of a fishing vessel subject to this subpart must inform the PIRO at least 72 hours (not including weekends and holidays) before leaving port, of his or her intent to fish within the protected species study zones defined in §665.12. The notice must include the name of the vessel, name of the operator, intended departure and return date, and a telephone number at which the owner or operator may be contacted during the business day (8 a.m. to 5 p.m.) to indicate whether an observer will be required on the subject fishing trip.

(b) The operator of a fishing vessel that has taken bottomfish in the Ho'omalu Zone must contact the USCG, by radio or otherwise, at the 14th District, Honolulu, HI; Pacific Area, San Francisco, CA; or 17th District, Juneau, AK, at least 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

§ 665.64 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for bottomfish and seamount groundfish with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gillnet by any vessel having a permit under §665.61 or otherwise established to be fishing for bottomfish or seamount groundfish in the management subareas is prohibited.

(c) *Poisons and explosives.* The possession or use of any poisons, explosives, or intoxicating substances for the purpose of harvesting bottomfish and seamount groundfish is prohibited.

§ 665.65 At-sea observer coverage.

(a) All fishing vessels subject to this subpart must carry an observer when directed to do so by the Regional Administrator.

(b) The PIRO will advise the vessel owner or operator of any observer requirement within 72 hours (not including weekends or holidays) of receipt of the notice. If an observer is required, the owner or operator will be informed of the terms and conditions of observer coverage, and the time and place of embarkation of the observer.

(c) All observers must be provided with sleeping, toilet, and eating accommodations at least equal to that provided to a full crew member. A mattress of futon on the floor or a cot is not acceptable in place of a regular bunk. Meal and other gallery privileges must be the same for the observer as for other crew members.

(d) Female observers on a vessel with an all-male crew must be accommodated either in a single person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing of common facilities must be established and approved by the Regional Administrator prior to the vessel's departure from port.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

§ 665.66 Protected species conservation.

The Regional Administrator may change the size of the protected species study zones defined in §665.12 of this subpart:

(a) If the Regional Administrator determines that a change in the size of the study zones would not result in fishing for bottomfish in the NWHI that would adversely affect any species listed as threatened or endangered under the ESA.

(b) After consulting with the Council.

(c) Through notification in the Federal Register published at least 30 days prior to the effective date or through actual notice to the permit holders.

§ 665.67 Framework for regulatory adjustments.

(a) *Annual reports.* By June 30 of each year, a Council-appointed bottomfish monitoring team will prepare an annual report on the fishery by area covering the following topics:

(1) Fishery performance data.

(2) Summary of recent research and survey results.

(3) Habitat conditions and recent alterations.

(4) Enforcement activities and problems.

(5) Administrative actions (e.g., data collection and reporting, permits).

(6) State and territorial management actions.

(7) Assessment of need for Council action (including biological, economic, social, enforcement, administrative, and state/Federal needs, problems, and trends). Indications of potential problems warranting further investigation may be signaled by the following indicator criteria:

(i) Mean size of the catch of any species in any area is a pre-reproductive size.

(ii) Ratio of fishing mortality to natural mortality for any species.

(iii) Harvest capacity of the existing fleet and/or annual landings exceed best estimate of MSY in any area.

(iv) Significant decline (50 percent or more) in bottomfish catch per unit of effort from baseline levels.

(v) Substantial decline in ex-vessel revenue relative to baseline levels.

(vi) Significant shift in the relative proportions of gear in any one area.

(vii) Significant change in the frozen/fresh components of the bottomfish catch.

- (viii) Entry/exit of fishermen in any area.
- (ix) Per-trip costs for bottomfishing exceed per-trip revenues for a significant percentage of trips.
- (x) Significant decline or increase in total bottomfish landings in any area.
- (xi) Change in species composition of the bottomfish catch in any area.
- (xii) Research results.
- (xiii) Habitat degradation or environmental problems.
- (xiv) Reported interactions between bottomfishing operations and protected species in the NWHI.
- (8) Recommendations for Council action.
- (9) Estimated impacts of recommended action.

(b) *Recommendation of management action.*

(1) The team may present management recommendations to the Council at any time. Recommendations may cover actions suggested for Federal regulations, state/territorial action, enforcement or administrative elements, and research and data collection. Recommendations will include an assessment of urgency and the effects of not taking action. The Council will evaluate the team's reports and recommendations, and the indicators of concern. The Council will assess the need for one or more of the following types of management action: Catch limits, size limits, closures, effort limitations, access limitations, or other measures.

(2) The Council may recommend management action by either the state/territorial governments or by Federal regulation.

(c) *Federal management action.* (1) If the Council believes that management action should be considered, it will make specific recommendations to the Regional Administrator after requesting and considering the views of its Scientific and Statistical Committee and Bottomfish Advisory Panel and obtaining public comments at a public hearing.

(2) The Regional Administrator will consider the Council's recommendation and accompanying data, and, if he or she concurs with the Council's recommendation, will propose regulations to carry out the action. If the Regional Administrator rejects the Council's proposed action, a written explanation for the denial will be provided to the Council within 2 weeks of the decision.

(3) The Council may appeal denial by writing to the Assistant Administrator, who must respond in writing within 30 days.

(4) The Regional Administrator and the Assistant Administrator will make their decisions in accord with the Magnuson Act, other applicable law, and the Bottomfish FMP.

(5) To minimize conflicts between the Federal and state management systems, the Council will use the procedures in paragraph (b) of this section to respond to state/territorial management actions. Council consideration of action would normally begin with a representative of the state or territorial government bringing a potential or actual management conflict or need to the Council's attention.

(d) *Access limitation procedures.* (1) Access limitation may be adopted under this paragraph (d) only for the NWHI, American Samoa, and Guam.

(2) If access limitation is proposed for adoption or subsequent modification through the process described in this paragraph (d), the following requirements must be met:

(i) The Bottomfish Monitoring Team must consider and report to the Council on present participation in the fishery; historical fishing practices in, and dependence on, the fishery; economics of the fishery; capability of fishing vessels used in the fishery to engage in other fisheries; cultural and social framework relevant to the fishery; and any other relevant considerations.

(ii) Public hearings must be held specifically addressing the limited access proposals.

(iii) A specific advisory subpanel of persons experienced in the fishing industry will be created to advise the Council and the Regional Administrator on administrative decisions.

(iv) The Council's recommendation to the Regional Administrator must be approved by a two-thirds majority of the voting members.

(e) *Five-year review.* The Council will conduct a comprehensive review on the effectiveness of the Mau Zone limited access program 5 years following implementation of the program. The Council will consider the extent to which the FMP objectives have been met and verify that the target number of vessels established for the fishery is appropriate for current fishing activity levels, catch rates, and biological condition of the stocks. The Council may establish a new target number based on the 5-year review.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999]

§ 665.68 Fishing moratorium on Hancock Seamount.

Fishing for bottomfish and seamount groundfish on the Hancock Seamount is prohibited through August 31, 2010.

[69 FR 51401, Aug. 19, 2004]

§ 665.69 Management subareas.

(a) The bottomfish fishery management area is divided into eight subareas with the following designations and boundaries:

(1) Main Hawaiian Islands means the EEZ of the Hawaiian Islands Archipelago lying to the east of 161° 20' W. long.

(2) Northwestern Hawaiian Islands (NWHI) means the EEZ of the Hawaiian Islands Archipelago lying to the west of 161° 20' W. long. However, for the purposes of regulations issued under this subpart, Midway Island is treated as part of the Northwestern Hawaiian Islands Subarea.

(i) Ho'omalulu Zone means that portion of the EEZ around the NWHI west of 165° W. long.

(ii) Mau Zone means that portion of the EEZ around the NWHI between 161° 20' W. long. and 165° W. long.

(3) Hancock Seamount means that portion of the EEZ in the Northwestern Hawaiian Islands west of 180°00' W. long. and north of 28°00' N. lat.

(4) Guam means the EEZ seaward of the Territory of Guam.

(5) American Samoa means the EEZ seaward of the Territory of American Samoa.

(6) CNMI Inshore Area means that portion of the EEZ shoreward of 3 nautical miles of the shoreline of the CNMI.

(7) CNMI Offshore Area means that portion of the EEZ seaward of 3 nautical miles from the shoreline of the CNMI.

(8) Pacific Remote Island Areas means that portion of the EEZ seaward of the Pacific Remote Island Areas, with the exception of Midway Atoll.

(b) The inner boundary of each fishery management area is a line coterminous with the seaward boundaries of the State of Hawaii, the Territory of American Samoa, the Territory of Guam, the CNMI, and the PRIA.

(c) The outer boundary of each fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries. The boundary between the fishery management areas of Guam and the CNMI extends to those points which are equidistant between Guam and the island of Rota in the CNMI.

[61 FR 34572, July 2, 1996. Redesignated at 71 FR 17989, Apr. 10, 2006, as amended by 71 FR 53607, Sept. 12, 2006]

§ 665.70 Bottomfish fishery area management.

(a) *Large vessel bottomfish prohibited area.* A large vessel of the United States may not be used to fish for bottomfish management unit species in any large vessel bottomfish prohibited area as defined in paragraph (b) of this section.

(b) *Guam large vessel bottomfish prohibited area (Area GU-1).* The large vessel bottomfish prohibited area around Guam means the waters of the US EEZ surrounding Guam that are enclosed by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
GU-1-A	14° 16'	144° 17'
GU-1-B	13° 50'	143° 52'
GU-1-C	13° 17'	143° 46'
GU-1-D	12° 50'	143° 54'
GU-1-E	12° 30'	144° 14'
GU-1-F	12° 25'	144° 51'
GU-1-G	12° 57'	145° 33'
GU-1-H	13° 12'	145° 43'
GU-1-I	13° 29' 44"	145° 48' 27"
GU-1-A	14° 16'	144° 17'

[71 FR 64477, Nov. 2, 2006]

SECTION 515 PRE-DISSEMINATION REVIEW & DOCUMENTATION GUIDELINES

Background

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

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

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

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

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

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

Information Generation and Compliance Documentation

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

Completing the Section 515 Pre-Dissemination Review & Documentation Form

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

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

I. Utility of Information Product

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

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

II. Integrity of Information Product

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

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

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

III. Objectivity of Information Product

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

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

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

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

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

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

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

A. Original Data

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

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

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

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

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

Document the quality control techniques used, for example:

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

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

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

B. Synthesized Products

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

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

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

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

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

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

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

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

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

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

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

C. Interpreted Products

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

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

Are all data and information sources identified or properly referenced?

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

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

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

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

request.

D. Hydrometeorological, Hazardous Chemical Spill, and Space Weather

Warnings, Forecasts, and Advisories

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

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

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

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

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

E. Experimental Products

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

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

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

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

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

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

F. Natural Resource Plans

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

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

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

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

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

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

G. Corporate and General Information

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

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

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

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

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

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

104-297

SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.