

Fishery Conservation and Management

§ 600.501

in fishery conservation and management.

(2) The state has entered into a written agreement between the Assistant Administrator and the head of the state's agency that manages marine and/or anadromous fisheries. The agreement shall contain a finding by the Assistant Administrator that the state has confidentiality protection authority comparable to the Magnuson-Stevens Act and that the state will exercise this authority to limit subsequent access and use of the data to fishery management and monitoring purposes.

(d) *Councils.* Upon written request by the Council Executive Director, access to confidential data will be granted to:

(1) Council employees who are responsible for FMP development and monitoring.

(2) A Council for use by the Council for conservation and management purposes, with the approval of the Assistant Administrator. In addition to the information described in paragraph (a) of this section, the Assistant Administrator will consider the following in deciding whether to grant access:

(i) The possibility that Council members might gain personal or competitive advantage from access to the data.

(ii) The possibility that the suppliers of the data would be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings.

(3) A contractor of the Council for use in such analysis or studies necessary for conservation and management purposes, with approval of the Assistant Administrator and execution of an agreement with NMFS as described by NOAA Administrative Order (NAO) 216-100.

(e) *Prohibitions.* Persons having access to these data are prohibited from unauthorized use or disclosure and are subject to the provisions of 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NAO 216-100.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.420 Control system.

(a) The Assistant Administrator maintains a control system to protect

the identity of submitters of statistics required by an FMP. The control system:

(1) Identifies those persons who have access to the statistics.

(2) Contains procedures to limit access to confidential data to authorized users.

(3) Provides for safeguarding the data.

(b) This system requires that all persons who have authorized access to the data be informed of the confidentiality of the data. These persons are required to sign a statement that they:

(1) Have been informed that the data are confidential.

(2) Have reviewed and are familiar with the procedures to protect confidential statistics.

§ 600.425 Release of statistics.

(a) The Assistant Administrator will not release to the public any statistics required to be submitted under an FMP in a form that would identify the submitter, except as required by law.

(b) All requests from the public for statistics submitted in response to a requirement of an FMP will be processed consistent with the NOAA FOIA regulations (15 CFR part 903), NAO 205-14, Department of Commerce Administrative Orders 205-12 and 205-14 and 15 CFR part 4.

(c) NOAA does not release or allow access to confidential information in its possession to members of Council advisory groups, except as provided by law.

Subpart F—Foreign Fishing

§ 600.501 Vessel permits.

(a) *General.* (1) Each FFV fishing under the Magnuson-Stevens Act must have on board a permit issued under this section, unless it is engaged only in recreational fishing.

(2) Permits issued under this section do not authorize FFV's or persons to harass, capture, or kill marine mammals. No marine mammals may be taken in the course of fishing unless that vessel has on board a currently valid Authorization Certificate under the MMPA. Regulations governing the taking of marine mammals incidental to commercial fishing operations are

contained in 50 CFR part 229 of this title.

(b) *Responsibility of owners and operators.* The owners and operators of each FFV are jointly and severally responsible for compliance with the Magnuson-Stevens Act, the applicable GIFFA, this subpart, and any permit issued under the Magnuson-Stevens Act and this subpart. The owners and operators of each FFV bear civil responsibility for the acts of their employees and agents constituting violations, regardless of whether the specific acts were authorized or even forbidden by the employer or principal, and regardless of knowledge concerning the occurrence.

(c) *Activity codes.* Permits to fish under a GIFFA may be issued by the Assistant Administrator for the activities described in this paragraph, but the permits may be modified by regulations of this subpart, and by the conditions and restrictions attached to the permit (see paragraphs (e)(1)(v) and (l) of this section). The Assistant Administrator may issue a permit, as appropriate, for one or more of the activity codes listed below. The activity codes are described as follows:

(1) *Activity Code 1.* Catching, scouting, processing, transshipping, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(2) *Activity Code 2.* Processing, scouting, transshipping, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(3) *Activity Code 3.* Transshipping, scouting, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(4) *Activity Code 4.* Processing, scouting, transshipping, and supporting U.S. vessels delivering fish to foreign vessels. Activity is limited to the receipt of unprocessed fish harvested or to be harvested by U.S. vessels.

(5) *Activity Code 5.* Transshipping, scouting, and supporting foreign vessels. Transshipment limited to fish received or to be received from foreign vessels processing fish from U.S. harvesting vessels.

(6) *Activity Code 6.* Transshipping, scouting, and supporting U.S. vessels. Transshipment limited to U.S.-harvested fish processed on board U.S. vessels.

(7) *Activity Code 7.* Processing, transshipping, and supporting foreign vessels. Activity limited to fish harvested or to be harvested by foreign vessels seaward of the EEZ.

(8) *Activity Code 8.* Transshipping and supporting foreign vessels. Activity is limited to fish harvested or to be harvested seaward of the EEZ by foreign vessels or fish duly authorized for processing in the internal waters of one of the states.

(9) *Activity Code 9.* Supporting U.S. fishing vessels and U.S. fish processing vessels and any foreign fishing vessels authorized under any activity code under paragraph (c) of this subpart.

(d) *Application.* (1) Applications for FFV permits must be submitted by each foreign nation to the DOS. Application forms are available from OES/OMC, DOS, Washington, DC. The applicant should allow 90 days for review and comment by the public, involved governmental agencies, and appropriate Councils, and for processing before the anticipated date to begin fishing. The permit application fee must be paid at the time of application according to §600.518.

(2) Applicants must provide complete and accurate information requested on the permit application form.

(3) Applicants for FFV's that will support U.S. vessels in joint ventures (Activity Code 4) must provide the additional information specified by the permit application form.

(4) Each foreign nation may substitute one FFV for another by submitting a new vessel information form and a short explanation of the reason for the substitution to the DOS. Each substitution is considered a new application and a new application fee must be paid. NMFS will promptly process an application for a vessel replacing a permitted FFV that is disabled or decommissioned, once the DOS has notified the appropriate Council(s) of the substituted application.

(e) *Issuance.* (1) Permits may be issued to an FFV by the Assistant Administrator through the DOS after—

(i) The Assistant Administrator determines that the fishing described in the application will meet the requirements of the Magnuson-Stevens Act and approves the permit application.

(ii) The foreign nation has paid the fees, including any surcharge fees and provided any assurances required by the Secretary in accordance with the provisions of § 600.518.

(iii) The foreign nation has appointed an agent.

(iv) The foreign nation has identified a designated representative.

(v) The general “conditions and restrictions” of receiving permits, as required by section 204(b)(7) of the Magnuson-Stevens Act, and any “additional restrictions” attached to the permit for the conservation and management of fishery resources or to prevent significant impairment of the national defense or security interests, have been accepted by the nation issuing the FFV’s documents.

(2) NMFS will distribute blank permit forms to the designated representative while the application is being processed. The designated representative must ensure that each FFV receives a permit form and must accurately transmit the permit form and the contents of the permit to the FFV when it is issued. NMFS may authorize the modification and use of the previous year’s permit forms to be used on an interim basis in place of the current year’s permit forms if the current forms were not made available to the designated representatives for timely distribution. The FFV owner or operator must accurately complete the permit form prior to fishing in the EEZ.

(3) A completed permit form must contain—

(i) The name and IRCS of the FFV and its permit number.

(ii) The permitted fisheries and activity codes.

(iii) The date of issuance and expiration date, if other than December 31.

(iv) All conditions and restrictions, and any additional restrictions and technical modifications appended to the permit.

(4) Permits are not issued for boats that are launched from larger vessels. Any enforcement action that results from the activities of a launched boat

will be taken against the permitted vessel.

(f) *Duration.* A permit is valid from its date of issuance to its date of expiration, unless it is revoked or suspended or the nation issuing the FFV’s documents does not accept amendments to the permit made by the Assistant Administrator in accordance with the procedures of paragraph (l) of this section. The permit will be valid for no longer than the calendar year in which it was issued.

(g) *Transfer.* Permits are not transferable or assignable. A permit is valid only for the FFV to which it is issued.

(h) *Display.* Each FFV operator must have a properly completed permit form available on board the FFV when engaged in fishing activities and must produce it at the request of an authorized officer or observer.

(i) *Suspension and revocation.* NMFS may apply sanctions to an FFV’s permit by revoking, suspending, or imposing additional permit restrictions on the permit under 15 CFR part 904, if the vessel is involved in the commission of any violation of the Magnuson-Stevens Act, the GIFA, or this subpart; if an agent and a designated representative are not maintained in the United States; if a civil penalty or criminal fine imposed under the Magnuson-Stevens Act has become overdue; or as otherwise specified in the Magnuson-Stevens Act.

(j) *Fees.* Permit application fees are described in § 600.518.

(k) *Change in application information.*

(1) The foreign nation must report, in writing, any change in the information supplied under paragraph (d) of this section to the Assistant Administrator within 15 calendar days after the date of the change. Failure to report a change in the ownership from that described in the current application within the specified time frame voids the permit, and all penalties involved will accrue to the previous owner.

(2) The Assistant Administrator may make technical modifications or changes in the permit application requested or reported by a Nation, such as a change in radio call sign, processing equipment, or tonnage, which will be effective immediately.

(3) If, in the opinion of the Assistant Administrator, a permit change requested by a Nation could significantly affect the status of any fishery resource, such request will be processed as an application for a new permit under this section.

(4) The Assistant Administrator will notify the designated representative of any revision that must be made on the permit form as the result of a permit change.

(5) The vessel owner or operator must record the modification on the permit form.

(1) *Permit amendments.* (1) The Assistant Administrator may amend a permit by adding “additional restrictions” for the conservation and management of fishery resources covered by the permit, or for the national defense or security if the Assistant Administrator determines that such interests would be significantly impaired without such restrictions. Compliance with the added additional restrictions is a condition of the permit. Violations of added additional restrictions will be treated as violations of this subpart.

(2) The Assistant Administrator may make proposed additional restrictions effective immediately, if necessary, to prevent substantial harm to a fishery resource of the United States, to allow for the continuation of ongoing fishing operations, or to allow for fishing to begin at the normal time for opening of the fishery.

(3) The Assistant Administrator will send proposed additional restrictions to each Nation whose vessels are affected (via the Secretary of State), to the appropriate Councils, and to the Commandant of the Coast Guard. NMFS will, at the same time, publish a document of any significant proposed additional restrictions in the FEDERAL REGISTER. The document will include a summary of the reasons underlying the proposal, and the reasons that any proposed additional restrictions are made effective immediately.

(4) The Nation whose vessels are involved, the owners of the affected vessels, their representatives, the agencies specified in paragraph (1)(3) of this section, and the public may submit written comments on the proposed addi-

tional restrictions within 30 days after publication in the FEDERAL REGISTER.

(5) The Assistant Administrator will make a final decision regarding the proposed additional restrictions as soon as practicable after the end of the comment period. The Assistant Administrator will provide the final additional restrictions to the Nation whose vessels are affected (via the Secretary of State) according to the procedures of paragraph (e) of this section. The Assistant Administrator will include with the final additional restrictions to the Nation, a response to comments submitted.

(6) Additional restrictions may be modified by following the procedures of paragraphs (1)(2) through (1)(5) of this section.

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§ 600.502 Vessel reports.

(a) The operator of each FFV must report the FFV’s activities within the EEZ to the USCG and NMFS as specified in this section.

(b) All reports required by this section must be in English and in the formats specified in the permit additions and restrictions. Reports must be delivered via private or commercial communications facilities, facsimile, or other electronic means acceptable to NMFS and the USCG, directly to the appropriate NMFS Region or Center and USCG commander. Weekly reports must also be delivered directly to the appropriate NMFS Region or Center (see tables 1 and 2 of this section). (The required reports may be delivered to the closest USCG communication station as indicated in table 3 of this section or other USCG communication station only if adequate private or commercial communications facilities have not been successfully contacted.) Radio reports must be made via radiotelegraphy, Telex, or facsimile where available. For the purposes of this section, a message is considered “transmitted” when its receipt is acknowledged by a communications facility and considered “delivered” upon its receipt by the offices of the appropriate USCG commander, NMFS Regional Office, or NMFS Center identified in table 2 of this section. Reports required