

SUPPORTING STATEMENT
ATLANTIC MACKEREL, SQUID, AND BUTTERFISH AMENDMENT 10 DATA
COLLECTION
OMB CONTROL NO. 0648-xxxx

INTRODUCTION

This submission requests Office of Management and Budget (OMB) clearance of information collection provisions for the vessel permit requirements proposed under Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) (Proposed Rule 0648-AY00). This information collection submission builds upon a previously approved submission under the “Northeast Region Permit Family of Forms” (OMB Control No. 0648-0202). OMB Control No. 0648-0202 includes information collection burden estimates for provisions relating to the permitting requirements of all FMPs managed by the Northeast Regional Office of the National Oceanic and Atmospheric Administration’s (NOAA) National Marine Fisheries Service (NMFS). However, this submission is considered to be a new data collection because NMFS will be submitting a renewal request for OMB Control No. 0648-0202 at the same time as this submission. In addition, an information collection request, Observer Programs’ Information That Can Be Gathered Only Through Questions, which is at OMB for review, has already incorporated other observer information requirements from OMB Control No. 0648-0202. If approved, NMFS intends to integrate this submission into the observer collection after approval of that new collection.

The Mid-Atlantic Fishery Management Council (Council) is proposing management measures under Amendment 10 that will bring the MSB FMP into compliance with Magnuson-Stevens Fishery Conservation and Management Act (MSA) requirements by: 1) Implementing a rebuilding program that allows the butterfish stock to rebuild, and permanently protects the long-term health and stability of the stock; and 2) minimizing bycatch, and the fishing mortality of unavoidable bycatch, to the extent practicable, in the MSB fisheries. The proposed measures under Amendment 10 establish a 72-hour trip notification requirement for the *Loligo* squid fishery to facilitate the placement of observers on *Loligo* trips. This information collection submission requests approval of new information collection requirements to implement the above provisions for Amendment 10 to the MSB FMP.

A. JUSTIFICATION

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

Under the MSA, the Secretary of Commerce (Secretary) has responsibility for the conservation and management of marine fishery resources off the coast of the United States. The majority of this responsibility has been delegated to the Regional Fishery Management Councils and NMFS.

In February 2005, NMFS notified the Council that the butterfish stock was overfished, which triggered MSA requirements to implement rebuilding measures for the stock. In response, an amendment to the MSB FMP was initiated by the Council in October 2005. Analyses have shown that the primary source of butterfish discards is the *Loligo* fishery. This is due to both the year-round co-occurrence of butterfish and *Loligo*, and the small-mesh, diamond codends used to

target *Loligo*, which prevent butterfish escapement. The set of management measures proposed for rebuilding butterfish are designed to reduce the fishing mortality on butterfish that occurs through discarding of butterfish caught in directed fisheries; these measures include a butterfish mortality cap program for the *Loligo* fishery and an increase in *Loligo* minimum codend mesh size.

Tracking of the butterfish mortality cap under Amendment 10 requires the development of new measures to aid monitoring the mortality levels resulting from bycatch in the directed *Loligo* fishery. Vessels participating in the *Loligo* fishery (i.e., vessel in possession of 2,500 lb or more of *Loligo*) would be required to phone NMFS to request an observer at least 72 hours before vessels could make a directed *Loligo* trip. If a vessel does not make the required trip notification to NMFS, the vessel would be prohibited from possessing or landing more than 2,500 lb of *Loligo*. If a vessel is selected by NMFS to carry an observer, the vessel would be required to carry an observer (provided an observer is available). If a vessel cancels a trip after being selected to carry an observer, the vessel would be assigned an observer on its next trip. Additionally, vessels would be required to notify NMFS when cancelling a trip (even if not selected to carry an observer). These provisions would be new requirements for the MSB fishery and are intended to improve the ability to place observers on MSB vessels to better determine the extent of butterfish bycatch in the *Loligo* fishery. Observer data will be used to keep butterfish bycatch within the limit proposed in Amendment 10.

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 requested under this submission would be used by several NMFS offices and the Northeast Fisheries Observer Program (NEFOP) for the monitoring and implementation of the provisions proposed under Amendment 10. It would also be used by the Council to assess the magnitude of bycatch and to determine whether management measures are successful.

NMFS would use notifications of intent to fish for *Loligo* to ensure that these trips have adequate observer coverage. Vessels would be required to inform NMFS via telephone call of the vessel name and permit number; contact name for coordination of observer deployment; telephone number for contact; and date, time and port of departure. NMFS, or a contractor designated to implement the Observer Program, would use this information to select which vessel, in addition to all other eligible vessel, would be requested to carry NMFS-approved observers or sea samplers during a specific trip. Observers would be used to monitor vessel activity and to collect catch and discard data.

Calls to notify of trip cancellation would also be required to facilitate the placement of observers on vessels that will be targeting *Loligo*. Vessels canceling trips would be required to inform NMFS via telephone of the vessel name and permit number.

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 to Question 10 of this Supporting Statement for more information on

confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and 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.

This provision does not require the use of any automated techniques, but does require the use of a telephone.

4. Describe efforts to identify duplication.

NMFS is aware of all related fishery management activities, and these requirements do not duplicate any in existence.

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

Only the minimum data to meet the requirements of the program are requested from all participants. Since all of the respondents are small businesses, separate requirements based on the size of the business have not been developed.

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 above information or collecting it less frequently may compromise the effectiveness of the provisions outlined in Amendment 10 in limiting mortality of butterfish in the directed *Loligo* fishery. This information is important in determining the impacts of *Loligo* fishing operations on the butterfish stock.

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

The above described requirement may not be consistent with OMB guidelines with regard to reporting frequency because reports are required more often than quarterly. This information collection is required to be submitted prior to each trip taken by a limited access *Loligo* permit holder. Requiring such notifications prior to every trip is necessary to facilitate the placement of observers aboard permitted vessels. The information requested under this submission would be used for the monitoring and implementation of the provisions proposed under Amendment 10.

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

The information collection contained in this submission is part of a proposed rule, Regulation Identifier Number (RIN) 0648-AY00, to implement management measures outlined in Amendment 10 to the MSB FMP. This rule proposes the provisions specified above and solicits public comment on the information collection.

The Council held many Council and MSB Oversight Committee meetings during the development of Amendment 10 between October 2007 and October 2008, during which there were opportunities for public discussion of proposed management strategies. The Council approved the measures contained in Amendment 10, including the measure specified above, on October 16, 2008.

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

Neither payments nor gifts are given to the respondents.

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

All data would be handled in accordance with NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and would not be released for public use except in aggregate statistical form (and without identifying the source of data, i.e., vessel name, owner, etc.). In addition, any information submitted according to the provisions outlined in Amendment 10 would be considered confidential and would not be disclosed except as provided in Section 402(b) of the Magnuson-Stevens Act. This information is conveyed to respondents in outreach materials announcing the program implementation.

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.

There are no questions of sensitive nature included in this information collection.

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

Amendment 10 would require vessels issued a limited access *Loligo* permit to notify the observer program of their intent to fish at least 72 hours prior to leaving port. This notification would be in the form of a telephone call to the NMFS Observer Program contractor. This call is expected to take 2 minutes (0.033 hours) per call. As of 2009, there were 426 vessels issued a limited access *Loligo* permit, each fishing an annual average of 12 directed trips, for an estimated total of

5,112 trips per year. A total of 5,112 initial trip notifications to the Observer Program would be required for a total yearly burden of $5,112 \times 2 \text{ minutes}/60 \text{ minutes} = 170$ hours.

Vessels canceling trips would also be required to notify the NFMS observer program via telephone. This call is expected to take 1 minute (0.017 hours) per notification. Assuming that each of the estimated 5,112 trips has the potential to be cancelled, the total burden of the cancellation provision is $5,112 \times 1 \text{ minute}/60 \text{ minutes} = 85$ hours.

The total annual time burden for information collection under Amendment 10 is 255 hours.

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

The 426 possible participants in the limited access *Loligo* fishery would be required to notify the NMFS Fisheries Observer Program at least 72 hours prior to starting a fishing trip, and again prior to the stated departure time if the participant decides to cancel the declared fishing trip. These notifications would be in the form of a telephone call. Vessel owners may incur costs for the call, depending on where the call was placed. It is impossible to estimate the costs associated with these calls, but it is expected to be minimal. For the consideration of this submission, there are no additional costs to the public for observer coverage as specified in Amendment 10.

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

Participants in the limited access *Loligo* fishery would be required to notify the Observer Program contractor or NMFS at least 72 hours prior to each trip. The contractor or NMFS would make a determination whether an observer will be required for that trip and advise the vessel operator if they need to accommodate an observer for a particular trip. It is expected that there will be approximately 5,112 trips per year, based on an average of 12 directed trips per permitted vessel. Each response by the Observer Program or NMFS is expected to require approximately 10 minutes (0.17 hours). A wage rate of \$25/hour was used to calculate the annualized cost to the government of \$21,300 ($5,112 \text{ trips} \times 10 \text{ minutes}/60 \text{ minutes}/\text{response} \times \$25/\text{hour}$) for this provision.

Additionally, participants in the *Loligo* fishery would be required to notify the Observer Program contractor or NMFS if they decide to cancel a trip after the initial notification. Assuming that each of the estimated 5,112 trips has the potential to be cancelled, and assuming that an Observer Program or NMFS response to the cancellation requires approximately 2 minutes (0.033 hours), the annualized cost to the government for this provision is \$4,260 ($5,112 \text{ trips} \times 2 \text{ minutes}/60 \text{ minute}/\text{response} \times \$25/\text{hour}$).

The total annual cost to the government for the information collection provisions under Amendment 10 is \$25,560.

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

This is a new program.

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

Results from this collection may be used in scientific, management, technical or general informational publications such as Fisheries of the United States, which follows prescribed statistical tabulations and summary table formats. Data are available to the general public in summary form only; data are available to NMFS employees in detailed form on a need-to-know basis only.

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.

NA.

18. Explain each exception to the certification statement.

NA.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods are employed in the information collection procedures.