

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 08/16/2009

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 02/06/2009

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 200901-0648-004  
AGENCY ICR TRACKING NUMBER:  
TITLE: Pacific Islands Region Coral Reef Ecosystems Permit Form  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0463  
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: 08/31/2012 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	14	30	0
New	14	30	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: This collection is approved for three years. Prior to resubmission of this request for renewal, the agency should assess estimates of burden taking into account most recent experience with this program.

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
Pacific Islands Region Coral Reef Ecosystems Permit Form	NA	Special Coral Reef Ecosystem Fishing Permit Application Form	

# PAPERWORK REDUCTION ACT SUBMISSION

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

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	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
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) ( <i>if applicable</i> )	
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  
PACIFIC ISLANDS REGION CORAL REEF ECOSYSTEMS PERMITS  
OMB CONTROL NO. 0648-0463**

**A. JUSTIFICATION**

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

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

The Council prepared, and the Secretary partially approved and implemented by National Marine Fisheries Service (NMFS) through regulations at 50 CFR Part 665, a Fishery Management Plan for Coral Reef Ecosystems of the Western Pacific Region (FMP). Key management measures of the FMP include the establishment of a Federal permit program for harvesting coral reef management unit species; record keeping and reporting requirements; no-take and low-use Marine Protected Areas (MPA); gear restrictions and listings of allowed and prohibited fishing gear; mitigation requirements addressing wreck removals and pollution mitigation for fishing vessels operating in or traversing any MPA; and a framework procedure for making regulatory adjustments to the Western Pacific coral reef ecosystems management program.

This request is for an extension of Office of Management and Budget (OMB) Control No. 0648-0463.

**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.**

Information is collected via a permit application process (Special Coral Reef Ecosystem Fishing Permit). Any person, who intends to fish for coral reef management unit species in a low-use MPA, target Potentially Harvested Coral Reef Taxa in the EEZ, or transship coral reef management unit species, must have a special coral reef fishing permit issued under the FMP. Permits are valid for one calendar year and may be renewed annually.

The information from the permit application form will allow the NMFS Pacific Islands Region, in consultation with the Council, to determine whether the permit applicant qualifies for a special permit. Vessel-related information such as vessel size, name of the operator, vessel's insurer, etc., may be used by NMFS to determine whether the applicant is an owner of a U.S. documented/registered vessel. The information, which profiles the current fishery, may also be used by NMFS enforcement and other offices of NMFS, USCG and the Council. Other

information requested in the application form will be used to assess the impact fishing activity on harvested stocks of coral reef biota and their habitat. The data include location of fishing grounds; types of fishing gear and method of collection used; fishing effort, target and incidental species; and disposition of the catch. The permit applicant is also asked to furnish general information on the objectives of the harvesting operation and a description of possible impacts on protected species, habitat, and the ecosystem. This information enables NMFS and the Council to gain a broad perspective on the harvesting operation if a permit is granted.

As requested, summaries of permit application information are provided to the Council and interested parties to generally describe the fishery and give an overview of the nature and magnitude of the impacts of the FMP regulations on the permit holders.

This collection also includes information involving appeals of permit denials. The appellant must provide documentation to show why a special permit should have been granted. The information is used by the NMFS Regional Administrator in making a final determination on permit issuance under the FMP. The frequency of appeals for permit denials is expected to be no more than 2 per year.

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

As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with Federal law and regulations, and NOAA policies 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.**

None of the federal permit application forms for Western Pacific fisheries, including this collection, are currently submitted in electronic form, although facsimile transmission used to a considerable extent. NMFS is developing a web based permits program that would allow applicants to apply for permits, including special coral reef ecosystem permits, online. It is expected that such a program may be implemented within the next year.

In the meantime, fillable permit applications may be downloaded from [http://www.fpir.noaa.gov/SFD/SFD\\_permits\\_11.html](http://www.fpir.noaa.gov/SFD/SFD_permits_11.html).

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

During the course of developing the FMP, NMFS and the Council worked with representatives of the State of Hawaii and U.S. Pacific Island government fisheries agencies to craft a permit application form with intent to minimize duplication with respective information collections. These agencies offered advice in the final specifications for the application form itself, as well as the information elements being recorded. However, in no instance was it possible to use state/territorial collections to replace the federal special coral reef fishing permit form.

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

All of the vessels in the Western Pacific fisheries under the management purview of NMFS and the Council, including fishers who harvest coral reef resources, are small business entities of similar size and are affected comparably. No special measures are needed to accommodate different sized businesses. Only a minimum amount of data needed for permit issuance and consistent with this collection is sought in the permit application process.

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

If the permit application data are not available or are collected less frequently, NMFS and the Council will not be able to properly evaluate an application for a special permit issued under the FMP. Also, it would be difficult to monitor the fishery and its participants, determine entry and exit patterns, and provide information needed to ensure full impact analysis for the coral reef ecosystems management program. Fisheries enforcement agents will not be assured of being able to identify the current participants in the fishery for purposes of compliance monitoring and enforcement of the regulations. Contact between NMFS and fishermen will be less frequent; NMFS will be unable to consult with permit holders on coral reef fishery-related issues or advise them of regulatory changes.

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

N/A

**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 recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A Federal Register Notice published on October 10, 2008 (73 FR 60244) solicited public comments on this submission. No public comments were received.

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

N/A.

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

Under Section 402(b) of the Magnuson-Stevens Act, as amended in 2006, and NOAA Administrative Order 216-100, information submitted in accordance with regulatory requirements under the Act is confidential. This includes personal and proprietary information contained in the permit application. These assurances are included on the permit application form.

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

No questions of a sensitive nature are asked.

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

	Annual Burden: (Hours)
a) 12 respondents (permit applicants) x 2 hr/response	= 24
b) 2 respondents (appellants) x 3 hr/response	= 6
<u>Total</u>	= <u>30</u>

The total annual cost to respondents for personnel time is estimated at \$750 per year. This was derived by multiplying the number of hours of burden each year (30 hours) times an hourly cost rate of \$25 (estimated rate of a vessel operator or designated agent of a vessel owner).

**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 is no “start up” capital cost for complying with this requirement. The estimated cost to respondents to mail (i.e., postage) and make file copies of the application form, permit, appeal documents, etc. is \$100 per year.

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

The estimated cost of this collection to the Federal government is about \$70 per permit or appeal action. This entails reviewing the application/appeal, determining sufficiency of respondents’ documents, awarding the permit, coordinating appeal actions, organizing application and appeal-

related information, sending out permit renewal timing notices, responding to inquiries, etc. The total Federal cost is estimated at \$1000 per year.

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

N/A

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

No formal scientific publications based on these collections are planned at this time. However, the information contained in the permit application will be analyzed by NMFS and the Council to determine eligibility for permit issuance and the need for management changes to conserve coral reef stocks and protect endangered or threatened marine animals and their habitats. Subsequent use of the data collected over a series of years may include scientific papers and publications.

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

N/A

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

N/A

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.



## Special Coral Reef Ecosystem Fishing Permit Application Form

**Applicant Information** (Please print legibly)

Date: \_\_\_ / \_\_\_ / \_\_\_

Full Name or Business Name: \_\_\_\_\_

Taxpayer Identification Number (TIN): \_\_\_\_\_ Date of Birth/Incorporation: \_\_\_\_\_

Business Mailing Address: \_\_\_\_\_  
 Street Apt.# City State ZIP

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Vessel Name: \_\_\_\_\_ Home Port: \_\_\_\_\_

Length (ft): \_\_\_\_\_ Net Tonnage: \_\_\_\_\_ Gross Tonnage: \_\_\_\_\_

Vessel: (check one) USCG Documentation \_\_\_; State License \_\_\_; Vessel Registration Number: \_\_\_\_\_

**Vessel Operator:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_  
 Street Apt.# City State ZIP

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

Is this permit solely to transship coral reef ecosystem taxa received from another vessel around the EEZ of the Northwest Hawaiian Islands, the Pacific Remote Island Areas, or any other MPA? \_\_\_\_\_

Do you agree to accommodate an observer on board while fishing, if required? \_\_\_\_\_

Does vessel have an individual Vessel Monitoring System? \_\_\_\_\_

Does vessel have insurance covering removal/clean-up in event of a grounding? \_\_\_\_\_ Name of Insurer: \_\_\_\_\_

Do you agree to submit daily log data within 30 days of returning to port? \_\_\_\_\_ or transshipment log data within 7 days of returning to port? \_\_\_\_\_

**Check any special exemption for which you qualify and would like to be eligible for under this permit application** (attach description of conditions under which you apply):

Other FMP \_\_\_ Scientific Bioprospecting \_\_\_ General Indigenous \_\_\_ Indigenous use of live rock/coral \_\_\_  
 Aquaculture seed stock of coral \_\_\_

**In which EEZ Management Subarea will fishing be conducted?** (check only one)

Main Hawaiian Islands \_\_\_ American Samoa \_\_\_ Guam \_\_\_  
 Guam's Southern Banks \_\_\_ CNMI \_\_\_ PRIA (specify) \_\_\_\_\_

**Describe your intended fishing effort, general fishing grounds, gear to be used and methods of collection**

Target Species or Taxa				Expected Incidental Species or Taxa		
Species Name	Expected Catch (lb) (#, wt.)	How will it be processed? <sup>1</sup>	Why harvested? <sup>2</sup>	Species Name	Expected Catch (lb) (#, wt.)	Keep?

<sup>1</sup> Live, fresh, frozen, preserved, other

<sup>2</sup> Food, ornamental, research, other

Use back, if necessary; total expected catch during permit period for target species required for permit approval

Attach statement regarding objectives of fishing operation, estimated ecosystem, habitat and protected species impacts, and any additional information to help support approval of this application. Attach copy of USCG vessel documentation or state/territory vessel registration.

**It is prohibited to file false information on any application for a fishing permit (50 CFR § 665.15(b)).**

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

## Paperwork Reduction Act Information

Public reporting burden for this collection is estimated to average 120 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Regional Administrator, NMFS Pacific Islands Region, 1601 Kapiolani Blvd., Suite 1110, Honolulu, Hawaii, 96814-4700.

This information is being collected to provide the information needed by NMFS to regulate and monitor the coral reef fisheries and resources managed under the Fishery Management Plan for Coral Reef Ecosystems of the Western Pacific Region (FMP) and to evaluate the effectiveness of management by assessing the status of stocks and the status of the fisheries. The information provides a basis for determining whether changes in management are needed to sustain the productivity of the stocks or to respond to interactions between fishing vessels and protected species and to address economic problems in the fishery. The information is also used to provide a basis for evaluating the magnitude and distribution of impacts resulting from changes to the regulations. Responses to the collection are required under 50 CFR 665.13. Proprietary data provided concerning the vessel and/or business of the respondents are handled as confidential under the Magnuson-Stevens Fishery Conservation and Management Act (Sec.402(b)). Notwithstanding any other provisions 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.

**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;

**109-479**

(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;

**109-479**

(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;

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**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]<sup>15</sup> 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.

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<sup>15</sup> 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)<sup>16</sup>—

(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).

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**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.

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<sup>16</sup> 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]<sup>17</sup> 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.

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<sup>17</sup> 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.

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**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.

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(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.

**Title 50: Wildlife and Fisheries**  
**PART 665—FISHERIES IN THE WESTERN PACIFIC**

**Subpart G—Western Pacific Coral Reef Ecosystem Fisheries**

**Source: 69 FR 8343, Feb. 24, 2004, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.**

**§ 665.601 Relation to other laws.**

To ensure consistency between the management regimes of different Federal agencies with shared management responsibilities of fishery resources within the Coral reef ecosystem regulatory area, fishing authorized under this subpart is not allowed within the boundary of a National Wildlife Refuge unless specifically authorized by the USFWS, regardless of whether that refuge was established by action of the President or the Secretary of the Interior.

**§ 665.602 Permits and fees.**

(a) *Applicability.* Unless otherwise specified in this subpart, §665.13 applies to coral reef ecosystem permits.

(1) *Special permit.* Any person of the United States fishing for, taking or retaining coral reef ecosystem MUS must have a special permit if they, or a vessel which they operate, is used to fish for any:

- (i) Coral reef ecosystem MUS in low-use MPAs as defined in §665.18;
- (ii) Potentially Harvested Coral Reef Taxa in the coral reef ecosystem regulatory area; or
- (iii) Coral reef ecosystem MUS in the coral reef ecosystem regulatory area with any gear not specifically allowed in this subpart.

(2) *Transshipment permit.* A receiving vessel must be registered for use with a transshipment permit if that vessel is used in the coral reef ecosystem regulatory area to land or tranship PHCRT, or any coral reef ecosystem MUS harvested within low-use MPAs.

(3) *Exceptions.* The following persons are not required to have a permit under this section:

- (i) Any person issued a permit to fish under the Bottomfish and Seamount Groundfish FMP, Pelagics FMP, Crustaceans FMP or Precious Corals FMP who incidentally catches coral reef ecosystem MUS while fishing for bottomfish management unit species, crustaceans management unit species, Pacific pelagic management unit species, precious coral, or seamount groundfish.
- (ii) Any person fishing for CHCRT outside of an MPA, who does not retain any incidentally caught PHCRT; and
- (iii) Any person collecting marine organisms for scientific research as described in §600.745 of this chapter.

(b) *Validity.* Each permit will be valid for fishing only in the fishery management subarea specified on the permit.

(c) *General requirements.* General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits are contained in §665.13.

(d) *Special permit.* The Regional Administrator shall issue a special permit in accordance with the criteria and procedures specified in this section.

(1) *Application.* An applicant for a special or transshipment permit issued under this section must complete and submit to the Regional Administrator, a Special Coral Reef Ecosystem Fishing Permit Application Form issued by NMFS. Information in the application form must include, but is not limited to a statement describing the objectives of the fishing activity for which a special permit is needed, including a general description of the expected disposition of the resources harvested under the permit ( *i.e.*, stored live, fresh, frozen, preserved; sold for food, ornamental, research, or other use, and a description of the planned fishing operation, including location of fishing and gear operation, amount and species (directed and incidental) expected to be harvested and estimated habitat and protected species impacts).

(2) *Incomplete applications.* The Regional Administrator may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until corrected in writing.

(3) *Issuance.* (i) If an application contains all of the required information, the Regional Administrator will forward copies of the application within 30 days to the Council, the U.S. Coast Guard, the fishery management agency of the affected state, and other interested parties who have identified themselves to the Council, and the USFWS.

(ii) Within 60 days following receipt of a complete application, the Regional Administrator will consult with the Council through its Executive Director, USFWS, and the Director of the affected state fishery management agency concerning the permit application and will receive their recommendations for approval or disapproval of the application based on:

- (A) Information provided by the applicant,
- (B) The current domestic annual harvesting and processing capacity of the directed and incidental species for which a special permit is being requested,
- (C) The current status of resources to be harvested in relation to the overfishing definition in the FMP,
- (D) Estimated ecosystem, habitat, and protected species impacts of the proposed activity, and
- (E) Other biological and ecological information relevant to the proposal. The applicant will be provided with an opportunity to appear in support of the application.

(iii) Following a review of the Council's recommendation and supporting rationale, the Regional Administrator may:

- (A) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the FMP, the national standards, the Endangered Species Act, and other applicable laws, approve or deny a special permit; or
- (B) Reject the Council's recommendation, in which case, written reasons will be provided by the Regional Administrator to the Council for the rejection.

(iv) If the Regional Administrator does not receive a recommendation from the Council within 60 days of Council receipt of the permit application, the Regional Administrator can make a determination of approval or denial independently.

(v) Within 30 working days after the consultation in paragraph (d)(3)(ii) of this section, or as soon as practicable thereafter, NMFS will notify the applicant in writing of the decision to grant or deny the special permit and, if denied, the reasons for the denial. Grounds for denial of a special permit include the following:

- (A) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application.
- (B) According to the best scientific information available, the directed or incidental catch in the season or location specified under the permit would detrimentally affect any coral reef resource or coral reef ecosystem in a significant way, including, but not limited to issues related to, spawning grounds or seasons, protected species interactions, EFH, and habitat areas of particular concern (HAPC).
- (C) Issuance of the special permit would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose.
- (D) The method or amount of harvest in the season and/or location stated on the permit is considered inappropriate based on previous human or natural impacts in the given area.
- (E) NMFS has determined that the maximum number of permits for a given area in a given season has been reached and allocating additional permits in the same area would be detrimental to the resource.
- (F) The activity proposed under the special permit would create a significant enforcement problem.

(vi) The Regional Administrator may attach conditions to the special permit, if it is granted, consistent with the management objectives of the FMP, including but not limited to:

- (A) The maximum amount of each resource that can be harvested and landed during the term of the special permit, including trip limits, where appropriate.
- (B) The times and places where fishing may be conducted.
- (C) The type, size, and amount of gear which may be used by each vessel operated under the special permit.

(D) Data reporting requirements.

(E) Such other conditions as may be necessary to ensure compliance with the purposes of the special permit consistent with the objectives of the FMP.

(4) *Appeals of permit actions.* (i) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, conditioning, or suspension of their permit or a permit affecting their interests to the Regional Administrator. In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the original action(s) by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(ii) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Regional Administrator will rule on the appeal in accordance with the permit eligibility criteria set forth in this section and the FMP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as deemed appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(iii) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the Federal Register. Such a hearing shall normally be held no later than 30 days following publication of the notice in the Federal Register, unless the hearing officer extends the time for reasons deemed equitable. The appellant, the applicant (if different), and, at the discretion of the hearing officer, other interested parties, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(iv) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action constitutes final action for the agency for the purposes of the Administrative Procedure Act.

(5) Any time limit prescribed in this section may be extended for good cause, for a period not to exceed 30 days by the Regional Administrator, either upon his or her own motion or upon written request from the Council, appellant or applicant stating the reason(s) therefore.

## § 665.603 Prohibitions.

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

(a) Fish for, take, retain, possess or land any coral reef ecosystem MUS in any low-use MPA as defined in §665.18(c)(1) and (c)(2) unless:

(1) A valid permit has been issued for the hand harvester or the fishing vessel operator that specifies the applicable area of harvest;

(2) A permit is not required, as outlined in §600.602 of this chapter;

(3) The coral reef ecosystem MUS possessed on board the vessel originated outside the regulatory area and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any coral reef ecosystem MUS species:

(1) That is determined overfished with subsequent rulemaking by the Regional Administrator.

(2) By means of gear or methods prohibited under §665.604.

(3) In a low-use MPA without a valid special permit.

(4) In violation of any permit issued under §665.13 or §665.601.

(c) Fish for, take, or retain any wild live rock or live hard coral except under a valid special permit for scientific research, aquaculture seed stock collection or traditional and ceremonial purposes by indigenous people.

## § 665.604 Notifications.

Any special permit holder subject to the requirements of this subpart must contact the appropriate NMFS enforcement agent in American Samoa, Guam, or Hawaii at least 24 hours before landing any coral reef ecosystem MUS unit species harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

## § 665.605 Allowable gear and gear restrictions.

(a) Coral reef ecosystem MUS may be taken only with the following allowable gear and methods:

(1) Hand harvest;

(2) Spear;

(3) Slurp gun;

(4) Hand net/dip net;

(5) Hoop net for Kona crab;

(6) Throw net;

(7) Barrier net;

(8) Surround/purse net that is attended at all times;

(9) Hook-and-line (includes handline (powered or not)), rod-and-reel, and trolling);

(10) Crab and fish traps with vessel ID number affixed; and

(11) Remote-operating vehicles/submersibles.

(b) Coral reef ecosystem MUS may not be taken by means of poisons, explosives, or intoxicating substances. Possession or use of these materials by any permit holder under this subpart who is established to be fishing for coral reef ecosystem MUS in the regulatory area is prohibited.

(c) Coral reef ecosystem MUS may not be taken by means of spearfishing with SCUBA at night (from 6 p.m. to 6 a.m.) in the U.S. EEZ waters around Howland Island, Baker Island, Jarvis Island, Wake Island, Kingman Reef, Johnston Atoll and Palmyra Atoll.

(d) Existing FMP fisheries shall follow the allowable gear and methods outlined in their respective plans.

(e) Any person who intends to fish with new gear not included in §665.604 must describe the new gear and its method of deployment in the special permit application. A decision on the permissibility of this gear type will be made by the Regional Administrator after consultation with the Council and the director of the affected state fishery management agency.

## § 665.606 Gear identification.

(a) The vessel number must be affixed to all fish and crab traps on board the vessel or deployed in the water by any vessel or person holding a permit under §665.13 or §665.601 or that is otherwise established to be fishing for coral reef ecosystem MUS in the regulatory area.

(b) *Enforcement action.* (1) Traps not marked in compliance with paragraph (a) of this section and found deployed in the coral reef ecosystem regulatory area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer;

(2) Unattended surround nets or bait seine nets found deployed in the coral reef ecosystem regulatory area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

## § 665.607 Framework for regulatory adjustments.

(a) *Procedure for established measures.* (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, or for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions;

(2) Following framework procedures of the CREFMP, the Council may recommend to the Regional Administrator that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(b) *Procedure for new measures.* (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions. New measures include but are not limited to catch limits, resource size limits, closures, effort limitations, reporting and recordkeeping requirements;

(2) Following the framework procedures of the FMP, the Regional Administrator will publicize, including by Federal Register notice, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Administrator about any new measure. NMFS may implement the Council's recommendation by rule making if approved by the Regional Administrator.

(i) The Regional Administrator will consider the Council's recommendation and supporting rationale and analysis, and, if the Regional Administrator concurs with the Council's recommendation, will propose regulations to carry out the action. If the Regional Administrator rejects the Council's proposed action, the Regional Administrator will provide a written explanation for the denial within 2 weeks of the decision.

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

(iii) The Regional Administrator and the Assistant Administrator will make their decisions in accordance with the Magnuson-Stevens Act, other applicable laws, and the CREFMP.

(iv) To minimize conflicts between the Federal and state/territorial/commonwealth management systems, the Council will use the procedures in paragraph (a)(2) in this section to respond to state/territorial/commonwealth management actions. The Council's consideration of action would normally begin with a representative of the state, territorial or commonwealth government bringing a potential or actual management conflict or need to the Council's attention.

## § 665.608 Regulatory area.

(a) The regulations in this subpart govern fishing for coral reef ecosystem management unit species by vessels of the United States or persons who operate or are based inside the outer boundary of the U.S. EEZ off:

(1) The Hawaiian Islands Archipelago lying to the east of 160°50' W. long.

(2) Guam.

(3) American Samoa.

(4) Offshore area of the CNMI or that portion of the U.S. EEZ around the CNMI between three nautical miles offshore and the outer boundary of the U.S. EEZ.

(5) Baker Island, Howland Island, Jarvis Island, Wake Island, Johnston Atoll, Palmyra Atoll and Kingman Reef.

(b) The inner boundary of the regulatory area is as follows:

(1) The shoreline of Baker Island, Howland Island, Jarvis Island, Wake Island, Johnston Atoll, Palmyra Atoll and Kingman Reef.

(2) The seaward boundaries of the State of Hawaii, the Territory of Guam, the Territory of American Samoa; and

(3) A line three nautical miles seaward from the shoreline of the CNMI.

(c) The outer boundary of the regulatory area is the outer boundary of the U.S. EEZ or adjacent international maritime boundaries. The CNMI and Guam regulatory area is divided by a line intersecting these two points: 148° E. long., 12° N. lat., and 142° E. long., 16° N. lat.

## § 665.609 Annual reports

(a) *Annual reports.* By July 31 of each year, a Council-appointed coral reef ecosystem plan team will prepare an annual report on coral reef fisheries of the western Pacific region. The report will contain, among other things, fishery performance data, summaries of new information and assessments of need for Council action.

(b) *Recommendation for Council action.* (1) The Council will evaluate the annual report and advisory body recommendations and may recommend management action by either the state/territorial/commonwealth governments or by Federal regulation;

(2) If the Council believes that management action should be considered, it will make specific recommendations to the Regional Administrator after considering the views of its advisory bodies.

## Table 1 to Part 665—Precious Coral Quotas

Type of coral bed	Name of coral bed	Harvest quota in kilograms	Number of years
Established Beds	Au'au Channel	Black: 5,000	2
	Makapu'u	Pink: 2,000	2
		Gold: 0 (zero)	--
		Bamboo: 500	2
Conditional Beds	180 Fathom Bank	Pink: 222	1
		Gold: 67	1
		Bamboo: 56	1
	Brooks Bank	Pink: 17	1
		Gold: 133	1
		Bamboo: 111	1
	Kaena Point	Pink: 67	1
		Gold: 20	1
		Bamboo: 17	1
	Keahole Point	Pink: 67	1
		Gold: 20	1
		Bamboo: 17	1
Refugia	Westpac	All: 0 (zero)	--

Exploratory Areas	Hawaii, American Samoa, Guam, CNMI, U.S. Pacific Remote Island Areas	1,000 per area (all species combined except black corals)	1
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Notes:

1. No fishing for coral is authorized in refugia.
2. A moratorium on gold coral harvesting is in effect through June 30, 2013.

[73 FR 47100, Aug. 13, 2008]

**Table 2 to Part 665—Currently Harvested Coral Reef Taxa**

Family name	Common name (scientific name)
Acanthuridae (Surgeonfishes)	Orange-spot surgeonfish ( <i>Acanthurus olivaceus</i> )
	Yellowfin surgeonfish ( <i>Acanthurus xanopterus</i> )
	Convict tang ( <i>Acanthurus triostegus</i> )
	Eye-striped surgeonfish ( <i>Acanthurus dussumieri</i> )
	Blue-lined surgeon ( <i>Acanthurus nigroris</i> )
	Whitebar surgeonfish ( <i>Acanthurus leucopareius</i> )
	Blue-banded surgeonfish ( <i>Acanthurus lineatus</i> )
	Blackstreak surgeonfish ( <i>Acanthurus nigricauda</i> )
	Whitecheek surgeonfish ( <i>Acanthurus nigricans</i> )
	White-spotted surgeonfish ( <i>Acanthurus guttatus</i> )
	Ringtail surgeonfish ( <i>Acanthurus blochii</i> )
	Brown surgeonfish ( <i>Acanthurus nigrofuscus</i> )
	Elongate surgeonfish ( <i>Acanthurus mata</i> )
	Mimic surgeonfish ( <i>Acanthurus pyroferus</i> )
	Yellow-eyed surgeonfish ( <i>Ctenochaetus strigosus</i> )
	Striped bristletooth ( <i>Ctenochaetus striatus</i> )
	Twospot bristletooth ( <i>Ctenochaetus binotatus</i> )
	Bluespine unicornfish ( <i>Naso unicornus</i> )
	Orangespine unicornfish ( <i>Naso lituratus</i> )
	Humpnose unicornfish ( <i>Naso tuberosus</i> )
	Black tongue unicornfish ( <i>Naso hexacanthus</i> )
	Bignose unicornfish ( <i>Naso vlamingii</i> )
	Whitemargin unicornfish ( <i>Naso annulatus</i> )
	Spotted unicornfish ( <i>Naso brevirostris</i> )
	Humpback unicornfish ( <i>Naso brachycentron</i> )
	Barred unicornfish ( <i>Naso thynnoides</i> )
	Gray unicornfish ( <i>Naso caesius</i> )
Balistidae (Triggerfishes)	Titan triggerfish ( <i>Balistoides viridescens</i> )
	Clown triggerfish ( <i>Balistoides conspicillum</i> )
	Orangstriped triggerfish ( <i>Balistapus undulatus</i> )
	Pinktail triggerfish ( <i>Melichthys vidua</i> )
	Black triggerfish ( <i>Melichtys niger</i> )
	Blue Triggerfish ( <i>Pseudobalistes fucus fucus</i> )
	Picassofish ( <i>Rhinecanthus aculeatus</i> )
	Wedged Picassofish ( <i>Balistoides rectangulus</i> )
	Bridled triggerfish ( <i>Sufflamen fraenatus</i> )
	Carangidae (Jacks)
Mackerel scad ( <i>Decapterus macarellus</i> )	

Carcharhinidae (Sharks)	Grey reef shark ( <i>Carcharhinus amblyrhynchos</i> )
	Silvertip shark ( <i>Carcharhinus albimarginatus</i> )
	Galapagos shark ( <i>Carcharhinus galapagensis</i> )
	Blacktip reef shark ( <i>Carcharhinus melanopterus</i> )
	Whitetip reef shark ( <i>Triaenodon obesus</i> )
Holocentridae (Soldierfish/Squirrelfish)	Bigscale soldierfish ( <i>Myripristis berndti</i> )
	Bronze soldierfish ( <i>Myripristis adusta</i> )
	Blotcheye soldierfish ( <i>Myripristis murdjan</i> )
	Brick soldierfish ( <i>Myripristis amaena</i> )
	Scarlet soldierfish ( <i>Myripristis pralinia</i> )
	Violet soldierfish ( <i>Myripristis violacea</i> )
	Whitetip soldierfish ( <i>Myripristis vittata</i> )
	Yellowfin soldierfish ( <i>Myripristis chryseres</i> )
	Pearly soldierfish ( <i>Myripristis kuntee</i> )
	Double tooth squirrel fish ( <i>Myripristis hexagona</i> )
	Tailspot squirrelfish ( <i>Sargocentron caudimaculatum</i> )
	Blackspot squirrelfish ( <i>Sargocentron melanospilos</i> )
	File-lined squirrelfish ( <i>Sargocentron microstoma</i> )
	Pink squirrelfish ( <i>Sargocentron tieroides</i> )
	Crown squirrelfish ( <i>Sargocentron diadema</i> )
	Peppered squirrelfish ( <i>Sargocentron punctatissimum</i> )
	Blue-lined squirrelfish ( <i>Sargocentron tiera</i> )
	Hawaiian squirrelfish ( <i>Sargocentron xantherythrum</i> )
	Squirrelfish ( <i>Sargocentron furcatum</i> )
	Saber or Long jaw squirrelfish ( <i>Sargocentron spiniferum</i> )
	Spotfin squirrelfish ( <i>Neoniphon</i> spp.)
Kuhliidae ( Flag-tails )	Hawaiian flag-tail ( <i>Kuhlia sandvicensis</i> )
	Barred flag-tail ( <i>Kuhlia mugil</i> )
Kyphosidae Rudderfish	Rudderfish ( <i>Kyphosus biggibus</i> )
	Rudderfish ( <i>Kyphosus cinerascens</i> )
	Rudderfish ( <i>Kyphosus vaigienses</i> )
Labridae ( Wrasses )	Saddleback hogfish ( <i>Bodianus bilunulatus</i> )
	Napoleon wrasse ( <i>Cheilinus undulatus</i> )
	Triple-tail wrasse ( <i>Cheilinus trilobatus</i> )
	Floral wrasse ( <i>Cheilinus chlorourus</i> )
	Harlequin tuskfish ( <i>Cheilinus fasciatus</i> )
	Ring-tailed wrasse ( <i>Oxycheilinus unifasciatus</i> )
	Bandcheek wrasse ( <i>Oxycheilinus diagrammus</i> )
	Arenatus wrasse ( <i>Oxycheilinus arenatus</i> )
	Razor wrasse ( <i>Xyrichtys pavo</i> )
	Whitepatch wrasse ( <i>Xyrichtes aneitensis</i> )
	Cigar wrasse ( <i>Cheilio inermis</i> )
	Blackeye thicklip ( <i>Hemigymnus melapterus</i> )
	Barred thicklip ( <i>Hemigymnus fasciatus</i> )

	Three-spot wrasse ( <i>Halichoeres trimaculatus</i> )
	Checkerboard wrasse ( <i>Halichoeres hortulanus</i> )
	Weedy surge wrasse ( <i>Halichoeres margaritaceus</i> )
	Goldstripe wrasse ( <i>Halichoeres zeylonicus</i> )
	Surge wrasse ( <i>Thalassoma purpuraceum</i> )
	Red ribbon wrasse ( <i>Thalassoma quinquevittatum</i> )
	Sunset wrasse ( <i>Thalassoma lutescens</i> )
	Longface wrasse ( <i>Hologymnosus doliatus</i> )
	Rockmover wrasse ( <i>Novaculichthys taeniourus</i> )
Mullidae (Goatfishes)	Yellow goatfish ( <i>Mulloidichthys</i> spp.)
	Orange goatfish ( <i>Mulloidichthys pfluegeri</i> )
	Yellowfin goatfish ( <i>Mulloidichthys vanicolensis</i> )
	Yellowstripe goatfish ( <i>Mulloidichthys flavolineatus</i> )
	Banded goatfish ( <i>Parupeneus</i> spp.)
	Dash-dot goatfish ( <i>Parupeneus barberinus</i> )
	Doublebar goatfish ( <i>Parupeneus bifasciatus</i> )
	Redspot goatfish ( <i>Parupeneus heptacanthus</i> )
	White-lined goatfish ( <i>Parupeneus ciliatus</i> )
	Yellowsaddle goatfish ( <i>Parupeneus cyclostomas</i> )
	Side-spot goatfish ( <i>Parupeneus pleurostigma</i> )
	Indian goatfish ( <i>Parupeneus indicus</i> )
	Multi-barred goatfish ( <i>Parupeneus multifasciatus</i> )
	Bantail goatfish ( <i>Upeneus arge</i> )
Mugilidae (Mullet)	Stripped mullet ( <i>Mugil cephalus</i> )
	Engel's mullet ( <i>Moolgarda engeli</i> )
	False mullet ( <i>Neomyxus leuciscus</i> )
	Fringelip mullet ( <i>Crenimugil crenilabis</i> )
Muraenidae (Moray eels)	Yellowmargin moray eel ( <i>Gymnothorax flavimarginatus</i> )
	Giant moray eel ( <i>Gymnothorax javanicus</i> )
	Undulated moray eel ( <i>Gymnothorax undulatus</i> )
Octopodidae	Octopus ( <i>Octopus cyanea</i> ; <i>Octopus ornatus</i> )
Polynemidae	Threadfin ( <i>Polydactylus sexfilis</i> )
Priacanthidae (Bigeye)	Glasseye ( <i>Heteropriacanthus cruentatus</i> )
	Bigeye ( <i>Priacanthus hamrur</i> )
Scaridae (Parrotfishes)	Humphead parrotfish ( <i>Bulbometapon muracatum</i> )
	Parrotfish ( <i>Scarus</i> spp.)
	Pacific longnose parrotfish ( <i>Hipposcarus longiceps</i> )
	Stareye parrotfish ( <i>Catolomus carolinus</i> )
Scombridae	Dogtooth tuna ( <i>Gymnosarda unicolor</i> )
Siganidae (Rabbitfish)	Forktail rabbitfish ( <i>Siganus argenteus</i> )
	Golden rabbitfish ( <i>Siganus guttatus</i> )
	Gold-spot rabbitfish ( <i>Siganus punctatissimus</i> )
	Randall's rabbitfish ( <i>Siganus randalli</i> )
	Scribbled rabbitfish ( <i>Siganus spinus</i> )

	Vermiculate rabbitfish ( <i>Siganus vermiculatus</i> )
Sphyraenidae (Barracuda)	Heller's barracuda ( <i>Sphyraena helleri</i> )
	Great Barracuda ( <i>Sphyraena barracuda</i> )
Turbinidae (turban shells/green snails)	Green snails ( <i>Turbo</i> spp.)
Aquarium Taxa/Species	Acanthuridae
	Yellow tang ( <i>Zebrasoma flavescens</i> )
	Yellow-eyed surgeon fish ( <i>Ctenochaetus strigosus</i> )
	Achilles tang ( <i>Acanthurus achilles</i> )
	Muraenidae
	Dragon eel ( <i>Enchelycore pardalis</i> )
	Zanclidae
	Morish idol ( <i>Zanclus cornutus</i> )
	Pomacanthidae
	Angelfish ( <i>Centropyge shepardi</i> , <i>Centropyge flavissimus</i> )
	Cirrhitidae
	Flame hawkfish ( <i>Neocirrhitis armatus</i> )
	Chaetodontidae
	Butterflyfish ( <i>Chaetodon auriga</i> , <i>Chaetodon lunula</i> , <i>Chaetodon melannotus</i> , <i>Chaetodon ephippium</i> )
	Pomacentridae
	Damselfish ( <i>Chromis viridis</i> , <i>Dascyllus aruanus</i> , <i>Dascyllus trimaculatus</i> )
	Sabellidae
	Featherduster worm

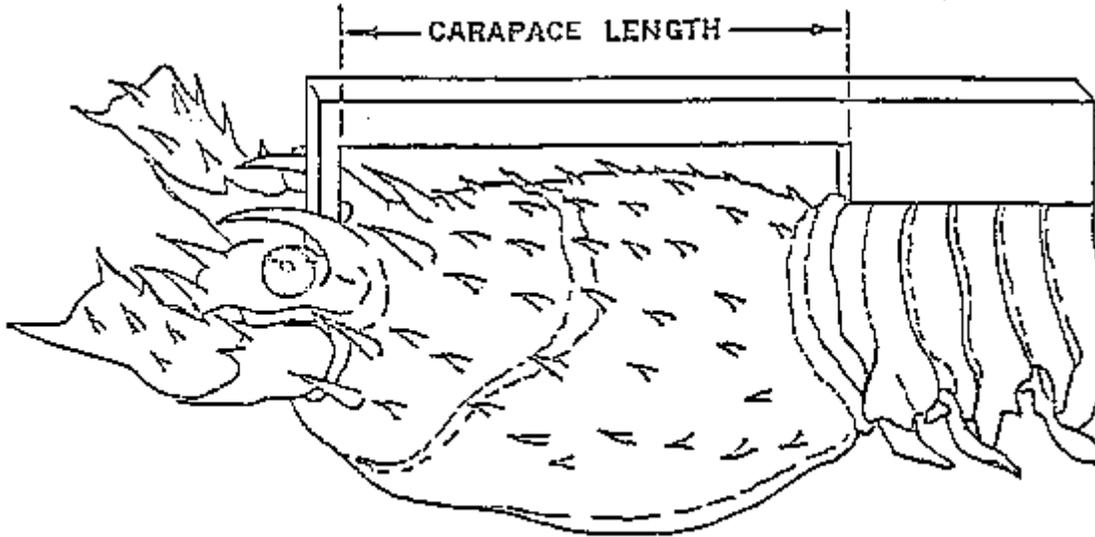
[69 FR 8346, Feb. 24, 2004]

**Table 3 to Part 665—Potentially Harvested Coral Reef Taxa**

Labridae spp. (wrasses) (Those species not listed in Table 3)	Ephippidae (batfish)
Carcharhinidae spp. Sphyrnidae spp. (Those species not listed in Table 3)	Monodactylidae (monos)
Dasyatidae, Myliobatidae, Mobulidae (rays)	Haemulidae (sweetlips)
Serranidae spp. (groupers) (Those species not listed in Table 3 or are not bottomfish management unit species)	Echineidae (remoras)
Carangidae (jacks/trevallies) (Those species not listed in Table 3 or are not bottomfish management unit species)	Malacanthidae (tilefish)
	Acanthoclinidae (spiny basslets)
Holocentridae spp. (soldierfish/squirrelfish) (Those species not listed in Table 3)	Pseudochromidae (dottybacks)
Mullidae spp. (goatfish) (Those species not listed in Table 3)	Plesiopidae (prettyfins)
Acanthuridae spp. (surgeonfish/unicornfish) (Those species not listed in Table 3)	Tetrarogidae (waspfish)
Lethrinidae spp. (emperor fish) (Those species not listed in Table 3 or are not bottomfish management unit species)	Caracanthidae (coral crouchers)
Chlopsidae, Congridae, Moringuidae, Ophichthidae (eels) Muraenidae (morays eels) (Those species not listed in Table 3)	Grammistidae (soapfish)
Apogonidae (cardinalfish)	<i>Aulostomus chinensis</i> (trumpetfish)
Zanclidae spp. (moorish idols) (Those species not listed in Table 3)	<i>Fistularia commersoni</i> (coronetfish)
Chaetodontidae spp. (butterflyfish) (Those species not listed in Table 3)	Anomalopidae (flashlightfish)
Pomacanthidae spp. (angelfish) (Those species not listed in Table 3)	Clupeidae (herrings)
Pomacentridae spp. (damselfish) (Those species not listed in Table 3)	Engraulidae (anchovies)
Scorpaenidae (scorpionfish)	Gobiidae (gobies)
Blenniidae (blennies)	Lutjanidae (snappers) (Those species that are not listed in Table 3 or are not bottomfish management unit species)
Sphyrnaeidae spp. (barracudas) (Those species not listed in Table 3)	Ballistidae/Monocanthidae spp. (Those species not listed in Table 3)
Pinguipedidae (sandperches)	Siganidae spp. (rabbit fish) (Those species not listed in Table 3)
<i>Gymnosarda unicolor</i>	Kyphosidae spp. (rudderfish) (Those species not listed in Table 3)
Bothidae/Soleidae/Pleurnectidae (flounder/sole)	Caesionidae (fusiliers)
Ostraciidae (trunkfish)	Cirrhitidae (hawkfish) (Those species not listed in Table 3)
Tetradontidae/Diodontidae (puffer/porcupinefish)	Antennariidae (frogfishes)
	Syngnathidae (pipefishes/seahorses)
Stony corals	Echinoderms ( e.g., sea cucumbers, sea urchins)
Heliopora (blue corals)	Mollusca (Those species not listed in Table 3)
Tubipora (organpipe corals)	Sea Snails (gastropods) (Those species not listed in Table 3)
Azooxanthellates (ahermatypic corals)	<i>Trochus</i> spp.
Fungiidae (mushroom corals)	Opisthobranchs (sea slugs)
Small and large polyp corals	<i>Pinctada margaritifera</i> (black lipped pearl oyster)
Millepora (firecorals)	Tridacnidae (giant clams)
Soft corals and Gorgonians	Other Bivalves (other clams)
Actinaria (anemones)	Cephalopods
Zoanthinaria (soft zoanthid corals)	Crustaceans (Lobsters, Shrimps/mantis shrimps, true crabs and hermit crabs (not listed as crustacean management unit species)
Sponges (Porifera)	Stylasteridae (lace corals)
Hydrozoans	Solanderidae (hydroid corals)
Bryozoans	Annelids (segmented worms) (Those species not listed in Table 3)
	Algae (seaweeds)
Tunicates (sea squirts)	Live rock
All other coral reef ecosystem management unit species that are marine plants, invertebrates, and fishes that are not listed in Table 3 or are not bottomfish management unit species, crustacean management unit species, Pacific pelagic management unit species, precious coral or seamount groundfish.	

[69 FR 8346, Feb. 24, 2004]

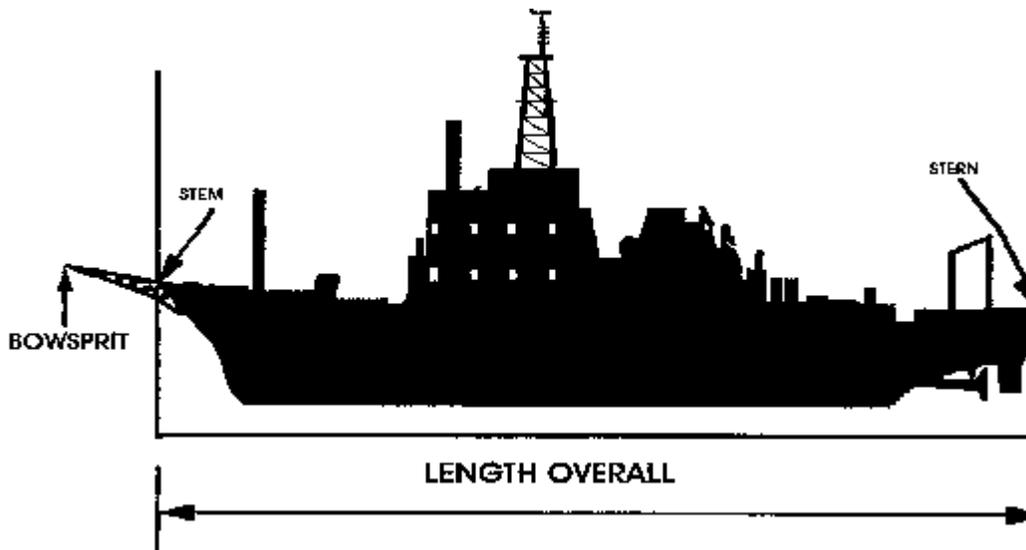
Figure 1 to Part 665—Carapace Length of Lobsters



Carapace Length of Lobsters

[View or download PDF](#)

Figure 2 to Part 665—Length of Fishing Vessel



[View or download PDF](#)

[61 FR 34572, July 2, 1996, as amended at 67 FR 4371, Jan. 30, 2002]

issue its final results of review within 270 days after the date on which the changed circumstances review was initiated (i.e., no later than January 19, 2009).

We are issuing and publishing this notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216.

Dated: October 6, 2008.

**David M. Spooner,**  
*Assistant Secretary for Import Administration.*

[FR Doc. E8-24205 Filed 10-9-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Coastal Zone Management Program Administration

**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, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before December 9, 2008.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Diana Olinger, 301-563-1149 or e-mail at [diana.olinger@noaa.gov](mailto:diana.olinger@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

In 1972, in response to intense pressure on coastal resources, and because of the importance of coastal areas of the United States, the Congress passed the Coastal Zone Management Act of 1972 (CZMA). The CZMA

authorized a federal program to encourage coastal states and territories to develop comprehensive coastal management programs.

The CZMA has been reauthorized on several occasions, most recently with the enactment of the Coastal Zone Protection Act of 1996. The program is administered by the Secretary of Commerce, who in turn has delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) National Ocean Services (NOS).

The coastal zone management grants provide funds to states and territories to implement federally-approved coastal management plans; complete information for the Coastal Zone Management Program (CZMP) Performance Management System, revise assessment document and multi-year strategy; submit documentation as described in the CZMA Section 306A on the approved coastal zone management plans; submit requests to approve amendments or program changes; and report on the states' coastal nonpoint (not from a specific location) source pollution programs (CNSPP).

##### II. Method of Collection

Information may be submitted by mail or by e-mail.

##### III. Data

*OMB Control Number:* 0648-0119.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* State, Local and Tribal Government.

*Estimated Number of Respondents:* 34.

*Estimated Time per Response:* Performance reports, 27 hours; assessment and strategy, 240 hours; Section 306A documentation, 5 hours; amendments and routine program changes, 8 hours; CNSPP documentation, 4 hours, and CZMA Performance Management System information, 27 hours.

*Estimated Total Annual Burden Hours:* 8,261.

*Estimated Total Annual Cost to Public:* \$680.

##### 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 6, 2008.

**Gwellnar Banks,**

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

[FR Doc. E8-24018 Filed 10-9-08; 8:45 am]

**BILLING CODE 3510-08-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Pacific Islands Region Coral Reef Ecosystems Permit Form

**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 9, 2008.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, (808) 944-2275 or [Walter.Ikehara@noaa.gov](mailto:Walter.Ikehara@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

As described in 50 CFR Part 665, Subpart G, National Marine Fisheries Service (NMFS) requires any person: (1) Fishing for, taking, retaining, or using a vessel to fish for Western Pacific coral

reef ecosystem management unit species in the designated low-use Marine Protected Areas; (2) fishing for any of these species using gear not specifically allowed in the regulations; or (3) fishing for, taking, or retaining any Potentially Harvested Coral Reef Taxa in the coral reef ecosystem regulatory area, to obtain and carry a permit. A receiving vessel must also have a transshipment permit for at-sea transshipment of coral reef management unit species. The permit application form provides basic information about the permit applicant, vessel, fishing gear and method, target species, projected fishing effort, etc., for use by NMFS and the Western Pacific Fishery Management Council in determining eligibility for permit issuance. The information is important for understanding the nature of the fishery and provides a link to participants. It also aids in the enforcement of Fishery Management Plan measures.

## II. Method of Collection

Information is submitted to NMFS, in the form of paper permit application forms.

## III. Data

OMB Control Number: 0648-0463.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 12.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 30.

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 6, 2008.

### Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-24023 Filed 10-9-08; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN: 0648-XL05

### New England Fishery Management Council; Public Hearings

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

**ACTION:** Notice of public hearings; request for comments.

**SUMMARY:** The New England Fishery Management Council (Council) will hold four public hearings to solicit comments on proposals to be included in the Draft Amendment 3 to the Northeast Skate Complex Fishery Management Plan (FMP).

**DATES:** Written comments must be received on or before 5 p.m. EST, November 10, 2008. The public hearings will be held from October 27, 2008 to October 30, 2008. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The Council will take comments at public meetings in Hyannis and New Bedford, MA, Narragansett, RI and Portsmouth, NH. For specific locations, see

**SUPPLEMENTARY INFORMATION.** Written comments should be sent to Patricia Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281-9135 or submitted via e-mail to [Skateamendment3@noaa.gov](mailto:Skateamendment3@noaa.gov) with "Comments on Skate Draft Amendment 3" in the subject line. Requests for copies of the public hearing document and other information should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465-0492. The public hearing document is also accessible electronically via the Internet at <http://www.nefmc.org>.

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

**SUPPLEMENTARY INFORMATION:** The Council proposes to take action to amend the Northeast Skate Complex Fishery Management Plan (FMP) and to address the new and revised requirements of the Magnuson-Stevens Fisheries Act. The Council will consider comments from fishermen, interested parties and the general public on the proposals and alternatives described in the public hearing document for Draft Amendment 3 to the Northeast Skate Complex FMP. Once it has considered public comments, the Council will approve final management measures and prepare a submission package for NMFS. There will be an additional opportunity for written public comments on the proposed rule when it is published in the **Federal Register**.

Major elements of the proposals in the Draft Amendment 3 and a Draft Supplemental Environmental Impact Statement include: (1) measures to reduce catch via time/area closures and/or skate possession limits to rebuild overfished smooth, thorny and winter skates as well as to stop overfishing of thorny skate; (2) implementation and specification of annual catch limits (ACLs) and accountability measures (AMs) to comply with a new mandate of the reauthorized Magnuson-Stevens Act; and (3) an annual specification and bi-annual review process to replace an obsolete baseline review procedure. There are two options for allocating ACLs to the skate wing and skate bait fisheries. There is also a hard total allowable catch (TAC) and soft TAC option to implement ACLs and AMs.

The dates, times, locations and telephone numbers of the hearings are as follows:

*Monday, October 27, 2008 at 7 p.m.*  
- Radisson Hotel, 287 Iyannough Road, Hyannis, MA 02601; telephone: (508) 771-1700.

*Tuesday, October 28, 2008 at 7 p.m.*  
- Whaling Museum, 18 Johnny Cake Hill, New Bedford, MA 02740; telephone: (508) 997-0046.

*Wednesday, October 29, 2008 at 7 p.m.* - Narragansett Town Hall, 25 Fifth Avenue, Narragansett, RI 02882; telephone: (401) 789-1044.

*Thursday, October 30, 2008 at 7 p.m.*  
- Urban Forestry Center, 45 Elwin Road, Portsmouth, NH 03801; telephone: (603) 431-6774.

### Special Accommodations

These hearings are physically accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.