

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 10/17/2011

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 07/27/2011

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 201107-0648-009  
AGENCY ICR TRACKING NUMBER:  
TITLE: Non-commercial Permit and Reporting Requirements in the Main Hawaiian Islands Bottomfish Fishery  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved with change  
OMB CONTROL NUMBER: 0648-0577  
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 10/31/2014 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	95,010	31,687	39,000
New	351	110	4,330
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	2,092
Change due to Agency Adjustment	-94,659	-31,577	-36,762
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

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

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Non-commercial permit application for MHI bottomfish fishery	NA	Main Hawaiian Islands Non-commercial Bottomfish Permit Application	
Permit Appeals			50 CFR 665.13
Noncommercial Bottomfish Trip Reports	NA	MHI Noncommercial bottomfish trip report logsheet	

# PAPERWORK REDUCTION ACT SUBMISSION

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

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

## 19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
NON-COMMERCIAL PERMIT AND REPORTING REQUIREMENTS  
IN THE MAIN HAWAIIAN ISLANDS BOTTOMFISH FISHERY  
OMB CONTROL NO. 0648-0577**

**A. JUSTIFICATION**

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

This request is for revision of this information collection: three-year renewal, with one revision pertaining to the permit fee.

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 United States 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 U.S.

Regulations established under the Fishery Ecosystem Plan for the Hawaii Archipelago (FEP) require all non-commercial participants (including vessel owners, operators, and crew) in the boat-based bottomfish fishery in the EEZ around the main Hawaiian Islands (MHI) to obtain a federal bottomfish permit. This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and serves as a link between NOAA National Marine Fisheries Service (NMFS) and fishermen. Regulations are at [50 CFR 665](#).

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

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

*Permits*

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

*Logbook Forms*

The completed logbook forms are required to be submitted to the NMFS by vessel owners or operators within 72 hours after the end of each fishing trip. The reporting requirements provide the information needed by NMFS and the Council to regulate and monitor the fisheries managed under the FMP and to evaluate the effectiveness of management by assessing the status of stocks and the status of the fisheries. The information provides a basis for determining whether changes in management are needed to sustain the productivity of the stocks or to address economic problems in the fishery. The information is also used to provide the basis for evaluating the magnitude and distribution of impacts resulting from changes to the regulations. Specifically, the information collected through the logbooks will enable the NMFS to develop an Allowable Catch Limit (ACL) for the fishery annually, and to effectively monitor the ACL for the bottomfish fishery. Without the information, the NMFS and the Council would be unable to determine whether management is achieving the objectives of the FEP and preventing overfishing, the principal requirement of the Magnuson-Stevens Act. Information from the logbooks is used by enforcement agents of the NMFS, State of Hawaii, and USCG to monitor compliance with fishing regulations and reporting requirements.

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

NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with Federal law and regulations, and NOAA policies for confidentiality, privacy, and electronic information. See response 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.**

*Permits*

At this time, the information will be collected on paper forms and does not require any knowledge of automated, electronic, mechanical or other forms of information technology. An option to allow fishermen to submit applications or renew permits online is in development. The form is available in fillable, printable pdf format at [http://www.fpir.noaa.gov/SFD/SFD\\_permits\\_index.html](http://www.fpir.noaa.gov/SFD/SFD_permits_index.html).

*Logbook Forms*

At this time, the information will be collected mainly on paper forms that do not require any knowledge of automated, electronic, mechanical or other forms of information technology. Fishermen may also submit logbook information through an optional online process at [https://ias.pifsc.noaa.gov/apex\\_ncbf/f?p=NCBF](https://ias.pifsc.noaa.gov/apex_ncbf/f?p=NCBF).

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

*Permits*

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

*Logbook Forms*

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

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

*Permits*

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

*Logbook Forms*

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

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

*Permits*

Without this collection or if it is collected less frequently, the NMFS will be unable to properly evaluate activity, participation, and reporting compliance in the non-commercial MHI bottomfish fishery. It will be difficult to monitor the fisheries and their participants, determine entry and exit

patterns, and provide information needed to ensure full impact analysis for fisheries management programs. Without this information enforcement agents will not be able to identify current fishery participants for compliance monitoring purposes and the NMFS would be unable to consult with permit holders on regulatory changes. For example, when the ACL for the fishery is reached, the NMFS would need to contact participants to inform them the fishery may be closed.

#### *Logbook Forms*

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

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

None.

#### **8. Provide 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 Notice soliciting public comment was published in the Federal Register on March 4, 2011 (76 FR 12069). No comments were received.

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

No payments or gifts are provided.

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

As stated on the forms, personal and proprietary information contained in the permits and logbooks is confidential, under the statutory authority of Section 402(b) of the Magnuson-Stevens Act, amended in 2006, which states that information submitted in accordance with regulatory requirements under the Act is confidential. [NOAA Administrative Order 216-100](#) also pertains.

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

No questions are asked of a sensitive nature.

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

The NMFS expects to receive an estimated 100 non-commercial MHI bottomfish permit applications each year. It would take an estimated 15 minutes for an applicant to complete a permit application for a maximum burden of 25 hours per year for permit applications.

Preparation of a permit appeal would take an estimated two hours and no more than one per year would be expected, for an estimate burden of 2 hours.

The NMFS expects that 50 vessels may make between 1 – 5 trips per year, averaging 1 day per trip, and generating a maximum of 250 (50 x 5) daily trip logsheets per year. A trip report would take about 20 minutes per logsheet, resulting in a maximum burden of 83 hours per year for reporting.

Total respondents: 100

Total responses:  $100 + 1 + 250 = 351$

Total hours:  $25 + 2 + 83 = 110$ .

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

There is no start-up/capital cost for complying with this requirement. Paper forms provided by the NMFS will be used by most of the respondents for providing information. Online submission of logbook information is an option, but would be voluntary on the respondent's part and presumably would be used only if the respondent already possessed the requisite equipment.

The permit fee is \$41, with the total cost for 100 vessels being \$4,100. The maximum estimated cost to respondents for postage, faxes, copies, etc., related to this collection is about \$230 per year.

Total costs: \$4,330.

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

**The estimated annual cost to the Federal government to administer this collection of information is up to \$3,062 per year.** This includes the cost to process permit applications and issue permits at **\$1,250 per year (100 applications x 30 min/application x \$25/hr)**, printing daily catch and effort logsheet forms at **\$250 per year (1,000 logsheets x \$0.25 per sheet)**, and

**processing of log forms at \$1,562 per year**, which is calculated by the cost of staff time for receiving and entering logsheet form data (**250 logsheets x 15 min/logsheet x \$25/hr**).

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

Adjustments: Initial estimates of respondents and responses proved to be too high. In addition, the time estimated for the permit application was revised from 20 minutes to 15 minutes. Cost reduction from fewer items being mailed is slightly offset by a postage increase to \$0.44.

Program change: At the time of the original request, the amount of the permit fee had not been established. It is now \$41, or a total of \$4,100, per year.

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

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

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

Not Applicable.

**18. Explain each exception to the certification.**

Not Applicable.

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

No statistical methods are employed.

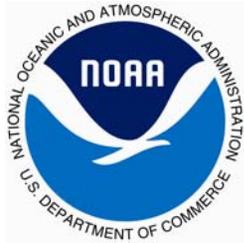
## Instructions for MHI Non-Commercial Bottomfish Trip Report

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

1. Write in the full name (first, middle initial and last) of the Vessel Operator (captain) or Owner who is preparing and submitting the report.
2. Write the Federal MHI Non-commercial Bottomfish (NCBF) Permit number of the person submitting the report.
3. Write in the Vessel Name, and either the State of Hawaii vessel registration (HA) number or the U.S. Coast Guard Documentation number. One character per box.
4. Write the port of landing (where you landed the vessel).
5. Write the dates of the start of your trip (for example, 10/21/2008) and end of the trip.
6. Write the average number of hooks you use on your lines when bottomfishing.
7. Write the wind, wave, and current information for only the first time you drop the lines to bottomfish on the trip. Record directions as: E, NE, N, NW, W, SW, S, or SE.
8. Catch and Effort Table – the section with the grids is where you write in your fishing activity.
  - Day – write in the day of the month (1 to 31) for the fishing effort that day.
  - Area Fished – using the Area Code charts provided with the logbook, enter the code for the area you are fishing. If fishing at FADs, list each separately.
  - Position - Enter the latitude and longitude to the nearest degree (°) and minute (′) of the first drop that you make in any area. If you move to a new area start a new line.
  - Depth Fished - Write the depth (in fathoms) that you fished your lines.
  - Fishing Method - Write in the Fishing Method name or code for your fishing method using the code list provided.
  - Num. Hours - Write the number of hours fished by that method in that area on that day.
  - Num. Lines - Write the average number of lines used for that method on that day.
  - Anch. Y/N - Write “Y” or “N” to indicate if you anchored while you fished. Blanks indicate “N”.
  - Did Not Catch - If you did not catch any fish in the area you fished on that day, please put a checkmark (✓) in the Did Not Catch box.
  - Species Name - Write in the name of the fish you caught using the Species List provided, one species per line.
  - Num. Kept - Write in the number of fish of that species you caught and kept (even if you used it for bait later). Use a line for each species.
  - Lbs. Kept - Write in the estimated weight of the fish kept of each species. Use a line for each species.
  - Num. Released - If you released any of the fish you caught, identify the species and write in the number you released Alive or Dead. This number should be separate from those “caught and kept”.
  - Num. Lost - If you lost any fish of this species due to sharks or other predators, please mark the number in Num. Lost.
  - Therefore, number of (caught and kept)+(released alive)+(released dead)+(lost)=total catch.
9. When the day, area (location), fishing method, or species changes, please start a new line in the table. If you run out of lines, please use another page and mark the page number on the bottom right of the page where it says “Page \_\_\_ of \_\_\_”, so we know how many pages were used for each trip.
10. If you directly interact with any marine mammal, turtle, or seabird on your trip, please write in the species name and the number that were uninjured, injured, or dead as a result of the fishing operation using the protected species list provided.
11. Write in the Federal MHI Non-commercial Bottomfish Permit (NCBF) or State of Hawaii Commercial Marine License (CML) numbers of **all** persons fishing with you (Crew) on this trip. **Each person participating on the trip is required to have a NCBF permit or CML.** Check the box (✓) following the permit numbers if the number you wrote is a CML number.
12. Sign and date the logsheet at the bottom and submit within 72 hours (3 days) after the end of each trip. Your signature signifies that the information you provided is complete and true to the best of your knowledge. If the vessel operator fails to submit a logsheet, it is the vessel owner’s responsibility to submit the logsheet. It is a violation of federal law to file false information or fail to make, keep, maintain or submit a logbook (50 CFR § 665.15(d)).

Mail or deliver to:  
NMFS Pacific Islands Fisheries Science Center  
Attn: FMSD  
2570 Dole St., Honolulu, HI 96822

If you have questions or need more logsheets,  
please call (808) 983-5326.



## National Marine Fisheries Service - Pacific Islands Region

# MAIN HAWAIIAN ISLANDS NON-COMMERCIAL BOTTOMFISH FISHING TRIP REPORT

Name of Vessel \_\_\_\_\_

Permit Number \_\_\_\_\_

Logbook page # series -

### Paperwork Reduction Act Information:

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

This information is being collected to provide information needed by NMFS to regulate and monitor bottomfish management unit species under the Fishery Management Plan for Bottomfish and Seamount Groundfish in the Western Pacific Region (FMP) and to evaluate the effectiveness of management by assessing the status of stocks and the status of the fisheries. The information will provide a basis for determining whether changes in management are 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 665.14. Proprietary data provided concerning the vessel and/or business of the respondents are handled as confidential under the Magnuson-Stevens Fishery Conservation and Management Act (Sec. 402(b)).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.



# Main Hawaiian Islands Non-commercial Bottomfish Fishing Trip Report

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

Serial Num. \_\_\_\_\_

(Please Print)

Vessel Operator/Owner Name \_\_\_\_\_

MHI Non-commercial BF (NCBF) Permit Num. 

--	--	--	--	--	--	--	--	--	--

(First, Middle Initial and Last)

Vessel Name \_\_\_\_\_

HA Num. 

--	--	--	--

 - 

--

 OR USCG Num. 

--	--	--	--	--	--	--	--

Port of Landing \_\_\_\_\_

Trip Start Date 

--	--

 / 

--	--

 / 

2	0		
---	---	--	--

Trip End Date 

--	--

 / 

--	--

 / 

2	0		
---	---	--	--

Month

Day

Year

Month

Day

Year

Avg. Num. Hooks per Line \_\_\_\_\_ [First Drop Only] Wind Speed (kt) / Direction \_\_\_\_\_ / \_\_\_\_\_ Wave Height (ft) \_\_\_\_\_ Current Speed (kt)/Direction \_\_\_\_\_ / \_\_\_\_\_

Day	Area Fished	Position of First Drop in an Area		Depth Fished	Fishing Method	Num. Hours	Num. Lines	Anch. Y/N	Did Not Catch	Species Name	Num. Kept	Lbs Kept (Estimate)	Num. Released		
		Latitude	Longitude										Alive	Dead	Lost
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										
		0	' N	0	' W										

Check box below for

Protected Species Interactions:

Species Name:	Num. Uninjured	Num. Injured	Num. Dead
Marine Mammals			
Turtles			
Seabirds			

NCBF or CML Num. \_\_\_\_\_ any CML holder.

Crew: Permit Num. 

--	--	--	--	--	--	--	--	--	--

  
Permit Num. 

--	--	--	--	--	--	--	--	--	--

  
Permit Num. 

--	--	--	--	--	--	--	--	--	--

  
Permit Num. 

--	--	--	--	--	--	--	--	--	--

  
Permit Num. 

--	--	--	--	--	--	--	--	--	--

  
Permit Num. 

--	--	--	--	--	--	--	--	--	--

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

It is prohibited to falsify or fail to make, keep, maintain, or submit any required logbook or logbook form or other record or report (50 CFR 665.15(d)).

Vessel Operator/Owner Signature: \_\_\_\_\_

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

Submit to: Pacific Islands Fisheries Science Center, ATTN: FMSD, 2570 Dole St., Honolulu, HI 96822.

## **Instructions for the Federal Main Hawaiian Islands Non-commercial Bottomfish Permit Application**

Please print legibly. All fields required unless otherwise noted.

### **I. Applicant Information**

Applicant Name: Print full name: First, Middle (initials OK), Last, and suffix. If the vessel owner is a business, print the full business name. A business may not apply for an individual permit; they may apply only for a vessel owner permit.

Date of Birth: Print date of birth as MM/DD/YYYY. Businesses must provide Date of Incorporation and Taxpayer Identification Number in Section II.

Mailing Address: Your current mailing address is required for mailing the permit or contacting you about your permit.

Phone: Primary phone number, including area code.

Cell phone, Fax, and Email: Provide additional contact information.

Applicant Signature and Date: Sign full name and write in the date you signed.

Mail or Pickup: Check whether you prefer the permit mailed to the address on the application form or to pick it up at PIRO.

Vessel Operator: Check Yes if applicant is the vessel operator/captain, No if not.

Vessel Owner: Check Yes or No. If Yes, complete Section II. For Vessel Owners Only.

### **II. For Vessel Owners Only**

Vessel Name: Print the vessel's name, if available. If none, print **N/A**.

Official Number: Print the State of Hawaii vessel registration number as HAnnnnXX – where the nnnn is the number and the XX is the one or two character suffix, or the US Coast Guard vessel documentation number. Attach a copy of the current State vessel registration certificate or the USCG Certificate of Documentation.

Vessel Radio Call Sign: Print the radio call sign on your FCC license, if available.

Date of Incorporation: If the vessel owner is a business, corporation, LLC, etc., fill in the date of incorporation.

Taxpayer Identification Number: Print the Taxpayer or Employer Identification Number (TIN/EIN) if the owner of the vessel is a business.

Business Contact and Title: Print the full name and title of the contact person for the business.

Include a check for the payment of the non-refundable application processing fee. The check should be made payable to: "Department of Commerce, NOAA." Money orders or cash will not be accepted.

A complete application must include the signed application form, a check for the processing fee, and a copy of the vessel registration or documentation if a vessel owner is applying. If your application is not complete, the processing of your permit may be delayed. You will be notified of any deficiency. If you fail to correct the deficiency within 30 days following the date of the notice of deficiency, the application will be considered abandoned (50 CFR 665.13). It is a violation of Federal regulations to file false information on a permit application form (50 CFR 665.15(b)).

(ver 4/25/11)

**FEDERAL FISHERIES PERMIT APPLICATION FORM**  
U.S. DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
NATIONAL MARINE FISHERIES SERVICE  
PACIFIC ISLANDS REGION

OMB Control No: 0648-0577  
Expiration Date: mm/dd/yyyy

**201x**

**Mail or deliver this application to:**

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

**MAIN HAWAIIAN ISLANDS NON-COMMERCIAL BOTTOMFISH PERMIT**

Please Print Legibly. Items marked with \* are required.

**I. APPLICANT INFORMATION**

\***APPLICANT NAME:** \_\_\_\_\_ \***DATE OF BIRTH:** \_\_\_\_/\_\_\_\_/\_\_\_\_\_  
First, Middle, & Last Name or Business Name (if owner of vessel)

\***MAILING ADDRESS:** \_\_\_\_\_  
Street/PO Box City State ZIP Code

\***PHONE** (\_\_\_\_) \_\_\_\_\_; \***CELL PHONE** (\_\_\_\_) \_\_\_\_\_; \***FAX** (\_\_\_\_) \_\_\_\_\_

\***EMAIL:** \_\_\_\_\_

\***APPLICANT SIGNATURE:** \_\_\_\_\_ \***DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_\_

Please check whether you want:  permit mailed, or  to pick up permit at Pacific Islands Regional Office.

\***VESSEL OPERATOR (Captain)?**  Yes /  No (Check only one)

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

**II. VESSEL OWNERS ONLY**

\***VESSEL NAME:** \_\_\_\_\_ \***OFFICIAL NUMBER:** \_\_\_\_\_  
(DBOR registration or USCG documentation num)

**VESSEL RADIO CALL SIGN:** \_\_\_\_\_ (if available)

\***DATE OF INCORPORATION (if a business):** \_\_\_\_/\_\_\_\_/\_\_\_\_ \***TAXPAYER IDENTIFICATION NUM.:** \_\_\_\_\_  
(if vessel owner is a business)

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

**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.

**REQUIRED DOCUMENTS:** 1) Submit a check payable to "Department of Commerce, NOAA" for the non-refundable application processing fee of \$41.00. 2) Vessel owners must submit a copy of the vessel's current Hawaii Division of Boating and Ocean Recreation vessel registration certificate or U.S. Coast Guard Certificate of Documentation. An application that is lacking required information, vessel registration or documentation, or payment will be considered incomplete. An incomplete application will be abandoned if it is not completed within 30 days after reception. It is prohibited to file false information on any application for a fishing permit (50 CFR 665.15(b)). You must inform PIRO within 15 days of any change of information on the application form (50 CFR 665.13).

(side two)

**OMB Control No: 0648-0577**  
**Expiration Date: mm/dd/yyyy**

PAPERWORK REDUCTION ACT INFORMATION

Public reporting burden for this collection is estimated as follows: 15 minutes for main Hawaiian Islands non-commercial bottomfish permit and 2 hours for all permit denial appeals. Each burden includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to NMFS Pacific Islands Regional Administrator, 1601 Kapiolani Blvd. Suite 1110, Honolulu, Hawaii 96814-4700.

This information is being collected to ensure accurate and timely records about the persons licensed to participate in fisheries under Federal regulations in the Western Pacific Region. This will enable NMFS and the Western Pacific Fishery Management Council to (a) determine who would be affected by changes in management; (b) inform license holders of changes in fishery regulations; and (c) determine whether the objectives of the fishery program are being achieved by monitoring entry and exit patterns and other aspects of the fisheries. The information is used in analyzing and evaluating the potential impacts of regulatory changes on persons in the regulated fisheries as well as in related fisheries. Responses to the collection are required to obtain the benefit of a license for the fishery involved (ref. 50 CFR 665.13). Data provided concerning the vessel and/or business of the respondents are handled as confidential under the Magnuson-Stevens Fishery Conservation and Management Act (Sec. 402(b)). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

numbering or E911 services for VRS or IP Relay.

(1) At a minimum, the advisory must address the following issues:

(i) The process by which VRS or IP Relay users may obtain ten-digit telephone numbers, including a brief summary of the numbering assignment and administration processes adopted herein;

(ii) The portability of ten-digit telephone numbers assigned to VRS or IP Relay users;

(iii) The process by which persons using VRS or IP Relay may submit, update, and confirm receipt by the provider of their Registered Location information; and

(iv) An explanation emphasizing the importance of maintaining accurate, up-to-date Registered Location information with the user's default provider in the event that the individual places an emergency call via an Internet-based relay service.

(2) VRS and IP Relay providers must obtain and keep a record of affirmative acknowledgment by every Registered Internet-based TRS User of having received and understood the advisory described in this subsection.

■ 8. Section 64.613 is added to read as follows:

**§ 64.613 Numbering Directory for Internet-based TRS Users.**

(a) *TRS Numbering Directory.*

(1) The TRS Numbering Directory shall contain records mapping the NANP telephone number of each Registered Internet-based TRS User to a unique Uniform Resource Identifier (URI).

(2) For each record associated with a VRS user, the URI shall contain the user's Internet Protocol (IP) address. For each record associated with an IP Relay user, the URI shall contain the user's user name and domain name that can be subsequently resolved to reach the user.

(3) Only the TRS Numbering Administrator and Internet-based TRS providers may access the TRS Numbering Directory.

(b) *Administration*—(1) *Neutrality.* (i) The TRS Numbering Administrator shall be a non-governmental entity that is impartial and not an affiliate of any Internet-based TRS provider.

(ii) Neither the TRS Numbering Administrator nor any affiliate may issue a majority of its debt to, nor derive a majority of its revenues from, any Internet-based TRS provider.

(iii) Nor may the TRS Numbering Administrator nor any affiliate be unduly influenced, as determined by the North American Numbering Council, by parties with a vested

interest in the outcome of TRS-related numbering administration and activities.

(iv) Any subcontractor that performs any function of the TRS Numbering Administrator must also meet these neutrality criteria.

(2) *Terms of Administration.* The TRS Numbering Administrator shall administer the TRS Numbering Directory pursuant to the terms of its contract.

(3) *Compensation.* The TRS Fund, as defined by 47 CFR 64.604(a)(5)(iii), may compensate the TRS Numbering Administrator for the reasonable costs of administration pursuant to the terms of its contract.

[FR Doc. E8-16260 Filed 7-17-08; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 071211828-8826-03]

RIN 0648-AU22

#### Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish; Permit and Reporting Requirements in the Main Hawaiian Islands

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

**ACTION:** Final rule; effectiveness of collection-of-information requirements.

**SUMMARY:** NMFS announces approval by the Office of Management and Budget (OMB) of collection-of-information requirements contained in regulations implementing Amendment 14 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region. The intent of this final rule is to inform the public that the associated permitting and reporting requirements have been approved by OMB.

**DATES:** The amendments to §§ 665.13(f)(2) and (g), 665.14(a), and 665.61(a), published at 73 FR 18450 (April 4, 2008) have been approved by OMB and are effective on August 18, 2008.

**ADDRESSES:** Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William L. Robinson, Administrator,

NMFS Pacific Islands Region (PIR), 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700, and to David Rostker, OMB, by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Bob Harman, NMFS PIR, 808-944-2271.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This **Federal Register** document is also accessible at the Office of the **Federal Register**: [www.gpoaccess.gov/fr/](http://www.gpoaccess.gov/fr/).

##### Background

A final rule for Amendment 14 was published in the **Federal Register** on April 4, 2008 (73 FR 18450), and the requirements of that final rule, other than the collection-of-information requirements, were effective on April 1, 2008. Because OMB approval of the collection-of-information requirements had not been received by the date that final rule was published, the effective date of the associated permitting and reporting requirements in that rule was delayed. OMB approved the collection-of-information requirements contained in the final rule on July 3, 2008.

Accordingly, this final rule makes effective the collection-of-information requirements at §§ 665.13, 665.14, and 665.61, which were amended in the April 4, 2008, final rule.

##### Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB control number.

This final rule contains new collection-of-information requirements subject to the PRA under OMB Control Number 0648-0577. The public reporting burden for these requirements is estimated to be 20 minutes for a new permit application, two (2) hours for a permit appeal, and 20 minutes for completing a fishing logbook each day. These estimates include 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 these burden estimates or any other aspect of this data collection, including suggestions for reducing the

burden, to William L. Robinson (see **ADDRESSES**), or by e-mail to *David\_Rostker@omb.eop.gov*, or fax to 202-395-7285.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 15, 2008.

**Samuel D. Rauch III,**  
*Deputy Assistant Administrator For  
Regulatory Programs, National Marine  
Fisheries Service.*

[FR Doc. E8-16488 Filed 7-17-08; 8:45 am]

**BILLING CODE 3510-22-S**

**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;

**16 U.S.C. 1853**  
**MSA § 303**

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

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

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

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

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

**109-479**

(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.

---

<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).

**109-479**

**SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

**16 U.S.C. 1853a**

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

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

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

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

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

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

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

---

<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.

---

<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.

104-297

**SEC. 402. INFORMATION COLLECTION**

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

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

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

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

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

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

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

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

(D) when required by court order;

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

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

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

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

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

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

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

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

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

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

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

**(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—**

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

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

**16 U.S.C. 1881a-1881b**  
**MSA §§ 402-403**

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

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

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

(e) **RESOURCE ASSESSMENTS.**—

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

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

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

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

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

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

**104-297**

**SEC. 403. OBSERVERS**

**16 U.S.C. 1881b**

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

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

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

**e-CFR Data is current as of July 13, 2011**

**Title 50: Wildlife and Fisheries**

[PART 665—FISHERIES IN THE WESTERN PACIFIC](#)

[Subpart A—General](#)

**§ 665.13 Permits and fees.**

(a) *Applicability.* The requirements for permits for specific Western Pacific fisheries are set forth in subparts B through F of this part.

(b) *Validity.* Each permit is valid for fishing only in the specific fishery management areas identified on the permit.

(c) *Application.* (1) A Western Pacific Federal fisheries permit application may be obtained from NMFS PIRO to apply for a permit or permits to operate in any of the fisheries regulated under subparts B through F of this part. The completed application must be submitted to PIRO. In no case shall PIRO accept an application that is not on the Western Pacific Federal fisheries permit application form.

(2) A minimum of 15 days after the day PIRO receives a complete application should be allowed for processing a permit application for fisheries under subparts B through F of this part. If an incomplete or improperly completed application is filed, the applicant will be sent a letter of notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of the letter of notification of deficiency, the application will be considered abandoned.

(d) *Change in application information.* Any change in the permit application information or vessel documentation, submitted under paragraph (c) of this section, must be reported to PIRO in writing within 15 days of the change to avoid a delay in processing the permit application. A minimum of 10 days from the day the information is received by PIRO should be given for PIRO to record any change in information from the permit application submitted under paragraph (c) of this section. Failure to report such changes may result in a delay in processing an application, permit holders failing to receive important notifications, or sanctions pursuant to the Magnuson-Stevens Act at 16 U.S.C. 1858(g) or 15 CFR part 904, subpart D.

(e) *Issuance.* After receiving a complete application submitted under paragraph (c) of this section, the Regional Administrator will issue a permit to an applicant who is eligible under this part, as appropriate.

(f) *Fees.* (1) PIRO will not charge a fee for a permit issued under §§665.142, 665.162, 665.242, 665.262, 665.442, 665.462, 665.642, or 665.662 of this part, for a Ho'omalulu limited access permit issued under §665.203, or for a Guam bottomfish permit issued under §665.404.

(2) PIRO will charge a non-refundable processing fee for each application (including transfers and renewals) for the permits listed in paragraphs (f)(2)(i) through (viii) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook, for determining the administrative costs of each special product or service incurred in processing the permit. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude the issuance, transfer or renewal of any of these permits:

(i) Hawaii longline limited access permit.

(ii) Mau Zone limited access permit.

(iii) Coral reef ecosystem special permit.

(iv) American Samoa longline limited access permit.

(v) MHI non-commercial bottomfish permit.

(vi) Western Pacific squid jig permit.

(vii) Crustacean permit.

(viii) CNMI commercial bottomfish permit.

(g) *Expiration.* Permits issued under subparts B through F of this part are valid for the period specified on the permit unless revoked, suspended, transferred, or modified under 15 CFR part 904.

(h) *Replacement.* Replacement permits may be issued, without charge, to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(i) *Transfer.* An application for a permit transfer under §§665.203(d), 665.242(e), or 665.801(k), or for registration of a permit for use with a replacement vessel under §665.203(i), must be submitted to PIRO as described in paragraph (c) of this section.

(j) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(k) *Display.* Any permit issued under this subpart, or a facsimile of such permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing MUS shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(l) *Sanctions.* Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.

(m) *Permit appeals.* Procedures for appeals of permitting and administrative actions are specified in the relevant subparts of this part.

**e-CFR Data is current as of July 13, 2011**

**Title 50: Wildlife and Fisheries**

**PART 665—FISHERIES IN THE WESTERN PACIFIC**

**Subpart A—General**

**§ 665.14 Reporting and recordkeeping.**

(a) Except for precious coral and crustacean fisheries, any person who is required to do so by applicable state law or regulation must make and/or file all reports of MUS landings containing all data and in the exact manner required by applicable state law or regulation.

(b) *Fishing record forms* —(1) *Applicability.* (i) The operator of any fishing vessel subject to the requirements of §§665.124, 665.142, 665.162, 665.203(a)(2), 665.224, 665.242, 665.262, 665.404, 665.424, 665.442, 665.462, 665.603, 665.624, 665.642, 665.662, or 665.801 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional Administrator, except as allowed in paragraph (b)(1)(iii) of this section.

(ii) All information specified by the Regional Administrator must be recorded on paper or electronically within 24 hours after the completion of each fishing day. The logbook information, reported on paper or electronically, for each day of the fishing trip must be signed and dated or otherwise authenticated by the vessel operator in the manner determined by the Regional Administrator, and be submitted or transmitted via an approved method as specified by the Regional Administrator, and as required by this paragraph (b).

(iii) In lieu of the requirements in paragraph (a)(1)(i) of this section, the operator of a fishing vessel registered for use under a Western Pacific squid jig permit pursuant to the requirements of §665.801(g) may participate in a state reporting system. If participating in a state reporting system, all required information must be recorded and submitted in the exact manner required by applicable state law or regulation.

(2) *Timeliness of submission.* (i) If fishing was authorized under a permit pursuant to §§665.142, 665.242, 665.442, 665.404, 665.162, 665.262, 665.462, 665.662, or 665.801, the vessel operator must submit the original logbook information for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip, except as allowed in paragraph (iii) of this section.

(ii) If fishing was authorized under a permit pursuant to §665.203(a)(2), the vessel operator or vessel owner must submit the original logbook form for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip.

(iii) If fishing was authorized under a PRIA bottomfish permit pursuant to §665.603(a), PRIA pelagic troll and handline permit pursuant to §665.801(f), crustacean fishing permit for the PRIA (Permit Area 4) pursuant to §665.642(a), or a precious coral fishing permit for Permit Area X–P–PI pursuant to §665.662, the original logbook form for each day of fishing within EEZ waters around the PRIA must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

(iv) If fishing was authorized under a permit pursuant to §§665.124, 665.224, 665.424, or 665.624, the original logbook information for each day of fishing must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

(c) *Transshipment logbooks.* Any person subject to the requirements of §§665.124(a)(2), 665.224(a)(2), 665.424(a)(2), 665.624(a)(2), or 665.801(e) must maintain on board the vessel an accurate and complete NMFS transshipment logbook containing report forms provided by the Regional Administrator. All information specified on the forms must be recorded on the forms within 24 hours after the day of transshipment. Each form must be signed and dated by the receiving vessel operator. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 72 hours of each landing of western Pacific pelagic MUS. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 7 days of each landing of coral reef ecosystem MUS.

(d) *Sales report.* The operator of any fishing vessel subject to the requirements of §§665.142, 665.242, 665.442, or 665.642, or the owner of a medium or large fishing vessel subject to the requirements of §665.404(a)(2) must submit to the Regional Administrator, within 72 hours of offloading of crustacean MUS, an accurate and complete sales report on a form provided by the Regional Administrator. The form must be signed and dated by the fishing vessel operator.

(e) *Packing or weigh-out slips.* The operator of any fishing vessel subject to the requirements of §§665.142, 665.242, 665.442, or 665.642 must attach packing or weighout slips provided to the operator by the first-level buyer(s), unless the packing or weighout slips have not been provided in time by the buyer(s).

(f) *Modification of reporting and recordkeeping requirements.* The Regional Administrator may, after consultation with the Council, initiate rulemaking to modify the information to be provided on the fishing record forms, transshipment logbook, and sales report forms and timeliness by which the information is to be provided, including the submission of packing or weighout slips.

(g) *Availability of records for inspection.* (1) Western Pacific pelagic MUS. Upon request, any fish dealer must immediately provide an authorized officer access to inspect and copy all records of purchases, sales, or other transactions involving western Pacific pelagic MUS taken or handled by longline vessels that have permits issued under this subpart or that are otherwise subject to subpart F of this part, including, but not limited to, information concerning:

(i) The name of the vessel involved in each transaction and the owner and operator of the vessel.

(ii) The weight, number, and size of each species of fish involved in each transaction.

(iii) Prices paid by the buyer and proceeds to the seller in each transaction.

(2) *Crustacean MUS.* Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Administrator, to access, inspect, and copy all records relating to the harvest, sale, or transfer of crustacean MUS taken by vessels that have permits issued under this subpart or §§665.140 through 665.145, 665.240 through 665.252, 665.440 through 665.445, or 665.640 through 665.645 of this part. This requirement may be met by furnishing the information on a worksheet provided by the Regional Administrator. The information must include, but is not limited to:

(i) The name of the vessel involved in each transaction and the owner or operator of the vessel.

(ii) The amount, number, and size of each MUS involved in each transaction.

(iii) Prices paid by the buyer and proceeds to the seller in each transaction.

(3) *Bottomfish and seamount groundfish MUS.* Any person who is required by state laws and regulations to maintain records of landings and sales for vessels regulated by this subpart and by §§665.100 through 665.105, 665.200 through 665.212, 665.400 through 665.407, and 665.600 through 665.606 of this part must make those records immediately available for Federal inspection and copying upon request by an authorized officer.

(4) *Coral reef ecosystem MUS.* Any person who has a special permit and who is required by state laws and regulations to maintain and submit records of catch and effort, landings and sales for coral reef ecosystem MUS by

this subpart and §§665.120 through 665.128, 665.220 through 665.228, 665.420 through 665.428, or 665.620 through 665.628 of this part must make those records immediately available for Federal inspection and copying upon request by an authorized officer as defined in §600.10 of this chapter.

(h) *State reporting.* Any person who has a permit under §§665.124, 665.203, 665.224, 665.404, 665.424, 665.603, or 665.624 and who is regulated by state laws and regulations to maintain and submit records of catch and effort, landings and sales for vessels regulated by subparts B through F of this part must maintain and submit those records in the exact manner required by state laws and regulations.

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Proposed Information Collection; Comment Request; Non-Commercial Permit and Reporting Requirements in the Main Hawaiian Islands Bottomfish Fishery**

**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 May 3, 2011.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 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**

This request is for renewal of a currently approved information collection.

All non-commercial participants (including vessel owners, operators, and crew) in the boat-based bottomfish fishery in the main Hawaiian Islands are required to obtain a federal bottomfish permit, pursuant to 50 CFR 665. This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and serves as a link between the National Marine Fisheries Service (NMFS) and fishermen.

All vessel owners or operators in this fishery are required to submit a completed logbook form at the completion of each fishing trip. These logbook reporting sheets document the

species and amount of species caught during the trip. The reporting requirements are crucial to ensure that NMFS and the Western Pacific Fishery Management Council (Council) will be able to monitor the fishery and have fishery-dependent information to develop an estimate of an Annual Catch Limit (annual Total Allowable Catch) for the fishery, evaluate the effectiveness of management measures, determine whether changes in fishery management programs are necessary, and estimate the impacts and implications of alternative management measures.

**II. Method of Collection**

Permit information is collected via permit applications. Permits are valid for one calendar year and may be renewed annually. Completed logbook forms are required to be submitted to NMFS by vessel owners or operators within 72 hours of the end of each fishing trip.

**III. Data**

*OMB Control Number:* 0648-0577.

*Form Number:* None.

*Type of Review:* Regular submission (renewal of a currently approved information collection).

*Affected Public:* Vessel owners and non-commercial fishermen.

*Estimated Number of Respondents:* 100.

*Estimated Time per Response:* 15 minutes per permit application, 30 minutes per logsheet.

*Estimated Total Annual Burden Hours:* 375.

*Estimated Total Annual Cost to Public:* \$400.

**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: March 1, 2011.

**Gwellnar Banks,**

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

[FR Doc. 2011-4933 Filed 3-3-11; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Availability of Seats for the Cordell Bank National Marine Sanctuary Advisory Council**

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The ONMS is seeking applications for the following vacant seats on the Cordell Bank National Marine Sanctuary Advisory Council: Fishing, Primary and Alternate seats; Research, Primary and Alternate seats; Community-at-Large Mann County, Primary and Alternate seats. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary.

Applicants who are chosen as members should expect to serve three-year terms, pursuant to the council's Charter.

**DATES:** Applications are due by April 1, 2011.

**ADDRESSES:** Application kits may be obtained from <http://cordellbank.noaa.gov/> or Kaitlin Graiff, [kaitlin.graiff@noaa.gov](mailto:kaitlin.graiff@noaa.gov), P.O. Box 159, Olema, CA 94950. Completed applications should be sent to the above postal or e-mail address, or faxed to 415-663-0315, attn. Kaitlin Graiff.

**FOR FURTHER INFORMATION CONTACT:** Kaitlin Graiff, Advisory Council Coordinator, 415-663-0314 x105, [kaitlin.graiff@noaa.gov](mailto:kaitlin.graiff@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Cordell Bank National Marine Sanctuary Advisory Council was established in 2001 to ensure continued public participation in the management of the sanctuary. Council seats are occupied by members representing research, conservation, maritime activity, fishing, education, Mann and Sonoma County community at large, as well as Federal agency partners. Individual council