

PAPERWORK REDUCTION ACT SUBMISSION

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

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

19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
INDIVIDUAL FISHING QUOTAS FOR PACIFIC HALIBUT AND SABLEFISH
IN THE ALASKA FISHERIES
OMB CONTROL NO.: 0648-0272**

INTRODUCTION

The U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI) in the exclusive economic zone (EEZ) off the coast of Alaska are managed by National Marine Fisheries Service (NMFS) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act ([Magnuson-Stevens Act](#)), 16 U.S.C. 1801 *et seq.* and the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773, *et seq.* The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and the Fishery Management Plan for Groundfish of the Gulf of Alaska were prepared by the North Pacific Fishery Management Council and are implemented by regulations at 50 CFR part 679.

A. JUSTIFICATION

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

This action changes the requirement for participants to use the current Internet address to report landings to NMFS of Individual Fishing Quotas (IFQ) halibut, IFQ sablefish, and Western Alaska Community Development Quota (CDQ) halibut. NMFS instead requires the use of the Internet address to eLandings: <http://www.elandings.alaska.gov/> (see Office of Management and Budget (OMB) Control No.: 0648-0515), the data entry component of the International Electronic Reporting System which supersedes the current Internet system and allows processors and others to make landings reports with a single reporting system to NMFS, the International Pacific Halibut Commission (IPHC), and Alaska Department of Fish and Game (ADF&G). Using eLandings removes reporting duplications, and once implementation is complete, eLandings will make recordkeeping and reporting simpler.

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.

Electronic landing report and manual landing report [REMOVED]

It is anticipated that the 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. National Oceanic and Atmospheric Administration (NOAA), 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 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.

The permit applications are “fillable” on the computer screen at the NMFS Alaska Region Home Page at <http://www.fakr.noaa.gov/ram/default.htm>. After completion on the screen, the participant may print and fax the application to NMFS.

4. Describe efforts to identify duplication.

By removing the electronic landings report from this collection, none of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

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

This collection of information does not impose a significant impact on small entities.

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

Without the removal of the landings report, the program would be severely jeopardized by duplication and confusion. Because this action is intended to benefit the fishing industry and three fishery management agencies, the real consequence of not removing these items would be negative for the fishing industry.

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

No inconsistencies occur in this collection.

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.

The NMFS Alaska Region published a proposed rule, RIN 0648-AT91, on June 29, 2007. No comments were received.

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

No payment or gift will be provided under this program.

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

The information collected is confidential under section 303(d) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*); and under NOAA Administrative Order (NAO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

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.

This information collection does not involve information of a sensitive nature.

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

Total estimated unique respondents remain at 2,877. Total estimated responses: 21,833, a decrease from 38,273. Total estimated burden hours: 10,588, a decrease from 15,750 hr. Total estimated personnel costs: \$513,435, a decrease from \$640,650. Personnel labor costs are estimated to the average wage equivalent of a GS-9 employee in Alaska, including Cost-of-Living Adjustment (COLA), at \$25 per hour.

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).

Total estimated miscellaneous costs: \$24,176, a decrease from \$43,337.

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

Total estimated burden hours: 6,037 a decrease from 7,258 hr. Total estimated personnel cost: \$132,375, a decrease from \$181,450.

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

The electronic landing report and backup manual report were removed from this collection, because they are replaced by eLandings (see OMB Control No.: 0648-0515). Additional adjustments account for 392 hours and \$381 of the total reductions.

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

The information collected 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.

In accordance with OMB requirements, the control number and the expiration date of OMB approval are shown on the forms.

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

No exceptions to the certification statement are requested.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

[United State Code](#)

[TITLE 16 - CONSERVATION](#)

[CHAPTER 10 - NORTHERN PACIFIC HALIBUT FISHING](#)

[SUBCHAPTER IV - NORTHERN PACIFIC HALIBUT ACT OF 1982](#)

U.S. Code as of: 01/26/1998

Sec. 773a. International Pacific Halibut Commission

(a) United States Commissioners

The United States shall be represented on the Commission by three United States Commissioners to be appointed by the President and to serve at his pleasure. The Commissioners shall receive no compensation for their services as Commissioners. Each United States Commissioner shall be appointed for a term of office not to exceed 2 years, but is eligible for reappointment. Any United States Commissioner may be appointed for a term of less than 2 years if such appointment is necessary to ensure that the terms of office of not more than two Commissioners will expire in any 1 year. A vacancy among the United States Commissioners shall be filled by the President in the manner in which the original appointment was made, but any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which the Commissioner's predecessor was appointed shall be appointed only for the remainder of such term. Of the Commissioners -

(1) one shall be an official of the National Oceanic and Atmospheric Administration; and

(2) two shall be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one shall be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one shall be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in [section 8101 et seq. of title 5](#) and [section 2671 et seq. of title 28](#). This subsection shall take effect on the 90th day after May 17, 1982.

(b) Alternate United States Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time alternate United States Commissioners to the commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

Source

(Pub. L. 97-176, Sec. 3, May 17, 1982, 96 Stat. 78.)

§ 679.1 Purpose and scope

Subpart A--General

§ 679.1 Purpose and scope.

Regulations in this part were developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Along with part 600 of this chapter, these regulations implement the following:

(a) Fishery Management Plan for Groundfish of the Gulf of Alaska.

(1) Regulations in this part govern commercial fishing for groundfish in the GOA by vessels of the United States (see subparts A, B, D, and E of this part).

(2) The following State of Alaska regulations are not preempted by this part for vessels regulated under this part fishing for demersal shelf rockfish in the Southeast Outside District, and which are registered under the laws of the State of Alaska: 5 AAC 28.110, fishing seasons; 5 AAC 28.130, gear; 5 AAC 28.160, harvest guidelines; 5 AAC 28.190, harvest of bait by commercial permit holders.

(b) Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

Regulations in this part govern commercial fishing for groundfish in the BSAI by vessels of the United States (see subparts A, B, C, D, and E of this part).

(c) [Reserved]

(d) IFQ Program for sablefish and halibut.

The IFQ management measures for the commercial fisheries that use fixed gear to harvest sablefish and halibut (see subparts A, B, D, and E of this part).

(1) Sablefish.

(i) Regulations in this part govern commercial fishing for sablefish by vessels of the United States:

(A) Using fixed gear within that portion of the GOA and the BSAI over which the United States exercises exclusive fishery management authority; and

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that aboard such vessels are persons who currently hold quota shares, IFQ permits, or IFQ cards.

(ii) Regulations in this part do not govern commercial fishing for sablefish in Prince William Sound or under a State of Alaska limited entry program.

(2) Halibut.

Regulations in this part govern commercial fishing for halibut by vessels of the United States using fixed gear, as that term is defined in 50 CFR 679.2, in and off of Alaska.

(e) Western Alaska CDQ Program.

The goals and purpose of the CDQ program are to allocate CDQ to eligible Western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally based, fisheries-related economy.

(f) Groundfish Observer Program. (applicable through December 31, 2007).

Regulations in this part govern elements of the Groundfish Observer Program for the BSAI groundfish and GOA groundfish fisheries under the Council's authority (see subpart E of this part).

(g) Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs.

Regulations in this part govern commercial fishing for king and Tanner crab in the Bering Sea and Aleutian Islands Area by vessels of the United States, **and supersede** State of Alaska regulations applicable

§ 679.1 Purpose and scope

to the commercial king and Tanner crab fisheries in the Bering Sea and Aleutians Islands Area EEZ that are determined to be inconsistent with the FMP (see **subpart A, B, and E** of this part). **Additional regulations governing commercial fishing for, and processing of, king and Tanner crab managed pursuant to section 313(j) of the Magnuson-Stevens Act and the Crab Rationalization Program are codified at 50 CFR part 680.**

(h) Fishery Management Plan for the Scallop Fishery off Alaska.

(1) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska by vessels of the United States (see subpart A of this part).

(2) State of Alaska laws and regulations that are consistent with the FMP and with the regulations in this part apply to vessels of the United States that are fishing for scallops in the Federal waters off Alaska.

(i) Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP).

(1) Regulations in this part govern fishing for salmon by fishing vessels of the United States in the Salmon Management Area.

(2) State of Alaska laws and regulations that are consistent with the Salmon FMP and with the regulations in this part apply to vessels of the United States that are fishing for salmon in the Salmon Management Area.

(j) License Limitation Program (LLP).

(1) Regulations in this part implement the **LLP** for the commercial groundfish fisheries in the EEZ off Alaska and **the LLP** for the commercial crab fisheries in the Bering Sea and Aleutians Islands Area.

(2) Regulations in this part govern the commercial fishing for **groundfish under the LLP** by vessels of the United States using authorized gear within the GOA and the **Bering Sea and Aleutians Islands Area** and the commercial fishing for crab species **under the LLP** by vessels of the United States

using authorized gear within the Bering Sea and Aleutians Islands Area.

(3) Regulations in this part implement the license limitation program for the commercial scallop fishery in the EEZ off Alaska.

(4) Regulations in this part govern the commercial fishing for scallops by vessels of the United States using authorized gear within the EEZ off Alaska.

(k) American Fisheries Act and AI directed pollock fishery measures.

Regulations in this part were developed by NMFS and the Council under the Magnuson-Stevens Act, the American Fisheries Act (AFA), and the Consolidated Appropriations Act of 2004 to govern commercial fishing for BSAI pollock according to the requirements of the AFA and the Consolidated Appropriations Act of 2004. This part also governs payment and collection of the loan, under the AFA, the Magnuson-Stevens Act, and Title XI of the Merchant Marine Act, 1936, made to all those persons who harvest pollock from the directed fishing allowance allocated to the inshore component under section 206(b)(1) of the AFA.

Magnuson-Stevens Fishery Conservation and Management Act

Public Law 94-265

As amended through October 11, 1996

AN ACT

**To provide for the conservation and management of the fisheries,
and for other purposes.**

J.Feder version (12/19/96)

SEC. 2. FINDINGS, PURPOSES, AND POLICY 16 U.S.C. 1801

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

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

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

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

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

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

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

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

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

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

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

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

99-659, 101-627, 102-251

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

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

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

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

fishery;

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

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

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

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

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

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

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

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

99-659, 101-627

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

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

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

SEC. 3. DEFINITIONS 16 U.S.C. 1802

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

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

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

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

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

(5) The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(6) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

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(7) The term "Continental Shelf fishery resources" means the following:

CNIDARIA

Bamboo Coral--Acanella spp.;

H.R.5946

Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 202. COLLECTION OF INFORMATION.

Section 402(a) (16 U.S.C. 1881a(a)) is amended--

(1) by striking `(a) COUNCIL REQUESTS- ' in the subsection heading and inserting `(a) COLLECTION PROGRAMS- ';

(2) by resetting the text following `(a) COLLECTION PROGRAMS- ' as a new paragraph 2 ems from the left margin;

(3) by inserting `(1) COUNCIL REQUESTS- ' before `If a Council';

(4) by striking `subsection' in the last sentence and inserting `paragraph';

(5) by striking `(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)' each place it appears; and

(6) by adding at the end the following:

`(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.'

affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).

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(8) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).

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;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing 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, 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;

(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 describe the likely effects, if any, of the conservation and management measures on--

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

(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;

(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;

(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;

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

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

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;

(2) 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;

(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;

(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;

(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,

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(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, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic 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; and

(12) 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.

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

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

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

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(d) INDIVIDUAL FISHING QUOTAS.--

(1) (A) A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program.

(B) Any fishery management plan, plan amendment, or regulation approved by the Secretary on or after January 4, 1995, which creates any new individual fishing quota program shall be repealed and immediately returned by the Secretary to the appropriate Council and shall not be resubmitted, reapproved, or implemented during the moratorium set forth in subparagraph (A).

(2) (A) No provision of law shall be construed to limit the authority of a Council to submit and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including an individual fishing quota program.

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(B) This subsection shall not be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, South Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

(3) An individual fishing quota or other limited access system authorization--

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

(B) may be revoked or limited at any time in accordance with this Act;

(C) shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited; and

(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested.

(4) (A) 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 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the--

(i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and

(ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.

(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

(5) In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the National Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendations contained in such report, and shall ensure that any such program--

(A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas;

(B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and

(C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.

104-297, sec. 108(b), M-S Act SS 303 note

IMPLEMENTATION.--Not later than 24 months after the date of enactment of this Act [P.L. 104-297], each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section [i.e., the P.L. 104-297 revisions to SS 303(a)(1), (5), (7), and (9), and the addition of SS 303(a)(10)-(14)].

104-297, sec. 108(i), M-S Act SS 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

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SEC. 402. INFORMATION COLLECTION⁷ 16 U.S.C. 1881a

(a) **COUNCIL REQUESTS.**--If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) 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 (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) 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 subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(b) **CONFIDENTIALITY OF INFORMATION.**--

(1) Any information submitted to the Secretary by any person in compliance with any requirement under 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 and monitoring;

(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(C) when required by court order;

(D) when such information is used to verify catch under an individual fishing quota program;

(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification; or

(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.

(2) 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 (1)(E).