

SUPPORTING STATEMENT
ATLANTIC MACKEREL, SQUID AND BUTTERFISH AMENDMENT 10
OMB CONTROL NO. 0648-0601

INTRODUCTION

This submission request is a revision of OMB Control No. 0648-0601, Atlantic Mackerel, Squid and Butterfish Amendment 10. Information collection requirements contained in Amendment 11 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) (Amendment 11), put forth in Proposed Rule 0648-AX05, will be added to the existing information collection.

The primary purpose of Amendment 11 is to implement a limited access program for the Atlantic mackerel (mackerel) fishery. The mackerel limited access permit application and related processes will increase the annual budget for OMB Control No.0648-0601.

This request is being resubmitted with the final rule.

A. JUSTIFICATION

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

Under the [Magnuson-Stevens Fishery Conservation and Management Act](#) (Magnuson-Stevens Act), 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 its responsibility has been delegated to regional Fishery Management Councils and the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS).

Amendment 11 to the MSB FMP is needed to establish a cap on capacity in the mackerel fishery in a way that does not impede optimal U.S. utilization of the mackerel resource. The mackerel fishery in NMFS's Northeast Region is currently an open access fishery that allows any vessel to apply for, and be issued, a mackerel permit. Mackerel quotas have been high relative to harvest since the establishment of the open access mackerel permit. However, long-projections of reductions in sustainable mackerel harvest available to the U.S. fishery led the Mid-Atlantic Fishery Management Council (Council) to begin development of Amendment 11 in 2005. The projected declines in available harvest have become a reality; due to uncertainty in the 2010 mackerel stock assessment, the 2011 mackerel quota is over a 50% reduction from the 2010 quota (100,000 metric tons (mt) in 2010 to 46,779 in 2011). Given that the existing fleet is estimated to be capable of harvesting 200,000 mt per year, the Council developed Amendment 11 to cap mackerel fleet capacity.

The limited access program proposed in Amendment 11 seeks to improve resource conservation, minimize the potential for excess harvesting capacity in the fishery, and provide a platform for long-term economic stability for harvesters, processors, and the fishing community. Amendment 11 was adopted by the Council on October 13, 2010. This amendment is designed to meet all the requirements of the Magnuson-Stevens Act, as well as other applicable laws.

New limited access permit categories

Consistent with other limited access programs established by the Councils, initial eligibility for a limited access mackerel permit must be established during the first year after the implementation of Amendment 11. In order to qualify for a permit, a vessel must meet two eligibility criteria: 1) a vessel must have held an active Atlantic mackerel permit on March 21, 2007; 2) a vessel must have landed a specific amount of mackerel during a specific time period; there are three permit tiers with different landings requirements. To qualify for a Tier 1 Limited Access Mackerel permit, a vessel must possess a mackerel permit and have landed at least 1,000,000 lb of mackerel in any one calendar year between January 1, 1997 and December 31, 2005. To qualify for a Tier 2 Limited Access Mackerel permit, a vessel must possess a mackerel permit and have landed at least 100,000 lb of mackerel in any one calendar year between March 1, 1994 and December 31, 2005. To qualify for a Tier 3 Limited Access Mackerel permit, a vessel must possess a mackerel permit and have landed at least 1,000 lb of mackerel in any one calendar year between March 1, 1994 and December 31, 2005. Applicants would have to submit third-party verification of landings history, such as dealer receipts, to prove that a vessel is eligible for the limited access program based on the landings criteria established through Amendment 11.

A person who does not currently own a fishing vessel because their vessel has sunk, been destroyed, or transferred to another person, but who has legally retained the fishing and permit history of the vessel for the purpose of transferring it to a replacement vessel at a future date, may apply for issuance of a confirmation of permit history (CPH) during the application period for the mackerel limited access program, provided that the fishing history for that vessel has been lawfully retained by the applicant and that the applicant is able to show that the qualifying vessel meets the eligibility requirements for a given limited access mackerel permit. Issuance of a valid CPH preserves the eligibility until the applicant places the limited access mackerel permit on a replacement vessel at a later date.

An appeals procedure similar to that established for previous limited access programs has been developed. An applicant who has been denied a limited access mackerel permit may appeal in writing to the Regional Administrator.

Vessel Replacements, Upgrades, Confirmation of Permit History

The term vessel replacement, in general, refers to replacing an existing limited access vessel with another vessel. In addition to addressing increases in vessel size and horsepower, the consistency amendment also established a restriction that requires that the same entity must own both the limited access vessel (and fishing history) that is being replaced, and the replacement vessel. In order to maintain consistency with other limited access programs, this provision would be adopted for the mackerel limited access program. A vessel owner/operator must submit a replacement application to transfer limited access permits from one vessel to another.

This measure would establish vessel upgrade restrictions for the mackerel that are consistent with those for other limited access fisheries in the Northeast Region. Upgrade restrictions limit the ability of a qualified vessel to increase fishing power through refitting or replacement, and state that a vessel may increase horsepower by only 20% over the baseline horsepower, and/or may only increase overall vessel

length, gross registered tonnage, or net tonnage by 10% over permit baselines for these measurements. As with other limited access fisheries, vessels would only be eligible for one upgrade in horsepower, and one upgrade in any of the size characteristics (i.e. the horsepower upgrade may happen independent of the size upgrade, and vice versa).

Amendment 11 would create an additional baseline for vessels that qualify for Tier 1 or Tier 2 limited access mackerel permits. Vessels that qualify for Tier 1 or Tier 2 permits would be required to obtain a fish hold measurement from a certified marine surveyor, and submit the documentation of hold volume to NMFS at the time of application. Tier 1 or Tier 2 vessels that are upgraded through refitting or replacement may only increase hold volume by 10% over the baseline hold volume, and would need to submit documentation of fish hold volume for the new/upgraded vessel.

A person who does not currently own a fishing vessel because their vessel has sunk, been destroyed, or transferred to another person, but who has legally retained the fishing and permit history of the vessel for the purpose of transferring it to a replacement vessel at a future date, may apply for issuance of a CPH.

As with all of NERO's limited access programs, if a vessel owner wants to move their permit to a new vessel or retain their permit eligibility through a confirmation of permit history (CPH), they must complete a replacement, upgrade, permit history (RUPH) application.

Permit Renewals

A vessel owner must maintain the limited access permit status for an eligible vessel by renewing the permits on an annual basis. Annual renewal is considered important in establishing participants who have an active interest in maintaining their ability to participate in a limited access fishery, and, conversely, allowing permits to lapse and be cancelled for those who do not.

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 on the permit application forms is used by several offices of NMFS, the United States Coast Guard, the Mid-Atlantic Fishery Management Council (MAFMC), state fishery management agencies, academic institutions, and other fishery research and management organizations to evaluate current management programs and future management proposals. In most cases, aggregated summaries are made available, but for law enforcement, mailings, or resource allocation problems, individual permit information is often required. Mailing lists derived from the applications provide NMFS with the assurance of reaching all concerned constituents with notices of fishery closures, regulatory changes, and other important information.

Vessels applying for a limited access mackerel permit under the proposed limited access program would be required to complete an application for the limited access permit category for which they are applying, and submit proof of landings that meet the criteria for that permit category. In addition to the standard baseline requirements (horsepower, length overall, gross and net registered tonnage), Tier 1 and Tier 2 vessels will also be required to submit documentation of hold volume at initial application and at the time of vessel replacement. This information will be used by NMFS to qualify the vessel for the applicable

limited access permit category. The initial application for a limited access permit is a one time occurrence.

If a limited access permit application is denied, the applicant would be given the opportunity to appeal their denial by submitting additional information that demonstrates why the determination made by NMFS was incorrect. This information would be used by NMFS to assess the merits of the appeal.

Once a vessel is determined to qualify for a limited access permit, the vessel owner is required to renew that permit annually. The permit category itself will be used by NMFS to identify these limited access vessels, on a case-by-case basis, to ensure compliance with the restrictions associated with each limited access permit category.

Each RUPH action would require an RUPH application. This information is necessary to execute the RUPH transaction as requested by the applicant.

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, 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. Prior to dissemination, the information will be subjected to 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.

The initial limited access permit and submission instructions and the RUPH applications, will be posted as fillable Adobe Acrobat documents (PDF file format) on the NERO website (www.nero.noaa.gov). Posting such information on the internet makes it widely available to the public, thereby reducing both public and administrative burden. After the initial permit issuance, permit renewal has been made as simple as possible and currently feasible for both the public and the issuing office. The information obtained from current permits is used to prepare a computer-generated, pre-printed renewal permit, which is sent to the permit holder for updating. If there are no changes in the information required on the permit, renewal requires only the applicant's signature. This feature minimizes the reporting burden on the public as well as the administrative burden on the agency. Vessel owners may also request a pre-printed renewal form at any time during the year to make necessary changes to their permit or contact information.

4. Describe efforts to identify duplication.

The information collected in connection to limited access permit issuance is not duplicated elsewhere. The Magnuson-Stevens Act's operational guidelines require each FMP to evaluate existing state and Federal laws that govern the fisheries in question, and the findings are made part of each FMP. Council membership includes state and Federal officials responsible for resource management in their area. In addition, Amendment 11 was subject to an extensive series of public comment periods where potential

applicants review the proposed limited access permit application requirements. Therefore, NMFS is confident that the requirements in this information collection 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 the burden.

The proposed collection of information will not have significant impacts on small entities. Only the minimum data to meet the requirements of the above data needs are requested from all participants. Furthermore, detailed instructions are included with all required applications and forms to help facilitate proper completion. Since all of the respondents are small businesses, separate requirements based on the size of the vessel 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.

The limited access mackerel permit application is a one-time submission. Because an application is essential to identify the vessel applying for a limited access permit, the program could not occur if the collection is not conducted. After initial limited access mackerel permit issuance, vessels would be required to renew this permit on an annual basis or lose the permit permanently. Requiring vessels to renew their applications less frequently would prevent necessary information from being updated in a timely manner, and would compromise NMFS's ability to monitor vessel activities, in turn affecting the enforcement of management measures.

The information collected on the vessel permit form provides valuable fishery information (fishing power, gears used, etc.) this is used annually to describe the mackerel fleet and conduct necessary analysis of impacts of changes in management measures.

The RUPH applications are consistent with all other NERO limited access fisheries, and provide vessel owners flexibility to move and maintain their eligibility for the mackerel fishery as they change vessels.

The vessel hold measurement is needed to help maintain the fishing capacity of the mackerel fleet in the future. The requirement ensures that, if a mackerel permit holder changes vessels, the new vessel will be comparable in fish hold capacity to the initially permitted vessel.

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

This collection request is consistent with OMB guidelines.

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 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 collections contained in this submission were part of a proposed rule, RIN 0648-AX05, published coincident with the submission of this request. No public comments affecting the information collection requirements were received.

The Mid-Atlantic Fishery Management Council held several meetings in February 2010, that included discussion of this proposed program, and public comments were received during the development of Amendment 11.

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

No payment or gift will be made to respondents.

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

All data will be handled in accordance with [NOAA Administrative Order 216-100](#), Confidentiality of Fisheries Statistics, and will 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 collected under the Permit Family of Forms information collection (OMB Control No. 0648-0202, into which this collection will be merged at a later date) is considered confidential and would not be disclosed except as provided in Section 402(b) of the Magnuson-Stevens Act.

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 a sensitive nature involved in this collection of information.

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

Table 1 details the time burden of the new reporting requirements summarized above.

Limited access application process

It is estimated that there will be **820** applications for a limited access mackerel permit. The analysis presented by the Council in support of this action estimated that only 410 vessels might actually qualify for mackerel permits given the criteria described above. The Council recommended that vessels be allowed to qualify for mackerel permits with open access permit history that has been lawfully retained in a purchase and sale agreement during the sale of a vessel (permit splitting). The estimate of 820 applicants assumes that every potential qualifier splits their history so that two vessels can qualify. With an average processing time of 45 minutes, the total time burden for this application is **615 hours**.

Renewal of permits by the **410** qualifying vessels each year is estimated to take 30 minutes on average to process, for a total burden of **205 hours each, the second and third years**.

Up to **30** applicants are expected to appeal the denial of their permit application (other FMPs estimated between 5-7% of applications would move on to the appeal stage). The appeals process is estimated to take 2 hours to complete, on average, with a burden of **60 hours**.

Annualized responses and hours for applications and appeals would be: $(820 + 410 + 410 + 30 = 1670)/3$, or 557 responses and $(615 + 205 + 205 + 60 = 1,085)/3$ or 362 hours.

Replacement/Upgrade and CPH

New limited access mackerel vessels would be subject to the same replacement, upgrade and permit history restrictions as other limited access vessels. Completion of a replacement or upgrade application requires an estimated 3 hours per response. It is estimated that no more than **40** of 410 vessels possessing these permits will request a vessel replacement or upgrade annually (other FMPs estimated roughly 10 percent of vessels). The resultant burden would be up to **120 hours**. Completion of a CPH application requires an estimated 30 minutes per response. It is estimated that no more than **30** of the 410 vessels possessing these limited access permits will request a CPH annually. The resulting burden would be up to **15 hours**.

Tier 1 and Tier 2 Hold Volume Certification

Vessels that qualify for a Tier 1 or Tier 2 mackerel permit will be required to submit documentation of hold volume size after permit issuance, and at the time of replacement if a Tier 1 or 2 mackerel permit is moved to a new vessel, or if a vessel is upgraded and fish hold volume changes. The Council estimated that 74 vessels would qualify for either a Tier 1 or Tier 2 limited access mackerel permit, and would be required to submit a fish hold volume certification at the time of permit issuance. Roughly 40 vessels are expected to upgrade or replace vessels each year and thus need replacement certifications. Tier 1 and 2 vessels will experience a time burden due to this requirement in the form of travel time to/from a certified marine surveyor. It is impossible to estimate a time burden associated with obtaining a hold volume measurement, as vessels would have to travel varying distances to visit certified marine surveyors; **however, this is not an information collection burden and thus these are not counted as responses.**

Total unduplicated respondents would be 820 (including initial and renewal applicants and appellants, RUPH and vessel hold certification applicants), annualized to 273. Total annualized responses would be 626 (556 +40 + 30). The total annualized burden hours are 497 (362 + 120 + 15).

Existing respondents, responses and hours for this overall information collection (for current information collections, unmodified) are 426, 10,224 and 255.

Thus, the new totals will be 699, 10,850 responses and 752 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).

Table 1 details the cost of the new reporting requirements summarized above.

Limited access application process

It is estimated that it would cost \$0.44 in postage fees to submit an initial permit application and permit renewal application. **Therefore, it would cost on average over a three year period an estimated \$241 per year in postage fees (820 initial applications + 410 renewals + 410 renewals = 1,640 x \$0.44 = \$722 / 3 years = \$240).**

It is estimated that it would cost approximately \$1 in mail fees and \$1 in copy fees (10 pages at \$0.10 per page) to submit materials supporting an appeal. Since it is anticipated that there will be approximately 30

appeals during the 90 day application period, annualized to 10 appeals, **the cost burden resulting from the appeals process would be approximately \$20 (\$2 x 10).**

Replacement/Upgrade and CPH

It is estimated that it would cost approximately \$1 in mail fees and \$1 in copy fees to submit an RUPH application. **Therefore, it is estimated that 70 RUPH applications submitted annually would cost \$140 to print and mail (\$2 x 70).**

Tier 1 and Tier 2 Hold Volume Certification

Informal contacts by Council staff with several marine surveyors revealed that a fish hold measurement could run approximately \$13.30-\$40 per foot of vessel length, which could range from as low as \$1,000 for a 75 foot vessel to as high as \$6,000 for a 150 foot vessel. If we assume that the average vessel that qualifies for a Tier 1 or Tier 2 permit is 100 ft in length, and use the highest hold measurement price, then each hold volume measurement done by a certified marine surveyor is estimated to cost **\$4,000** (\$40 x 100ft). The Council estimated that **74** vessels would qualify for either a Tier 1 or Tier 2 limited access mackerel permit, therefore it is estimated that the annualized cost for the initial hold volume certification cost for these vessel would be \$98,667, not including travel expenses (74 initial hold volume certification x \$4,000 = \$296,000/ 3years = **\$98,667**). A total of **40** vessels replacements are expected each year, and the total annual hold volume certification cost for these vessels is estimated as **\$160,000**. **Therefore, it would cost on average over a three year period an estimated \$258,667 per year (\$98,667 for annualized initial hold volume certifications, plus \$160,000 for replacement hold volume certifications).**

Total costs from this request are \$259,067 (\$240 + \$20 + \$140 + \$258,667).

There were no existing recordkeeping/reporting costs for this information collection, so the new total is \$259,067.

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

A full summary of the cost to the Federal Government associated with this new collection of information can be found in Table 1.

The estimated average cost to the Federal Government to issue a Federal fishery permit is \$33 per permit, including labor cost, printing, distribution, computer time, and handling. It is estimated that there will be 820 initial applications and 410 annual permit renewals, resulting in an average 3 year government cost burden of \$18,040. The annual estimated cost to the Federal Government is estimated to be \$25 for processing appeals, thus the annualized average 3 year government cost of appeals for 30 vessels is \$250.

The annual estimated cost to the Federal Government is estimated to be \$25 for vessel replacements, vessel upgrades, and confirmation of permit history applications. It is estimated that there will be up to 70 replacement/upgrade/CPH applications processed annually, which will increase the annual government burden total to \$1,750.

Total annualized federal costs from this request are \$20,040.

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

The program changes related to the implementation of the mackerel limited access program in MSB Amendment 11 will result in a total increase of 626 responses, 497 burden hours, and an increased cost to the public of \$259,067.

The mackerel limited access permitting requirements, which includes the initial permit application and permit renewals, would increase the 3-year annual budget on average by 37 minutes and \$.44 per response. The 3 year average total public time burden and cost for mackerel limited access initial permit applications, and permits renewals would thus be 342 hours and \$240.

The Appeals process would increase the annual budget by approximately 2 hours and \$2 per response. The average overall public burden would be approximately 20 hours and \$20.

RUPH applications would increase the annual budget by approximately 3 hours and \$2 per response. The overall public burden would be approximately 135 hours and \$140.

The hold volume certification, which includes an initial certification after permit issuance, and new certifications for replacement vessels, would increase the annual budget by an estimated \$4,000 per response, for a total cost of \$258,667.

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 on request 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. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods are employed in the information collection procedures.

Table 1. New reporting requirements.

| Requirement | # of entities | Items per entity | Total # items | Response Time (Hours) | Total Burden (Hours) | Cost to: | |
|---------------------------------------|---------------|------------------|---------------|-----------------------|----------------------|------------------|------------------|
| | | | | | | Public | Government |
| Limited Access Permits | | | | | | | |
| Year 1--Initial Application | 820 | 1 | 820 | 45 min. | 615 | \$ 361 | \$ 27,060 |
| Year 2--Permit Renewal | 410 | 1 | 410 | 30 min | 205 | \$ 180 | \$ 13,530 |
| Year 3--Permit Renewal | 410 | 1 | 410 | 30 min | 205 | \$ 180 | \$ 13,530 |
| Permit Denial Appeals | 30 | 1 | 30 | 2 | 60 | \$ 60 | \$ 750 |
| Initial vessel hold certification | 74 | NA | NA | NA | NA | \$296,000 | NA |
| 3 Year Average | 273* | 1 | 556 | 1 | 362 | \$ 98,927 | \$ 18,290 |
| Replacement/Upgrade Applications | 40 | 1 | 40 | 3 | 120 | \$ 80 | \$ 1,000 |
| Confirmation of Permit History | 30 | 1 | 30 | 30 min | 15 | \$ 60 | \$ 750 |
| Replacement vessel hold certification | 40 | NA | NA | NA | NA | \$160,000 | NA |
| Total | 273* | | 626 | | 497 | \$259,067 | \$ 20,040 |

*Unduplicated: respondents for all activities are part of the original 820, annualized to 273.