

**SUPPORTING STATEMENT
FOREIGN FISHING VESSEL REPORTING REQUIREMENTS
OMB CONTROL NO.: 0648-0075**

A. JUSTIFICATION

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

This information collection is necessary to comply with the Magnuson-Stevens Fishery Conservation and Management Act (**MSFCMA**), 16 U.S.C. 1801 *et seq.*, as amended in 2006. Pursuant to regulations promulgated under the MSFCMA at 50 CFR Part 600, Subpart F, foreign fishing vessels may be authorized to fish in U.S. waters.

Each applicant for a foreign fishing permit acknowledges the exclusive fishery management authority of the United States in our waters and agrees to abide by all regulations promulgated by the Secretary of Commerce, including regulations promulgated to implement fishery management plans. Each foreign nation and the owners or operators of that nation's fishing vessels must abide by the requirements that vessels will be boarded, searched and inspected in the Exclusive Economic Zone (EEZ) by authorized U.S. officers and arrested or have vessels seized if there is cause to believe violations have occurred; that they will accept U.S. observers aboard their vessels; that they will pay appropriate fees, and be responsible for losses or damage to U.S. fishing vessels, their gear, or their catch caused by a foreign fishing vessel; and that they will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management included in such an agreement.

Certain amounts of fish for which a "Total Allowable Level of Foreign Fishing" (TALFF) has been specified may be allocated to a foreign nation for harvest directly by permitted foreign vessels of that nation, and/or the vessels of that nation may be permitted to engage in joint ventures (JVs), wherein U.S. vessels catch and transfer at-sea to permitted foreign vessels certain species for which an amount for "Joint Venture Processing" (JVP) has been specified. Permits could also be issued to authorize foreign transport vessels to receive transshipments, from U.S. or foreign vessels, of processed fish, or fish products, destined for landing at foreign ports. Reports from permitted foreign vessels are necessary for a number of reasons.

National Marine Fisheries Service (NMFS) responsibilities under the MSFCMA are, in part, to develop fishery management plans (FMP) for species identified as requiring management. To do so, appropriate information on stocks, recruitment, mortality, etc., is required in order to establish the optimum yield (OY) for each fishery. Once OYs are established and estimated domestic harvests are deducted, the balance of an OY may be available for foreign fishing in the form of TALFF and/or as JVP. NMFS must collect information not only on foreign directed catch, if any, but also on the U.S. catch delivered at-sea to foreign fishing vessels (FFV) in JVs. This information is necessary in order to know when to close directed and JV fisheries in a timely manner to avoid exceeding allocations for directed fishing and JVP amounts. To exceed such amounts (i.e., let foreign nations take too much fish) would violate the MSFCMA. NMFS must also monitor directed foreign fishing/JVs to ensure that directed foreign catches and/or JV catches by U.S. vessels delivered to FFVs do not adversely affect supplies for domestic

processors. To adversely affect U.S. processors would violate the MSFCMA. To protect U.S. fisheries resources from illegal fishing by permitted foreign vessels, it is necessary for all permitted foreign vessels to submit reports indicating their activities and whereabouts when in U.S. waters. To fail to maintain control and accountability over all permitted foreign vessels in U.S. waters would violate the MSFCMA.

Data derived from this information collection are unique. Although U.S. observers would be placed aboard virtually all foreign vessels conducting directed fishing or participating in JVs, the observers cannot provide coverage around the clock and observer data are primarily a means of verifying reports submitted under requirements of [50 CFR Part 600, Subpart F](#).

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.

The information required by §600.502 and §600.507, respectively, generally falls into a reporting category, in the first case, and a recordkeeping category, in the second.

Section 600.502 requires reports on the activities of FFVs. Activity reports are to indicate times and positions FFVs will begin fishing, temporarily stop fishing, shift areas of operations, or cease fishing. These reports are submitted to the appropriate Coast Guard (CG) commander. Similar reports are required if the FFVs will receive or have received fish from U.S. vessels. FFVs must report any product carried into the EEZ.

BEGIN and CEASE reports are required for actually placing and debarking observers, verifying that the reporting vessel has a valid permit for the planned activity before fishing, or scheduling exit boardings. The time and position data are needed for at-sea boardings by the CG to intercept reporting FFVs to verify the reported product on board and check for illegal gear. Messaged activity reports are also required on the times, dates, and positions of anticipated transfers of products; the amounts of products offloaded; and the amounts received (TRANSFER, OFFLOADED, RECEIVED messages). These reports are critical to enforcement. They enable the CG to prepare for boardings during transfers between fishing and cargo vessels to compare the respective amounts of products reported by the fishing vessel captain against products received and reported by the cargo vessel. Product recovery rates are used to convert product weight to raw weight to verify that raw fish reported to have been caught in the EEZ or received from U.S. fishing vessels are correctly recorded in vessel logs required by §600.507.

Joint venture operations are significantly reduced, but these removals must be accounted for. Messaged reports on joint venture operations (JVOPS) are used by the NMFS and the CG to verify that the reporting foreign vessel is authorized to receive U.S.-harvested fish, for placing observers, and to confirm that the operations are confined to the areas and times authorized. Other reports (CHANGE and CANCEL) provide a mechanism for changing or canceling previous reports. These provide the vessel captain with a standard message for keeping CG and NMFS advised of last minute changes to avoid potential enforcement actions when unanticipated changes or errors occur in previously transmitted messages.

Since fisheries enforcement resources are meager, these messages, in combination with the SHIFT message, provide a means for CG and NMFS to monitor activities at-sea and areas of operation of foreign vessels; to plan occasional but unannounced boardings; to account for all fish aboard foreign vessels; and to distinguish fish taken in the EEZ from fish carried into the EEZ; to verify, by boardings, the information provided in transfer reports, the data maintained in vessel logs under §600.507, and compliance with regulations to protect U.S. fishery resources from illegal fishing.

Section 600.502(f) deals with radioed weekly report messages. The nation's designated representative is responsible for transmitting these reports, which originate with a FFV operator. Weekly catch (CATREP) and receipts reports (RECREP) of U.S. harvested fish must be submitted to the appropriate NMFS Regional Administrator or Center Director on the Wednesday following the end of the reporting period. No report is required if vessels deliver raw fish to a processing vessel and the processing vessel submits consolidated CATREPs for fish received. Weekly reports must summarize weekly catches in round weight of each species or species group by area, days fished CATREPs and weekly receipts of U.S. harvested fish by round weight of species or species group RECREPs. RECREPs must identify the U.S. vessels from which the fish were received, the numbers of vessels transferring and the nets received, the prohibited species received, and round weight of fish returned to U.S. fishermen. These reports, in conjunction with observer reports, provide timely information on which to base management actions.

The Marine Mammal Report (MAMREP) (§600.502(f)(4)) must be transmitted if marine mammals are incidentally taken or received and must list the geographic position of the taking, the numbers of animals by species, and their condition.

Regional Administrators and Center Directors use weekly reports to monitor the rate at which foreign FFVs are taking national allocations of fish and the total U.S. harvest available for receipt by FFVs; to project dates of fishery closures by country or management area to avoid exceeding the optimum yield of a species or species group; and to comply with the MSFCMA requirement to protect the portion of the optimum yield set aside for domestic annual processing (DAP). No reports are required if fish were not taken or received during the week.

Weekly catch reports are compared with observer data to test their accuracy. Weekly reports are used to develop rates of catch by species, by area, and by nation. Notices of projected closures are sent to country agents based on the above information. A comparison of the data reported by each vessel can also signal underreporting.

Reports of receipts of U.S.-harvested fish are similarly used to determine when the aggregate JVP will be achieved. The data are similarly processed and JVP fisheries closed when analyses of weekly reports indicate JVP will be achieved.

Reports of the take or receipts of marine mammals are required as part of NMFS responsibilities under the Marine Mammal Protection Act. The reports can support enforcement actions if a vessel has not been issued an appropriate Marine Mammal Permit Program certificate, and either captures or receives a marine mammal during its operations. Capture, or changes in rates of capture, can signify gear problems or changes in the behavior of certain marine mammals.

Recordkeeping provisions are consolidated under §600.507. They require that FFV owners and operators maintain timely and accurate records for inspection by an authorized officer or observer. The records must be maintained and available for 3 years after the end of the permit period while the FFV is in the EEZ. Logs on communications required by §600.502 and transfers, including quantities transferred or offloaded outside the EEZ, must be kept. These logs provide the record of such activities for inspection aboard the vessel and a history of its activities within and outside the EEZ. The logs are important enforcement tools when prosecuting violations to determine a history of underlogging or other illegal activities.

Logbooks must be retained over a period of time because enforcement is not limited to the current year. Three years was selected as appropriate for retention since it is a reasonable period of time and violations occurring prior to the 3-year period could be difficult to corroborate. The need for retention of logbooks was borne out in a case involving the Nichiro Company. This case concerned a long-term conspiracy between a Japanese transport vessel and Japanese trawlers. Although the case was settled for \$2 million and permit sanctions for 20 vessels, other vessels were not penalized because the information needed to corroborate the violations, which would have been found in prior year logs (and that National Oceanic and Atmospheric Administration (NOAA) knew existed in some form) was not available to enforcement officials. NOAA and the Coast Guard consider retention of logs vital to the prosecution of violations.

Logbooks must be maintained in the formats prescribed, although §600.507(i) provides for alternative formats if approved by the relevant Regional Administrator. Generally, foreign nations print and provide log forms for these FFVs. The data required to be logged is standard information recorded in any well run fishing operation, and collection does not impose a significant burden. For example, the EFFORT log, which contains information on the gear, time and position of the set, course, sea depth, depth of set, haul time and position, as well as mesh size, is information used by vessel captains and fishing companies to improve their fishing efficiency. That information is used by observers or authorized officers boarding a FFV for inspection to assess, for example, the potential for an unreported excess bycatch of prohibited species such as American lobster which may be found at a certain depth in the water column or whether undersized fish may be included in the frozen production because the mesh size was less than prescribed. Logs on the catch - CATCH - provide information during boardings to correlate and verify total catches by FFVs on a daily basis versus their production to account for all fish. The consolidated log includes the receipt of unprocessed fish from other FFVs and the log only applies to processing vessels or motherships. The joint venture log requires similar information on receipts from U.S. fishermen. Together the logs provide a practical account of removals from the EEZ and their disposition and are a necessary component of enforcement of the MSFCMA.

The logs also provide information for inspection by U.S. observers and can be used to resolve conflicts between data recorded by the observer and by the vessel captain. The data are no different from data normally recorded in commercial fishing operations, except that they must be recorded in English. These logs provide important information for detection of underlogging violations.

Certain other reports are also required. Sec. 600.504(e)(2) requires that all records maintained on the FFV be available during a boarding to allow enforcement officers to review the correctness of the logs. Section 600.506(b) requires effort plans for general observer planning and for assessing observer fees, which must be paid in advance of fishing. That section also

allows for notification of changes in fishing plans by a FFV captain to avoid errors in planning or billing. This section also provides observers authority to inspect and copy logs and records during comparisons with the observer's records. Section 600.510 requires a vessel operator to report an incident of sighting, or accidental or emergency placement in the EEZ of any substance or article, which may interfere with other vessels or gear, or catch fish and cause damage to marine resources, including mammals and birds. In the case of articles, which may interfere with vessels or gear, such reports must be made to allow the Coast Guard to alert other vessels of such hazards and thereby prevent the unnecessary losses and expenses, which could result for not only U.S. vessels but other foreign vessels as well. Since each foreign fishing nation agrees to reimburse U.S. fishermen for losses caused by gear, it is in the interest of all FFV captains involved in a gear conflict (or retrieving the gear of another FFV) to report such hazards or incidents. Section 600.512(b) requires the submission of a copy of any cruise report or other publication created as a result of scientific research conducted in the EEZ, however, no such research is expected to be conducted during the period for which PRA approval is sought and no estimate for this item is included in the burden estimate.

It is anticipated that information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy and electronic information. See response # 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet 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.

Electronic copies of forms for weekly reports and logs are available. Activity reports may be submitted via e-mail.

4. Describe efforts to identify duplication.

Data collected regarding catches, receipts from U.S. vessels, transshipments, etc., are unique to each foreign fishing nation's particular vessels and circumstances. Although observers would be aboard virtually all FFVs engaged in directed fishing or participating in JVs, they are unable to monitor catches or production around the clock because FFVs may conduct 24-hour fishing operations and operate more than one product line at the same time in separate areas of the FFV.

The activity reports required by §600.502 are unique. Catch reports and logs otherwise kept by foreign fishermen are for their own uses in their own language and in a variety of formats. The regulations establish standard formats for submission of catch reports, receipt reports, and the logs kept aboard FFVs. Foreign fishermen have not always provided the information when requested, or even acknowledged its existence. This requirement requires foreign fishermen to provide this information, in English, to enforcement personnel and observers and in a standard

format. This avoids any claims of incorrect translations by the United States Coast Guard (USCG) in enforcement cases.

Recordkeeping under §600.507 does not require duplication of information. The data conform to those normally collected by foreign fishermen except that they must be recorded in English. Formats are standard and consistent from fishery to fishery.

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

This collection will not have a significant impact on small businesses, organizations or governmental entities.

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

Failure to collect the information would make it impossible for NMFS to carry out its responsibilities under the MSFCMA. If this information were to be collected less frequently, the management of fisheries stocks would be impaired and the fish stocks might be damaged. The frequency of collection employed represents a minimum. If reporting were to be lengthened to a quarterly basis, the overrun could result in a very serious violation of the MSFCMA, and cause potential damage to U.S. fish processors. Because of the dynamic nature of fishing and fish stocks, failure to accurately track foreign catch, joint venture receipts, the incidental catch of prohibited species, and the current and projected foreign catch rates might result in overfishing of that stock and its subsequently reduced availability. An excessive incidental take of prohibited species for which caps have been imposed, for example, river herring in the Atlantic mackerel JV fishery, even if the incidental catch is discarded by FFVs, could severely damage valuable U.S. stocks. The MSFCMA prohibition on exceeding the optimum yield would, in the case of the Atlantic mackerel fishery, require a reduction of the amount available for other U.S. fishermen and fish processors.

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

Except with respect to frequency (discussed in item 6), this information collection is conducted in a manner consistent with Office of Management and Budget (OMB) guidelines.

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

A Federal Register notice was published on May 22, 2007. No comments were received.

There are continuing communications, as appropriate, with NMFS personnel who administer the Foreign Fishing Observer Program, and with the designated agents and representatives of foreign fishing nations. These contacts provide ongoing opportunities for the exchange of ideas regarding the requirements of this information collection.

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

No gifts or payments are provided.

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

Data submitted based on this information collection will be accorded confidentiality pursuant to 50 CFR Part 600, Subpart E.

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

No questions of a sensitive nature are included in this information collection.

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

We are estimating an annual burden of 88 hours for reporting and recordkeeping under this collection. This represents a reduction of 89 hours from the previous 177 hours authorized for this collection. The decrease in hours is due to a decrease in the estimated level of foreign fishing to take place in the EEZ over the next three years.

For purposes of estimating the annual reporting burden of 34 hours, we are assuming that 1 vessel permitted to harvest fish and participate in a JV makes 180 activity reports per year at 6 minutes per report and 10 weekly or other reports per year at 6 minutes per report (weekly catch report, weekly joint ventures receipt report and/or weekly marine mammal report), thereby accounting for 19 hours $[(180+10)(6) = 1,140/60 = 19]$. We are also assuming that 5 transport vessels each make 30 activity reports per year at 6 minutes per report, thereby accounting for 15 hours $[5(30)(6) = 900/60 = 15]$. Thus, there are $190 + 150 = 340$ responses, and $19 + 15 = 34$ hours.

For purposes of estimating the annual recordkeeping burden of 54 hours, we are assuming that 1 vessel permitted to harvest fish and participate in a JV requires 30 minutes per record-keeping day for 90 days per year (daily fishing log and/or daily joint ventures log), thereby accounting for 45 hours $[(30)(90) = 2,700/60 = 45]$. We are also assuming that 5 transport vessels each require 7.5 minutes per recordkeeping day for 15 days per year, thereby accounting for 9 hours (rounded) $[5(7.5)(15) = 562/60 = 9]$. Thus, there are $90 + 75 = 165$ responses, and $45 + 9 = 54$ hours.

The estimated annual responses and burden hours are, respectively, 340 and 34 for reporting, and 165 and 54 for recordkeeping). Total responses are 505 responses and 88 hours.

There are no respondents to the other requirements and none is expected for the next three years, as no directed foreign fishing is likely to take place.

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

The estimate of costs to the public is less than \$500.00.

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

Using the methodology used in previous years results in estimated costs to the Federal Government as follows:

One quarter work year (One eighth yr. Pacific, one eighth yr. Atlantic) receiving and tabulating data X (42,700 GS-7/5 salary)	\$10,700
Preparing reports	\$500
Overhead = 0.235 (10.7K + .5K)	<u>\$2,600</u>
Estimated costs to Federal Government	\$13,800

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

The decrease in hours is due to a decrease in estimated foreign fishing activity.

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

The results will not be published.

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

N/A.

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

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.