

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 08/13/2010

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 04/13/2010

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201003-0648-002
AGENCY ICR TRACKING NUMBER:
TITLE: Processed Products Family of Forms
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0018

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: 08/31/2013

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	1,402	681	0
New	1,402	681	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

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

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Annual Processed Products Report	NOAA 88-13	Fishery Product Report: US Processors Annual	
Monthly fishery products report	88-13c	Fishery Products Report: Fish meal and oil, monthly	

PAPERWORK REDUCTION ACT SUBMISSION

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

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

19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
PROCESSED PRODUCTS FAMILY OF FORMS
OMB CONTROL NO. 0648-0018**

A. JUSTIFICATION

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

National Oceanic and Atmospheric Administration (NOAA) Forms 88-13 and 88-13c are used to collect annual (in the case of 88-13) and monthly (in the case of 88-13c) information on seafood and industrial fishery processing plants. These data are required by the Secretary of Commerce in carrying out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq. as amended). Each fishery management plan established under the Act must determine the estimated capacity by United States (U.S) seafood processors for the managed fishery. Data from this survey are used in economic analyses to estimate the capacity and extent to which U.S. fish processors, on an annual basis, will process that portion of the optimum yield harvested by domestic fishing vessels. Employment data are used in socioeconomic analyses for determining potential impacts on processing employment, due in part to management measures.

Federally permitted dealers of Atlantic mackerel, squid, butterfish, Atlantic sea scallop, Northeast multispecies, monkfish, summer flounder, scup, black sea bass, Atlantic bluefish, spiny dogfish, Atlantic herring, Atlantic hagfish, Atlantic deep-sea red crab, tilefish, skate, surf clam or ocean quahog in the National Marine Fisheries Service's (NMFS) Northeast Region are required under 50 CFR 648.7 to complete and submit all sections of NOAA Form 88-13.

NOAA Form 88-13c is used to collect monthly production of fish meal and oil. These data are needed by the Department of Commerce to report market and supply conditions and are used by the industry to procure sufficient inputs to produce such products as animal feeds, paint, and lubricants (13 U.S.C. 61 et seq.).

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.

NMFS and Regional Council economists use the collected information to estimate processing capacity and to forecast and subsequently measure the economic impact of fishery management regulations on fish and shellfish supplies use the data on volume and value. The employment data are used to analyze the seasonality of a specific fishery. The data are also used for establishing negotiating positions on international trade by determining which seafood industries might be adversely affected by reducing or eliminating established tariffs.

Data from the annual survey are reported in Fisheries of the United States, Statistical Abstract of the United States, and Agricultural Statistics. As a member of the United Nations Food and Agriculture Organization and the Organization for Economic Cooperation and Development, NMFS supplies aggregate data to these organizations.

The information collected through the family of forms is also utilized by various other federal agencies. NMFS supports the International Trade Commission with their various trade investigations by supplying aggregate data on specific processed seafood items. The Office of Management and Budget (OMB) annually requests information on the processing of seafood. The U.S. Customs and Border Protection (CBP), Department of Homeland Security, establishes the annual tariff-rate quota for tuna fish described in Item 1604.14.22 of the Harmonized Tariff Schedule of the United States, based on the U.S. canned tuna production for the preceding calendar year (19 U.S.C. 3007). Failure to collect these data would prevent the Secretary of Commerce from meeting the statutory obligations under the Act. It would also prevent the CBP from establishing the annual tariff-rate quota on canned tuna.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the previous paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 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.

In the current annual survey, NMFS provides each processor a unique pre-printed form that includes the products produced by the processor in the previous year. The processor only needs to fill in the quantities and value, and add any new products, before returning the form. Processors have the option to use a web-based application that allows them to submit the data electronically. None have taken advantage of this option to date, but the option will be publicized again for next year's survey.

4. Describe efforts to identify duplication.

NMFS continues to work with Bureau of the Census to reduce duplication and unnecessary reporting. Although the Census includes the seafood industry in its five-year descriptive surveys, the level of detail is more aggregated than NMFS data and represents a survey of capital investment and value-added. These data are not part of NMFS effort.

The Bureau of Labor Statistics (BLS) collects monthly employment data at the six digit North American Industry Classification System code. Although these data are used to verify NMFS collected data, the information provided by the BLS is too aggregated to utilize at the species specific level and can only be used for general comparisons.

The Operational Guidelines on the Fishery Management Plan (FMP) Process require each FMP to evaluate existing state and Federal laws that govern the fisheries in question, and the findings

are made part of each FMP. Therefore, NMFS is confident that it is aware of similar collections if they exist.

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

Since all of the respondents are considered small businesses, separate requirements based on size of business have not been developed. Only the minimum data are requested.

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

If the collection were not conducted, NMFS would lack key economic data for making fishery decisions. The frequency cannot be reduced from the annual submission, which is currently required for dealers. Since dealer entry into and exit from a fishery is common, an annual collection allows NMFS to use the most accurate information available to compile employment and processing data.

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

Form 88-13c obtains monthly data on processed production of fish meal and oil for reporting in the Fishery Market News series. NMFS, U.S. Department of Agriculture (USDA), state fishery agencies and industry in forecasting market needs utilize these data. Forms are mailed to respondents on a monthly basis during the fishing season. The seasonality (four-five months) of the fisheries supporting the processing of meal and oil precludes reducing the reporting time frame to less than monthly. Companies reduce employment at season closure to primary maintenance needs. If the reporting time frame was reduced to quarterly submission, a loss of data for the season would jeopardize the statistics.

8. Provide information on 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 record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on October 20, 2009 (74 FR 53700) solicited public comments on this information collection.. No comments were received.

Direct feedback from respondents is the primary source for changes in the survey form.

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

No payments or gifts are made.

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

As stated on the forms, the data contained in the Processed Products Report, Form 88-13 and Form 88-13c, will be kept confidential as required by section 402(b) of the Magnuson-Stevens and NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form without identification as to its source.

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.

There are no questions of a sensitive nature.

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

Table 1. Calculation of Public and Federal Estimate of Reporting Burden Hours and Costs.

Permit Requirement	Number of Entities	Items/ Entity	Total Number of Items	Response Time (Hours)	Total Burden (Hours)	Cost (\$) to Public
NOAA Form 88-13	1,322	1	1,322	30 mins.	661	0
NOAA Form 88-13c	20	4	80	15 mins.	20	0
Totals	1,322*		1,402		681	0

* Excludes duplication.

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

There are no start-up, capital, or maintenance costs associated with this collection. No new or specialized equipment is needed to respond to this collection. The forms are provided with postage-fee envelopes.

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

The estimated Cost to Government is \$4,832

Estimated Cost of Printing: 1,400 forms at 4 cents per copy = \$56

Estimated Cost of Mailing: 1,400 forms at 74 cents total = \$1,036

Estimated Staff Support: 220 hours at GS 7/1 salary (\$17.00/hour) = \$3,740

15. Explain the reasons for any program changes or adjustments.

There are no program changes or adjustments.

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

Results from this collection may be used in scientific, management, technical or general informational publications such as Fisheries of the United States, which follows prescribed statistical tabulations and summary table formats. Data are available to the general public on request in summary form only; data are available to NMFS employees in detailed form on a need-to-know basis only.

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.

Not applicable.

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

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

The census of seafood processors is based on known firms that responded in previous years with the addition of newly established firms identified by local agency personnel. Agency personnel review local trade directories and state licensing agencies to develop potential new contacts. New firms are provided a NOAA Form 88-13 survey form and instructions for completing the survey. Lists of firms that are reported to have ceased operation are reviewed to establish certainty that a new company has not opened up in the same location. There have been cases in which a firm ceased operation for a year due to raw supply sourcing only to reopen in a subsequent year. In recent years, no new firms have entered into the fish meal and oil processing sectors, so no additional 88-13c Forms have been required

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

No statistical stratification is employed in the census.

The seasonality (four-five months) of the fisheries supporting the processing of meal and oil (NOAA Form 88-13) precludes reducing the reporting time frame to less than monthly.

Companies reduce employment at season closure to primary maintenance needs. If the reporting time frame was reduced to an annual submission, a loss of data for the season would jeopardize the statistics.

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

Approximately 50 percent of the survey forms are returned within a month of the initial mailing conducted in January. A second mailing to non-respondents is conducted in late February with follow-up calls initiated within two weeks to provide plant managers the option of providing the information over the phone or to ascertain if there is a problem. In many cases the plant may not have been operational due to the seasonality of a fishery.

Federally permitted dealers in the Northeast Region are required to submit a completed survey. See response to Question 1 of this Supporting Statement for more information on reporting requirements. The regional permit office notifies a firm that fails to respond that their permit renewal will be held in abeyance or if necessary an existing permit may be revoked.

Many of the processing facilities have a long-standing relationship with local NMFS personnel conducting the survey. When necessary, NMFS personnel may visit the plant to review a respondents' completed survey or to assist in completing the survey.

NMFS personnel work closely with national, regional, and state industry trade associations. Periodically, personnel hold discussions with industry leaders to describe the necessity of their members to provide the information. Personnel also meet with industry members at both local and national trade shows to review new types of products that are being developed for inclusion in the survey.

It is difficult to estimate the response rate to the 88-13, because it is a moving target – we rely on the agents in the field to keep us current on what businesses are out of business and when new businesses start up. For large-scale operations, our response rate should be quite high (80-90 percent). For the very small “mom and pop” operations, it is probably less. For the 88-13c the universe of meal processors is completely known and the response rate is 100%.

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

The census has been conducted in the same manner for the past twenty years. No test has been conducted recently.

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

Regional agency personnel conduct the census. Personnel at headquarters conduct tabulations of the data. For questions concerning the survey, please contact Alan Lowther of the NOAA Fisheries Office of Science and Technology at (301) 713-2328 or Alan.Lowther@noaa.gov.

Your cooperation is needed to make the results of the survey comprehensive. Individual reports are confidential and only summary totals are published. This report is authorized by law, 16 U.S.C. 1854(e).

YEAR	2009	NOAA FORM 88-13 (REV 10/95) FISHERY PRODUCTS REPORT U. S. PROCESSORS, ANNUAL	U.S. DEPARTMENT OF COMMERCE NOAA-NMFS	ARE YOU A:	
REGION	9			PROCESSOR	
STATE	99			WHOLESALER (Does Not Process)	
PLANT NO	9997			COLD STORAGE	
COUNTY	999			OTHER	

COMPANY PHONE _____ COMPANY FAX _____ _____ MAIL ADDRESS _____ DUMMY FOR PRINTING BLANK _____ PLANT ADDRESS _____	EMPLOYMENT DATA TO BE COMPLETED BY ALL FIRMS OR PLANTS NOTE: LIST BY MONTH THE NUMBER OF PERSONS WORKING AT THIS ESTABLISHMENT DURING THE PAYROLL PERIOD THAT INCLUDED THE 12TH OF THE MONTH.															
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">JAN</td> <td style="width:33%;">FEB</td> <td style="width:33%;">MAR</td> </tr> <tr> <td>APR</td> <td>MAY</td> <td>JUN</td> </tr> <tr> <td>JUL</td> <td>AUG</td> <td>SEP</td> </tr> <tr> <td>OCT</td> <td>NOV</td> <td>DEC</td> </tr> <tr> <td colspan="2">REPORT PREPARED BY (Print or type Name and Title)</td> <td>TITLE</td> </tr> </table>	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	REPORT PREPARED BY (Print or type Name and Title)		TITLE
JAN	FEB	MAR														
APR	MAY	JUN														
JUL	AUG	SEP														
OCT	NOV	DEC														
REPORT PREPARED BY (Print or type Name and Title)		TITLE														

***** NEW PRODUCTS (1) 1) SPECIFY: FRESH, FROZEN, CURED or INDUSTRIAL	FOR NMFS USE	UNIT	QUANTITY	VALUE FOB PLANT	CHECK

***** NEW CANNED (1)	FOR NMFS USE	UNIT	OUNCES	PACK	# OF CASES	VALUE FOB PLANT
		CS				
		CS				
		CS				
		CS				
		CS				

Your cooperation is needed to make the results of the survey comprehensive. Individual reports are confidential and only summary totals are published. This report is authorized by law, 16 U.S.C. 1854(e).

YEAR	2009	NOAA FORM 88-13 (REV 10/95)	U.S. DEPARTMENT OF COMMERCE NOAA-NMFS	ARE YOU A:	
REGION	9			PROCESSOR	
STATE	99			WHOLESALER (Does Not Process)	
PLANT NO	9997			COLD STORAGE	
COUNTY	999			OTHER	

**FISHERY PRODUCTS REPORT
U. S. PROCESSORS, ANNUAL**

NEW PRODUCTS (1) 1) SPECIFY: FRESH, FROZEN, CURED or INDUSTRIAL	FOR NMFS USE	UNIT	QUANTITY	VALUE FOB PLANT	CHECK

NEW CANNED (1)	FOR NMFS USE	UNIT	OUNCES	PACK	# OF CASES	VALUE FOB PLANT
		CS				
		CS				
		CS				
		CS				
		CS				

This report is authorized by law 13 U.S.C. 61 and 16 U.S.C. 1854(e). While you are not required to respond your cooperation is needed to make the results of this survey comprehensive, accurate and timely.

OMB Control No. 0648-0018
Expiration: 04/30/2010

MONTH		NOAA Form 88-13c (11-98)	U.S. DEPARTMENT OF COMMERCE NOAA-NMFS
REGION		FISHERY PRODUCTS REPORT	
STATE		FISH MEAL AND OIL, MONTHLY	
PLANT NO.			

INSTRUCTIONS: 1. Report production of fish/shellfish meal, oil, and solubles products produced at the plant for the month specified. If no production occurred please indicate on the form. 2. Return form to the originating NMFS office. 3. Your report is accorded confidential treatment, as required by section 402 (b) of the Magnuson-Stevens Act and NOAA Administrative Order 216-100. 4. Public reporting burden for this collection is estimated to average 15 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 survey to: Fisheries Statistics Division F/ST1, NMFS, Silver Spring MD 20910. 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.

SPECIES	FISH / SHELLFISH MEAL AND DRY SCRAP <i>Short Tons</i>	FISH OIL <i>Gallons</i>	FISH SOLUBLE <i>Gallons</i>

MENHADEN UTILIZED DURING MONTH (*MILLION FISH*)

REMARKS

FIRM	ADDRESS
SUBMITTED BY (<i>SIGNATURE</i>)	TITLE

o'clock postmeridian on or before the 12th day of the month to which the respective reports relate for provisions requiring the two reports to be issued from the same place at 11 o'clock antemeridian on the 8th day following that on which the respective reports relate, and struck out provisions setting forth the date of release in the event the original release date falls on a Sunday, legal holiday, or other nonworkday in the Department of Commerce at Washington.

SUBCHAPTER II—OILSEEDS, NUTS, AND KERNELS; FATS, OILS, AND GREASES

§ 61. Collection and publication

(a) The Secretary shall collect, collate, and publish monthly statistics concerning—

(1) the quantities of—

(A) cotton seed, soybeans, peanuts, flaxseed, corn germs, copra, sesame seed, bassu nuts and kernels, and other oilseeds, nuts, and kernels received, crushed, and on hand at oil mills;

(B) crude and refined oils, cakes, and meals, and other primary products, by type or kind, of the seeds, nuts, and kernels referred to in clause (A) of this paragraph, manufactured, shipped out, and on hand at oil mills and processing establishments;

(C) crude and refined vegetable oils, by type or kind, used by class of product and held by manufacturers of vegetable shortening, margarine, soap, and other principal products using large quantities of vegetable oils;

(D) crude and refined vegetable oils, by type or kind, held in warehouses and in transit to consuming establishments; and

(2) the quantities, by types or kinds, of—

(A) animal fats and oils and greases produced;

(B) animal fats and oils and greases shipped and held by producers;

(C) animal fats and oils and greases, fish and marine mammal oils used by class of product and held by manufacturers of shortening, margarine, soap, and other principal products which require the use of large quantities of animal fats and oils and greases, fish and marine mammal oils;

(D) animal fats and oils and greases, fish and marine mammal oils held in warehouses, cold storage, and in transit to consuming establishments.

(b) The Secretary shall not be required to collect, more frequently than he deems necessary to provide reliable statistical reports, information from any person who produces, holds, or consumes fats and oils in inconsequential quantities.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1017.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., § 81 (Aug. 7, 1916, ch. 274, § 1, 39 Stat. 436; July 25, 1947, ch. 331, 61 Stat. 457).

References to the Secretary (of Commerce) were substituted for references to the Director of the Census, to conform with 1950 Reorganization Plan No. 5, §§ 1, 2, effective May 24, 1950, 15 F.R. 3174, 64 Stat. 1263. See Revision Note to section 4 of this title.

Changes were made in phraseology and arrangement.

§ 62. Additional statistics

This subchapter does not restrict or limit the Secretary in the collection and publication, under the general authority of the Secretary, of such statistics on fats and oils or products thereof not specifically required in this subchapter, as he deems to be in the public interest.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1018.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., § 85 (Aug. 7, 1916, ch. 274, § 5, as added July 25, 1947, ch. 331, 61 Stat. 457).

References to the Secretary (of Commerce) were substituted for reference to the Director of the Census and for reference to the Bureau (of the Census), to conform with 1950 Reorganization Plan No. 5, §§ 1, 2, effective May 24, 1950, 15 F.R. 3174, 64 Stat. 1263. See Revision Note to section 4 of this title.

Changes were made in phraseology.

§ 63. Duplicate collection of statistics prohibited; access to available statistics

Statistics required under Federal law, as of the effective date of this title, to be collected by any other Federal department or agency in a manner comparable both as to form and period of time to the collection of statistics provided for by this subchapter shall not be collected by the Secretary under the authority of this subchapter. Immediately upon his request, the Secretary shall have access to any such statistics and shall include them in the publication required by this subchapter.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1018.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., § 86 (Aug. 7, 1916, ch. 274, § 6, as added July 25, 1947, ch. 331, 61 Stat. 457).

References to the Secretary (of Commerce) were substituted for references to the Director of the Census to conform with 1950 Reorganization Plan No. 5, §§ 1, 2, effective May 24, 1950, 15 F.R. 3174, 64 Stat. 1263. See Revision Note to section 4 of this title.

Words “, as of the effective date of this title,” were inserted in the first sentence for the purpose of clarity.

Changes were made in phraseology.

REFERENCES IN TEXT

The effective date of this title, referred to in text, is Jan. 1, 1955.

SUBCHAPTER III—APPAREL AND TEXTILES

§ 81. Statistics on apparel and textile industries

The Secretary shall collect and publish quarterly statistics relating to domestic apparel and textile industries.

(Added Pub. L. 99-467, § 1(a), Oct. 14, 1986, 100 Stat. 1192.)

SUBCHAPTER IV—QUARTERLY FINANCIAL STATISTICS

AMENDMENTS

1986—Pub. L. 99-467, § 1(a), Oct. 14, 1986, 100 Stat. 1192, substituted “IV” for “III” as subchapter designation.

§ 91. Collection and publication

(a) The Secretary shall collect and publish quarterly financial statistics of business operations, organization, practices, management,

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

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

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

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

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

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

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

95-354

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

16 U.S.C. 1801
MSA § 2

101-627

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

104-297

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

104-297

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

109-479

(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act.

109-479

(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

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

99-659, 101-627, 102-251

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

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

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

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

101-627

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

95-354, 96-561, 104-297

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

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

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

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

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

101-627, 104-297

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

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

16 U.S.C. 1801-1802
MSA §§ 2-3

99-659, 101-627

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

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

104-297

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

SEC. 3. DEFINITIONS

16 U.S.C. 1802

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

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

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

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

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

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

109-479

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

16 U.S.C. 1853
MSA § 303

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

109-479

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

109-479

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

109-479

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

109-479

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

109-479

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

16 U.S.C. 1853
MSA § 303

(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

109-479

SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

16 U.S.C. 1853a
MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

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.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

-EXPCITE-

TITLE 19 - CUSTOMS DUTIES

CHAPTER 18 - IMPLEMENTATION OF HARMONIZED TARIFF SCHEDULE

-HEAD-

Sec. 3007. Publication of Harmonized Tariff Schedule

-STATUTE-

(a) In general

The Commission shall compile and publish, at appropriate intervals, and keep up to date the Harmonized Tariff Schedule and related information in the form of printed copy; and, if, in its judgment, such format would serve the public interest and convenience -

- (1) in the form of microfilm images; or
- (2) in the form of electronic media.

(b) Content

Publications under subsection (a) of this section, in whatever format, shall contain -

- (1) the then current Harmonized Tariff Schedule;
- (2) statistical annotations and related statistical information formulated under section 1484(f) of this title; and
- (3) such other matters as the Commission considers to be necessary or appropriate to carry out the purposes enumerated in the Preamble to the Convention.

-SOURCE-

(Pub. L. 100-418, title I, Sec. 1207, Aug. 23, 1988, 102 Stat. 1151; Pub. L. 104-295, Sec. 21(e)(10), Oct. 11, 1996, 110 Stat. 3531.)

-REFTEXT-

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (a) and (b)(1), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

-MISC1-

AMENDMENTS

1996 - Subsec. (b)(2). Pub. L. 104-295 substituted "1484(f)" for "1484(e)".

Title 50: Wildlife and Fisheries
PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES
Subpart A—General Provisions

§ 648.7 Recordkeeping and reporting requirements.

(a) *Dealers* —(1) *Detailed report.* Federally permitted dealers, and any individual acting in the capacity of a dealer, must submit to the Regional Administrator or to the official designee a detailed report of all fish purchased or received for a commercial purpose, other than solely for transport on land, within the time period specified in paragraph (f) of this section, by one of the available electronic reporting mechanisms approved by NMFS, unless otherwise directed by the Regional Administrator. The following information, and any other information required by the Regional Administrator, must be provided in each report:

(i) *Required information.* All dealers issued a dealer permit under this part must provide: Dealer name; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessel(s) from which fish are purchased or received; trip identifier for each trip from which fish are purchased or received from a commercial fishing vessel permitted under this part; date(s) of purchases and receipts; units of measure and amount by species (by market category, if applicable); price per unit by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; cage tag numbers for surfclams and ocean quahogs, if applicable; disposition of the seafood product; and any other information deemed necessary by the Regional Administrator. If no fish are purchased or received during a reporting week, a report so stating must be submitted.

(ii) *Exceptions.* The following exceptions apply to reporting requirements for dealers permitted under this part:

(A) Inshore Exempted Species, as defined in §648.2, are not required to be reported under this part;

(B) When purchasing or receiving fish from a vessel landing in a port located outside of the Northeast Region (Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia and North Carolina), only purchases or receipts of species managed by the Northeast Region under this part, and American lobster, managed under part 697 of this chapter, must be reported. Other reporting requirements may apply to those species not managed by the Northeast Region, which are not affected by this provision; and

(C) Dealers issued a permit for Atlantic bluefin tuna under part 635 of this chapter are not required to report their purchases or receipts of Atlantic bluefin tuna under this part. Other reporting requirements, as specified in §635.5 of this chapter, apply to the receipt of Atlantic bluefin tuna.

(iii) *Dealer reporting requirements for skates.* In addition to the requirements under paragraph (a)(1)(i) of this section, dealers shall report the species of skates received. Species of skates shall be identified according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, rosette skate, and unclassified skate. NMFS will provide dealers with a skate species identification guide.

(2) *System requirements.* All persons required to submit reports under paragraph (a)(1) of this section are required to have the capability to transmit data via the Internet. To ensure compatibility with the reporting system and database, dealers are required to utilize a personal computer, in working condition that meets the minimum specifications identified by NMFS. The affected public will be notified of the minimum specifications via a letter to all Federal dealer permit holders.

(3) *Annual report.* All persons issued a permit under this part are required to submit the following information on an annual basis, on forms supplied by the Regional Administrator:

(i) All dealers and processors issued a permit under this part must complete all sections of the Annual Processed Products Report for all species that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

(ii) Surfclam and ocean quahog processors and dealers whose plant processing capacities change more than 10 percent during any year shall notify the Regional Administrator in writing within 10 days after the change.

(iii) Atlantic herring processors, including processing vessels, must complete and submit all sections of the Annual Processed Products Report.

(iv) Atlantic hagfish processors must complete and submit all sections of the Annual Processed Products Report.

(b) *Vessel owners or operators* —(1) *Fishing Vessel Trip Reports* —(i) The owner or operator of any vessel issued a valid permit or eligible to renew a limited access permit under this part must maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. As stated in paragraph (f)(2)(i) of this section, if no fishing trip is made during a month, a report stating so must be submitted for each month. If authorized in writing by the Regional Administrator, a vessel owner or operator may submit reports electronically, for example by using a VMS or other media. With the exception of those vessel owners or operators fishing under a surfclam or ocean quahog permit, at least the following information and any other information required by the Regional Administrator must be provided: Vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a charter or party boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded; and, in the case of skate discards, "small" (i.e., less than 23 inches (58.42 cm), total length) or "large" (i.e., 23 inches (58.42 cm) or greater, total length) skates; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator's permit number (if applicable).

(ii) *Surf clam and ocean quahog vessel owners and operators.* The owner or operator of any vessel conducting any surf clam and ocean quahog fishing operations, except those conducted exclusively in waters of a state that requires cage tags or when he/she has surrendered the surf clam and ocean quahog fishing vessel permit, shall maintain, on board the vessel, an accurate daily fishing log for each fishing trip, on forms supplied by the Regional Administrator, showing at least: Name and permit number of the vessel, total amount in bushels of each species taken, date(s) caught, time at sea, duration of fishing time, locality fished, crew size, crew share by percentage, landing port, date sold, price per bushel, buyer, tag numbers from cages used, quantity of surf clams and ocean quahogs discarded, and allocation permit number.

(iii) *Vessel reporting requirements for skates.* In addition to the requirements under paragraph (b)(1)(i) of this section, the owner or operator of any vessel issued a skate permit shall report the species of all skates landed. Species of skates shall be identified according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, rosette skate, and unclassified skate. Discards

of skates shall be reported according to two size classes, large skates (greater than or equal to 23 inches (58.42 cm) in total length) and small skates (less than 23 inches (58.42 cm) in total length). All other vessel reporting requirements remain unchanged. NOAA Fisheries will provide vessel owners or operators that intend to land skates with a skate identification guide to assist in this data collection program.

(2) *IVR system reports* — (i) *Atlantic herring owners or operators*. The owner or operator of a vessel issued a permit to fish for Atlantic herring must report catches (retained and discarded) of herring each week to an IVR system, as specified in paragraphs (b)(2)(i)(A) and (B) of this section. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, week in which species are caught, pounds retained, pounds discarded, management areas fished, and pounds of herring caught in each management area for the week. The IVR reporting week begins on Sunday at 0001 hrs (12:01 AM) local time and ends Saturday at 2400 hrs (12 midnight). Weekly Atlantic herring catch reports must be submitted via the IVR system by midnight, Eastern Time, each Tuesday for the previous week. Reports are required even if herring caught during the week has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

(A) The owner or operator of any vessel issued a limited access herring permit must submit an Atlantic herring catch report via the IVR system each week, regardless of how much herring is caught (including weeks when no herring is caught), unless exempted from this requirement by the Regional Administrator.

(B) An owner or operator of any vessel issued an open access permit for Atlantic herring that catches \geq 2,000 lb (907.2 kg) of Atlantic herring on any trip in a week must submit an Atlantic herring catch report via the IVR system for that week as required by the Regional Administrator.

(C) Atlantic herring IVR reports are not required from Atlantic herring carrier vessels.

(D) *Reporting requirements for vessels transferring herring at sea*. A vessel that transfers herring at sea must comply with these requirements in addition to those specified at §648.13(f).

(1) A vessel that transfers herring at sea to a vessel that receives it for personal use at bait must report all transfers on the Fishing Vessel Trip Report.

(2) A vessel that transfers herring at sea to an authorized carrier vessel must report all transfers weekly via the IVR system and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the carrier vessel is defined as a trip for the purposes of reporting requirements and possession allowances.

(3) A vessel that transfers herring at sea to an at-sea processor must report all transfers weekly via the IVR system and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the at-sea processing vessel is defined as a trip for the purposes of the reporting requirements and possession allowances. For each trip, the vessel must submit a Fishing Vessel Trip Report and the at-sea processing vessel must submit the detailed dealer report specified in paragraph (a)(1) of this section.

(4) A transfer between two vessels issued valid Atlantic herring permits requires each vessel to submit a Fishing Vessel Trip Report, filled out as required by the LOA to transfer herring at sea, and a weekly IVR report for the amount of herring each vessel lands.

(ii) *Tilefish vessel owners or operators*. The owner or operator of any vessel fishing under a tilefish IFQ Allocation permit, issued under this part, as described in §648.291(a), must submit a tilefish catch report by using the IVR system within 48 hr after returning to port and offloading. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, trip during which tilefish are caught, pounds landed, VTR pre-printed serial number, and the Federal dealer number for the dealer who purchases the tilefish. IVR reporting does not exempt the owner or operator from other applicable reporting requirements of this section.

(iii) *Red crab vessel owners and operators*. The owner or operator of any vessel issued a limited access permit for red crab must submit a red crab catch report via the IVR system within 24 hours after returning to port and offloading as required by the Regional Administrator. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, DAS confirmation number, trip during which species are caught, date landed, condition (whole, half sections with gills, half sections without gills), and pounds landed. IVR reporting does not exempt the owner or operator from other applicable reporting requirements of this section.

(c) *When to fill out a log report*. Log reports required by paragraph (b)(1)(i) of this section must be filled out with all required information, except for information not yet ascertainable, prior to entering port with fish. Information that may be considered unascertainable prior to entering port with fish includes dealer name, dealer permit number, and date sold. Log reports must be completed as soon as the information becomes available. Log reports required by paragraph (b)(1)(ii) of this section must be filled out before landing any surfclams or ocean quahogs.

(d) *Inspection*. Upon the request of an authorized officer or an employee of NMFS designated by the Regional Administrator to make such inspections, all persons required to submit reports under this part must make immediately available for inspection copies of reports, and all records upon which those reports are or will be based, that are required to be submitted or kept under this part.

(e) *Record retention*. Any record, as defined at §648.2, related to fish possessed, received, or purchased by a dealer that is required to be reported, must be retained and be available for immediate review for a total of 3 years after the date the fish were first possessed, received, or purchased. Dealers must retain the required records and reports at their principal place of business. Copies of fishing log reports must be kept on board the vessel and available for review for at least 1 year, and must be retained for a total of 3 years after the date the fish were last possessed, landed, and sold.

(f) *Submitting reports* —(1) *Dealer or processor reports*. (i) Detailed reports required by paragraph (a)(1)(i) of this section must be received by midnight of the first Tuesday following the end of the reporting week. If no fish are purchased or received during a reporting week, the report so stating required under paragraph (a)(1)(i) of this section must be received by midnight of the first Tuesday following the end of the reporting week.

(ii) [Reserved]

(iii) Dealers who want to make corrections to their trip-level reports via the electronic editing features may do so for up to 3 business days following submission of the initial report. If a correction is needed more than 3 business days following the submission of the initial trip-level report, the dealer must contact NMFS directly to request an extension of time to make the correction.

(iv) Through April 30, 2005, to accommodate the potential lag in availability of some required data, the trip identifier, price and disposition information required under paragraph (a)(1) may be submitted after the detailed weekly report, but must be received within 16 days of the end of the reporting week or the end of the calendar month, whichever is later. Dealers will be able to access and update previously submitted trip identifier, price, and disposition data.

(v) Effective May 1, 2005, the trip identifier required under paragraph (a)(1) of this section must be submitted with the detailed report, as required under paragraphs (f)(1)(i) of this section. Price and disposition information may be submitted after the initial detailed report, but must be received within 16 days of the end of the reporting week.

(vi) Annual reports for a calendar year must be postmarked or received by February 10 of the following year. Contact the Regional Administrator (see Table 1 to §600.502) for the address of NMFS Statistics.

(2) *Fishing vessel log reports.* (i) Fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received within 15 days after the end of the reporting month. Each owner will be sent forms and instructions, including the address to which reports are to be submitted, shortly after receipt of a Federal fisheries permit. If no fishing trip is made during a month, a report stating so must be submitted.

(ii) Surfclam and ocean quahog log reports, required by paragraph (b)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

(3) *At-sea purchasers and processors.* With the exception of the owner or operator of an Atlantic herring carrier vessel, the owner or operator of an at-sea purchaser or processor that purchases or processes any Atlantic herring, Atlantic mackerel, squid, butterfish, scup, or black sea bass at sea must submit information identical to that required by paragraph (a)(1) of this section and provide those reports to the Regional Administrator or designee by the same mechanism and on the same frequency basis.

(g) *Additional data and sampling.* Federally permitted dealers must allow access to their premises and make available to an official designee of the Regional Administrator any fish purchased from vessels for the collection of biological data. Such data include, but are not limited to, length measurements of fish and the collection of age structures such as otoliths or scales.

[61 FR 34968, July 3, 1996]

Editorial Note: For Federal Register citations affecting §648.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Harmonized Tariff Schedule of the United States (2010)

Annotated for Statistical Reporting Purposes

CHAPTER 16

PREPARATIONS OF MEAT, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES

IV
16-1

Notes:

1. This chapter does not cover meat, meat offal, fish, crustaceans, molluscs or other aquatic invertebrates, prepared or preserved by the processes specified in chapter 2 or 3 or heading 0504.
2. Food preparations fall in this chapter provided that they contain more than 20 percent by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof. In cases where the preparation contains two or more of the products mentioned above, it is classified in the heading of chapter 16 corresponding to the component or components which predominate by weight. These provisions do not apply to the stuffed products of heading 1902 or to the preparations of heading 2103 or 2104.

Subheading Notes

1. For the purposes of subheading 1602.10, the expression "homogenized preparations" means preparations of meat, meat offal or blood, finely homogenized, put up for retail sale as infant food or for dietetic purposes, in containers of a net weight content not exceeding 250 g. For the application of this definition no account is to be taken of small quantities of any ingredients which may have been added to the preparation for seasoning, preservation or other purposes. These preparations may contain a small quantity of visible pieces of meat or meat offal. This subheading takes precedence over all other subheadings of heading 1602.
2. The fish and crustaceans specified in the subheadings of heading 1604 or 1605 under their common names only, are of the same species as those mentioned in chapter 3 under the same name.

Additional U.S. Notes:

1. For the purposes of this chapter, the term "in oil" means packed in oil or fat, or in added oil or fat and other substances, whether such oil or fat was introduced at the time of packing or prior thereto.
2. In assessing the duty on meats, no allowance shall be made for normal components thereof such as bones, fat, and hide or skin. The dutiable weight of meats in airtight containers subject to specific rates includes the entire contents of the containers.
3. For purposes of subheadings 1604.14.22 and 1604.14.30, tunas and skipjack from the freely associated states may be entered free of duty under the appropriate subheading in an aggregate quantity provided by, and under the terms set forth in, general note 10(c) to the tariff schedule. Goods from the freely associated states entered, or withdrawn from warehouse for consumption, in excess of such specified aggregate quantity shall be dutied under the appropriate subheading at the rate set forth in the "General" subcolumn of column 1.

Statistical Note

1. Imports of shrimp or products of shrimp are subject to the provisions of section 609 of Public Law 101-162 of November 21, 1989 (16 U.S.C. 1537 note).

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IV
16-2

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1601.00		Sausages and similar products, of meat, meat offal or blood; food preparations based on these products:				
1601.00.20		Pork	kg	0.8¢/kg	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	7.2¢/kg
	10	Canned	kg			
	90	Other	kg			
1601.00.40		Other: Beef in airtight containers		3.4%	Free (A,AU,BH,CA,CL,E*,IL,J,JO,MA, MX,OM,P,PE,SG)	30%
	10	Canned	kg			
	90	Other	kg			
1601.00.60		Other		3.2%	Free (A,AU,BH,CA,CL,E*,IL,J,JO,MA, MX,OM,P,PE,SG)	20%
	20	Beef	kg			
	60	Other: Canned	kg			
	80	Other	kg			
1602		Other prepared or preserved meat, meat offal or blood:				
1602.10.00	00	Homogenized preparations	kg	1.9%	Free (A+,AU,BH,CA,CL,D,E*,IL,J,JO,MA, MX,OM, P,PE,SG)	30%
1602.20		Of liver of any animal:				
1602.20.20	00	Of goose <u>1/</u>	kg	4.9¢/kg	Free (A+,AU,CA,CL,D,E,IL,J,JO,MA, MX,P,PE,SG) 2.4¢/kg (BH) 3.9¢/kg (OM)	22¢/kg
1602.20.40	00	Other <u>1/</u>	kg	3.2%	Free (A,AU,BH,CA,CL,E*,IL,J,JO,MA, MX,OM,P,PE,SG)	20%
1602.31.00		Of poultry of heading 0105: Of turkeys		6.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	20%
	20	Prepared meals	kg			
	40	Other	kg			
1602.32.00		Of chickens		6.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	20%
	10	Prepared meals: In airtight containers	kg			
	30	Other	kg			
	40	Other	kg			
1602.39.00		Other		6.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	20%
	15	Prepared meals: In airtight containers	kg			
	35	Other	kg			
	45	Other	kg			

1/ See subheading 9903.02.34.

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IV
16-3

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1602 (con.)		Other prepared or preserved meat, meat offal or blood (con.):				
1602.41		Of swine:				
1602.41.10	00	Hams and cuts thereof:				
		Containing cereals or vegetables	kg	6.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	20%
1602.41.20		Other:				
		Boned and cooked and packed in airtight containers		5.3¢/kg	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	6.6¢/kg
	20	In containers holding less than 1 kg	kg			
	40	Other	kg			
1602.41.90	00	Other	kg	1.4¢/kg	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	7.2¢/kg
1602.42		Shoulders and cuts thereof:				
1602.42.20		Boned and cooked and packed in airtight containers		4.2¢/kg	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	6.6¢/kg
	20	In containers holding less than 1 kg	kg			
	40	Other	kg			
1602.42.40	00	Other	kg	1.4¢/kg	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	7.2¢/kg
1602.49		Other, including mixtures:				
1602.49.10	00	Offal	kg	3.2%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	20%
		Other:				
		Not containing cereals or vegetables:				
		Boned and cooked and packed in airtight containers	kg	4.2¢/kg	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	6.6¢/kg
1602.49.40	00	Other	kg	1.4¢/kg	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	7.2¢/kg
		Other:				
		Mixtures of pork and beef	kg	3.2%	Free (A,AU,BH,CA,CL,E*,IL,J,JO,MA,MX,OM,P,PE,SG)	20%
1602.49.90	00	Other	kg	6.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	20%

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IV
16-4

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1602 (con.)		Other prepared or preserved meat, meat offal or blood (con.):				
1602.50		Of bovine animals :				
1602.50.05	00	Offal	kg	2.3%	Free (A,AU,BH,CA,CL,E*,IL,J,JO,MA,MX,OM,P,PE,SG)	20%
		Other:				
		Not containing cereals or vegetables:				
1602.50.09	00	Cured or pickled	kg	4.5%	Free (A*,AU,BH,CA,CL,E*,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
		Other:				
		In airtight containers:				
1602.50.10	20	Corned beef		Free		30%
		In containers holding less than 1 kg	kg			
1602.50.20	40	Other	kg			
		Other		1.4%	Free (A*,AU,BH,CA,CL,E*,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
		In containers holding less than 1 kg	kg			
1602.50.60	40	Other	kg			
	00	Other	kg	1.8%	Free (A+,AU,BH,CA,CL,D,E*,IL,J,JO,MA,MX,OM,P,PE,SG)	20%
1602.50.90		Other		2.5%	Free (A,AU,BH,CA,CL,E*,IL,J,JO,MA,MX,OM,P,PE,SG)	20%
	20	Prepared meals	kg			
	40	Other	kg			
1602.90		Other, including preparations of blood of any animal:				
1602.90.10	00	Frog meat	kg	2.7%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	20%
1602.90.90		Other		6.4%	Free (A,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG) 2.5% (AU)	20%
	60	Canned	kg			
	80	Other	kg			
1603.00		Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates:				
1603.00.10	00	Clam juice	kg	8.5%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	35%
1603.00.90		Other		Free		13%
	10	Of meat	kg			
	90	Other	kg			

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IV
16-5

Heading/ Subheading	Stat/ Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1604		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:				
1604.11		Fish, whole or in pieces, but not minced:				
1604.11.20		Salmon:				
		In oil, in airtight containers		6%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
	20	Pink (humpie)	kg			
	30	Sockeye	kg			
	90	Other	kg			
1604.11.40		Other		Free		25%
		Canned:				
	10	Chum (dog)	kg			
	20	Pink (humpie)	kg			
	30	Sockeye	kg			
	40	Other	kg			
	50	Other	kg			
1604.12		Herrings:				
1604.12.20	00	In oil, in airtight containers	kg	4%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
		Other:				
1604.12.40	00	In tomato sauce, smoked or kippered, and in immediate containers weighing with their contents over 0.45 kg each	kg	Free		25%
1604.12.60		Other		Free		25%
		Pickled:				
	10	Fillets	kg			
	30	Other	kg			
		Other:				
	50	Kipper snacks	kg			
	90	Other	kg			
1604.13		Sardines, sardinella and brisling or sprats:				
1604.13.10	00	In oil, in airtight containers: Smoked sardines, neither skinned nor boned, valued \$1 or more per kg in tinplate containers, or \$1.10 or more per kg in other containers	kg	Free		30%
1604.13.20	00	Other: Neither skinned nor boned	kg	15%	Free (A+,AU,CA,CL,D,E,IL,J,JO,MA,MX,P,PE) 1.8% (SG) 6.6% (MA) 7.5% (BH) 12% (OM)	30%
1604.13.30	00	Skinned or boned	kg	20%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE) 6% (SG)	30%
1604.13.40	00	Other: In immediate containers weighing with their contents under 225 grams each	kg	Free		25%
1604.13.90	00	Other	kg	3.1%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%

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IV
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Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1604 (con.)		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs (con.):				
1604.14		Fish, whole or in pieces, but not minced (con.): Tunas, skipjack and bonito (<i>Sarda spp.</i>):				
		Tunas and skipjack:				
		In airtight containers:				
1604.14.10		In oil		35%	Free (A+,AU,BH, CA,D,IL,JO,MA, MX,OM,P,R) 10.5% (CL,SG) 28% (PE)	45%
	10	In foil or other flexible containers weighing with their contents not more than 6.8 kg each	kg			
		Other:				
	91	Albacore	kg			
	99	Other	kg			
1604.14.22		Not in oil:				
		In containers weighing with their contents not over 7 kg each, and not the product of any insular possession of the United States, for an aggregate quantity entered in any calendar year not to exceed 4.8 percent of apparent United States consumption of tuna in airtight containers during the immediately preceding year, as reported by the National Marine Fisheries Service		6%	Free (A+,AU,BH, CA,D,IL,JO,MA, MX,OM,SG) 0.4% (R) 0.8% (P) 1.8% (CL) 4.8% (PE)	25%
	51	Albacore (<i>Thunnus alalunga</i>): In foil or other flexible containers weighing with their contents not more than 6.8 kg each	kg			
	59	Other	kg			
	91	Other: In foil or other flexible containers weighing with their contents not more than 6.8 kg each	kg			
	99	Other	kg			

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IV
16-7

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1604 (con.)		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs (con.):				
1604.14 (con.)		Fish, whole or in pieces, but not minced (con.):				
		Tunas, skipjack and bonito (<i>Sarda spp.</i>) (con.):				
		Tunas and skipjack (con.):				
		In airtight containers (con.):				
		Not in oil (con.):				
1604.14.30		Other		12.5%	Free (A+,AU,BH,CA,D,IL,JO,MA, MX,OM) 0.8% (R) 1.8% (P) 1.5% (SG) 3.7% (CL) 10% (PE)	25%
	51	Albacore (<i>Thunnus alalunga</i>):				
		In foil or other flexible containers weighing with their contents not more than 6.8 kg each	kg			
	59	Other	kg			
	91	Other:				
		In foil or other flexible containers weighing with their contents not more than 6.8 kg each	kg			
	99	Other	kg			

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IV
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Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1604 (con.)		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs (con.):				
1604.14		Fish, whole or in pieces, but not minced (con.): Tunas, skipjack and bonito (<i>Sarda spp.</i>)(con.):				
1604.14.40	00	Tunas and skipjack (con.): Not in airtight containers: In bulk or in immediate containers weighing with their contents over 6.8 kg each, not in oil	kg	1.1¢/kg	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	2.8¢/kg
1604.14.50	00	Other	kg	6%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%
1604.14.70	00	Bonito (<i>Sarda spp.</i>): In oil	kg	4.9%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
1604.14.80	00	Not in oil	kg	6%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%
1604.15.00	00	Mackerel	kg	3%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%
1604.16		Anchovies:				
1604.16.20	00	In oil, in airtight containers	kg	Free		30%
1604.16.40	00	Other: In immediate containers weighing with their contents 6.8 kg or less each	kg	5%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%
1604.16.60	00	Other	kg	Free		2.5%

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IV
16-9

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1604 (con.)		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs (con.):				
1604.19		Fish, whole or in pieces, but not minced (con.):				
		Other (including yellowtail):				
		In airtight containers:				
		Not in oil:				
1604.19.10	00	Bonito, yellowtail and pollock	kg	4%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%
1604.19.20	00	Other	kg	4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%
		In oil:				
1604.19.25	00	Bonito, yellowtail and pollock	kg	5%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
1604.19.30	00	Other	kg	4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
		Other:				
		Fish sticks and similar products of any size or shape, fillets or other portions of fish, if breaded, coated with batter or similarly prepared:				
1604.19.40	00	Neither cooked nor in oil	kg	10%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE)	20%
1604.19.50	00	Other	kg	7.5%	1.2% (SG) Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA,MX,OM,P,PE,SG)	30%
		Other:				
1604.19.60	00	In oil and in bulk or in immediate containers weighing with their contents over 7 kg each	kg	Free		2.8¢/kg
1604.19.80	00	Other	kg	6%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	25%

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IV
16-10

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1604 (con.)		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs (con.):				
1604.20		Other prepared or preserved fish:				
1604.20.05		Products containing meat of crustaceans, molluscs or other aquatic invertebrates; prepared meals		10%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE) 1.2% (SG)	20%
	10	Prepared meals	kg			
	90	Other	kg			
		Other:				
1604.20.10	00	Pastes	kg	Free		30%
		Balls, cakes and puddings:				
1604.20.15	00	In oil	kg	Free		30%
		Not in oil:				
		In immediate containers weighing with their contents not over 6.8 kg each:				
1604.20.20	00	In airtight containers	kg	Free		25%
1604.20.25	00	Other	kg	Free		25%
1604.20.30	00	Other	kg	Free		2%
		Fish sticks and similar products of any size or shape, if breaded, coated with batter or similarly prepared:				
1604.20.40	00	Neither cooked nor in oil	kg	10%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA, MX,OM,P,PE) 1.2% (SG)	20%
1604.20.50		Other		7.5%	Free (A+,AU,BH,CA,CL,D,E,IL,J,JO,MA, MX,OM, P,PE,SG)	30%
	10	Pre-cooked and frozen	kg			
	90	Other	kg			
1604.20.60		Other		Free		25%
	10	Pre-cooked and frozen	kg			
	90	Other	kg			

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IV
16-11

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1604 (con.)		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs (con.):				
1604.30		Caviar and caviar substitutes:				
1604.30.20	00	Caviar	kg	15%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE) 1.8% (SG)	30%
		Caviar substitutes:				
1604.30.30	00	Boiled and in airtight containers	kg	Free		30%
1604.30.40	00	Other	kg	Free		44¢/kg
1605		Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved:				
1605.10		Crab:				
1605.10.05		Products containing fish meat; prepared meals		10%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE) 1.2% (SG)	20%
	10	In airtight containers	kg			
	90	Other	kg			
		Other:				
		Crabmeat:				
1605.10.20	10	In airtight containers		Free		22.5%
		King crab	kg			
		Snow crab (<u>Chionoecetes bairdi</u> , <u>C. opilio</u> , <u>C. tanneri</u> and <u>C. angulatus</u>):				
	22	<u>C. opilio</u> (small)	kg			
	25	Other	kg			
	30	Dungeness	kg			
		Swimming crabs (<u>Portunidae</u>):				
	51	<u>Callinectes spp.</u> , including blue crabs (<u>C. sapidus</u>)	kg			
	59	Other	kg			
1605.10.40	90	Other	kg	5%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	15%
		Frozen:				
	02	King crab	kg			
		Snow crab (<u>Chionoecetes bairdi</u> , <u>C. opilio</u> , <u>C. tanneri</u> and <u>C. angulatus</u>):				
	05	<u>C. opilio</u> (small)	kg			
	10	Other	kg			
	15	Dungeness	kg			
		Swimming crabs (<u>Portunidae</u>):				
	25	<u>Callinectes spp.</u> , including blue crabs (<u>C. sapidus</u>)	kg			
	30	Other	kg			
	35	Other	kg			
	40	Other	kg			
1605.10.60	10	Other		Free		Free
	90	In airtight containers	kg			
		Other	kg			

Harmonized Tariff Schedule of the United States (2010)

Annotated for Statistical Reporting Purposes

IV
16-12

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1605 (con.)		Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved (con.):				
1605.20		Shrimps and prawns:				
1605.20.05		Products containing fish meat; prepared meals		5%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,P,PE,SG)	20%
	10	In airtight containers, imported in accordance with Statistical Note 1 to this chapter	kg			
	90	Other, imported in accordance with Statistical Note 1 to this chapter	kg			
1605.20.10		Other		Free		Free
	10	Frozen, imported in accordance with Statistical Note 1 to this chapter:				
		In airtight containers	kg			
		Other:				
	20	Breaded	kg			
	30	Other	kg			
		Other, imported in accordance with Statistical Note 1 to this chapter:				
	40	Canned	kg			
	50	Other	kg			
1605.30		Lobster:				
1605.30.05		Products containing fish meat; prepared meals		10%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE) 1.2% (SG)	20%
	10	In airtight containers	kg			
	90	Other	kg			
1605.30.10		Other		Free		Free
		Lobster meat, cooked by steaming or boiling in water and out of shell, whether or not frozen but not further prepared or preserved:				
	10	Frozen	kg			
	30	Not frozen	kg			
		Other:				
	50	In airtight containers	kg			
	90	Other	kg			
1605.40		Other crustaceans:				
1605.40.05	00	Products containing fish meat; prepared meals	kg	Free		20%
1605.40.10		Other		Free		Free
	10	Peeled freshwater crawfish tail meat	kg			
	90	Other	kg			
1605.90		Other:				
1605.90.05	00	Products containing fish meat; prepared meals	kg	Free		20%
		Other:				
		Clams:				
		In airtight containers:				
1605.90.06	00	Razor clams (<i>Siliqua patula</i>)	kg	Free		23%
		Other:				
1605.90.10	00	Boiled clams, whether whole, minced or chopped, and whether or not salted, but not otherwise prepared or preserved, in immediate containers, the contents of each container not exceeding 680 grams gross weight	kg	10%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE) 1.2% (SG)	110%
1605.90.20	00	Other	kg	Free		35%
1605.90.30	00	Other	kg	Free		Free

Harmonized Tariff Schedule of the United States (2010)

Annotated for Statistical Reporting Purposes

IV
16-13

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
1605 (con.)		Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved (con.):				
1605.90 (con.)		Other (con.):				
		Other (con.):				
		Oysters:				
1605.90.40	00	Smoked	kg	Free		7.5%
1605.90.50	00	Other	kg	4.7%	Free (A+,AU,BH, CA,CL,D,E,IL,J, JO,MA,MX,OM, P,PE,SG)	12.5%
1605.90.55	00	Snails, other than sea snails	kg	5%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	20%
1605.90.60		Other		Free		Free
	20	Abalone (<i>Haliotis spp.</i>)	kg			
	40	Scallops	kg			
		Squid:				
	50	Loligo	kg			
	55	Other	kg			
	60	Other	kg			

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 15, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-25141 Filed 10-19-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Processed Products Family of Forms

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

ACTION: Notice.

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

DATES: Written comments must be submitted on or before December 21, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Alan Lowther, (301) 713-2328 or Alan.Lowther@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

National Oceanic and Atmospheric Administration (NOAA) annually collects information from seafood and

industrial fishing processing plants on the volume and value of their processed fishery products and monthly employment figures. NOAA also collects monthly information on the production of fish meal and oil. The information gathered is used by NOAA in the economic and social analyses when proposing and evaluating fishery management actions.

II. Method of Collection

In the current survey, NOAA's National Marine Fisheries Service (NMFS) provides each processor a pre-printed form that includes the products produced by the dealer in the previous year. The dealer needs only to fill in the quantities, and add any new products, before returning the form every year. Processors have the option to use a Web-based application that allows them to submit the data electronically.

III. Data

OMB Control Number: 0648-0018.

Form Number: NOAA Forms 88-13, 88-13C.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,322.

Estimated Time per Response: 30 minutes for an Annual Processed Products Report and 15 minutes for a Fishery Products Report Fish Meal and Oil, Monthly.

Estimated Total Annual Burden Hours: 681.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 15, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-25134 Filed 10-19-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840, A-549-822]

Certain Frozen Warmwater Shrimp From India and Thailand: Notice of Extension of Time Limits for the Preliminary Results of the Fourth Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood (India) at (202) 482-3874, or Kate Johnson (Thailand) at (202) 482-4929, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background

On April 7, 2009, the Department of Commerce (the Department) published a notice of initiation of the administrative reviews of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, India and Thailand covering the period February 1, 2008, through January 31, 2009. See *Certain Frozen Warmwater Shrimp from Brazil, India, and Thailand: Notice of Initiation of Administrative Reviews*, 74 FR 15699 (April 7, 2009).

On May 13, 2009, the Department selected respondents for individual examination in the reviews of certain frozen warmwater shrimp from India and Thailand.¹ See the Memorandum from Holly Phelps to James Maeder entitled "2008-2009 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India: Selection of Respondents for Individual Review," and the Memorandum from Kate Johnson and David Goldberger to James Maeder entitled "2008-2009 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand: Selection of Respondents for Individual Review."

¹ The Department rescinded the administrative review of frozen warmwater shrimp from Brazil on June 17, 2009. See *Certain Frozen Warmwater Shrimp from Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 74 FR 28665 (June 17, 2009).