

SUPPORTING STATEMENT
AMENDMENT 7 TO THE FISHERY ECOSYSTEM PLAN FOR PELAGIC FISHERIES
OF THE WESTERN PACIFIC REGION – U.S. TERRITORIAL CATCH AND FISHING
EFFORT LIMITS
OMB CONTROL NO. 0648-XXXX

This is a request for a new information collection for specified fishing agreements for the Governments of American Samoa, Guam and the Northern Mariana Islands, contained in the proposed rule “Western Pacific Pelagic Fisheries; U.S. Territorial Catch and Fishing Effort Limits” (RIN 0648-BD46).

A. JUSTIFICATION

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

In 2011, Congress passed Public Law 112-55, 125 Stat. 552 *et seq.*, the [Consolidated and Further Continuing Appropriations Act, 2012](#) (CFCAA). Section 113 of the CFCAA authorized the U.S. participating territories to use, assign, allocate, and manage catch or fishing effort limits agreed to by the WCPFC through fishing agreements with U.S. fishing vessels to support fisheries development in the territories, and directed NOAA’s National Marine Fisheries Service (NMFS) to attribute catches of pelagic management unit species (MUS) made by such vessels to the United States (U.S.) participating territory to which the agreement applies. Section 113 of the CFCAA also directed the Western Pacific Fishery Management Council (Council) to amend the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FEP) to implement these provisions under the plan. In 2013, Congress extended the Section 113 provisions through [Public Law 113-6, 125 Stat. 603, Section 110](#), the Department of Commerce Appropriations Act.

In accordance with Section 113 of the CFCAA, as extended by Section 110 of the Department of Commerce Appropriations Act of 2013, the Council prepared Amendment 7 to the Pelagics FEP, which would establish a process for specifying catch or fishing effort limits and accountability measures for pelagic fisheries in the U.S. participating territories.

The proposed rule would implement the Council’s recommendation, and would authorize each U.S. participating territory to enter into specified fishing agreements with U.S. fishing vessels that are permitted under the Pelagics FEP and to allocate to those vessels a specified portion of a territory’s catch or fishing effort limit, as determined by NMFS and the Council.

The proposed rule would also establish under [50 CFR 665](#) the criteria that specified fishing agreements must satisfy, and procedures for reviewing specified fishing agreements.

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.

A specified fishing agreement is a voluntary agreement between a U.S. participating territory and a U.S. fishing vessel(s), and allows a territory to allocate a portion of a specified catch or effort limit to the vessel(s) identified in the agreement.

Each fishing year, which begins January 1, NMFS will publish in the Federal Register a notice of the proposed catch or effort limit specification applicable to each U.S. participating territory and the portion of the limit that each territory may allocate to fishing vessels identified in a specified fishing agreement. After considering public comments, NMFS will publish in the Federal Register the final catch or effort limit specification. A U.S. participating territory may submit a specified fishing agreement to NMFS at any time during the fishing year.

Specifically, the proposed rule would require a U.S. participating territory that is interested in allocating a portion of its specified catch or effort limits to submit to NMFS and the Council a specified fishing agreement that includes the following information:

1. Identify the vessel(s) to which the fishing agreement applies, along with documentation that such vessel(s) possesses a valid permit issued under 50 CFR 665.801;
2. Identify the amount (weight) of the western Pacific pelagic MUS to which the fishing agreement applies, if applicable;
3. Identify the amount of fishing effort (for example, number of longline sets or hooks deployed) to which the fishing agreement applies, if applicable;
4. Be signed by an authorized official of the applicable U.S. participating territory, or designated representative;
5. Be signed by each vessel owner or designated representative; and
6. Satisfy either (a) or (b) below:
 - a. Require the identified vessels to land or offload catch in the ports of the U.S. participating territory to which the fishing agreement applies; or
 - b. Specify the amount of monetary contributions that each vessel owner in the agreement, or his or her designated representative, will deposit into the Western Pacific Sustainable Fisheries Fund; and
7. Be consistent with the Pelagics FEP and implementing regulations, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable laws; and
8. Shall not confer any right of compensation to any party enforceable against the United States should action under such agreement be prohibited or limited by NMFS pursuant to its authority under the Magnuson-Stevens Act or other applicable laws.

The proposed rule also requires a U.S. participating territory to notify NMFS and the Council in writing of any changes in the identity of fishing vessels to which the specified fishing agreement applies within 72 hours of the change.

In addition to publishing the proposed rule in the Federal Register, which contains the list of requirements that a specified fishing agreement must contain and submission instructions, NMFS

mailed copies of the proposed rule to all fishermen to which the proposed rule would apply. NMFS also notified government officials and Congressional representatives of the U.S. Pacific Territories to which the proposed rule applies. *If a final rule issued, NMFS will publish a compliance guide that will explain the new requirements (to be submitted with the Final Rule resubmission of this request).* In addition, information will be accessible through the web page for the NMFS Pacific Islands Regional Office and in 50 CFR 665.

NMFS will use the information provided in a specified fishing agreement to determine whether or not the vessels identified in the agreement possess a valid Federal fishing permit issued under 50 CFR 665.801. NMFS will also use the information to ensure that catches or fishing effort made by vessels identified in an specified fishing agreement are properly attributed to the territory to which the agreement applies, and to inform vessels when a limit is projected to be reached, and the restrictions NMFS will impose to prevent exceeding a limit.

NMFS will also use the information to determine whether the fishing agreement includes a landing requirement or a deposit in support of implementation of a marine conservation plan and, thus, supports fisheries development in the territories as intended by Section 113. NOAA Office of Law Enforcement and the U.S. Coast Guard may also use the information provided in the specified fishing agreements ensure vessels identified in the agreements comply with catch and fishing effort limit restrictions.

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.

The collection of information of a specified fishing agreement involves no forms. Copies of the relevant regulations (50 CFR 665) and requirements for submitting specified fishing agreements will be available at <http://www.ecfr.gov> and at <http://www.fpir.noaa.gov>, as well as in paper format available at NMFS offices in the region.. The collection of information does not require any knowledge of automated, electronic, mechanical, or other technology.

4. Describe efforts to identify duplication.

Existing regulations under 50 CFR 300.224(g) that implement the provisions of Section 113 through the end of 2013 became invalid at the end of 2013, thus eliminating potential duplication. To our knowledge, these data are not already being collected.

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

Although only the governments of American Samoa, Guam, and the Northern Mariana Islands can submit a specified fishing agreement, the collection of information burden would fall primary on small businesses and small entities (e.g., fishing vessel owners) that seek to enter into specified fishing agreements with those governments. However, the regulations provide an opportunity for an authorized official of the applicable U.S. participating territory, and a designated representative of fishing vessel owners to sign for multiple fishing vessel owners subject to a specified fishing agreement. Therefore, not all vessel owners need enter into separate fishing agreements.

Because no paper forms are needed for NMFS to collect the information, an authorized official of the applicable U.S. participating territory may submit a specified fishing agreement by mail or electronically by email on or before the specified deadline announced in a Federal Register notice.

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

Without the collection of information, U.S. participating territories could enter into fishing agreements with Pelagic FEP permitted vessels, but NMFS would not know the identity of those vessels, and would not be able to attribute catches or fishing effort made by those vessels to the territory to which the agreement applies. Instead, NMFS would attribute catch and effort by those fishing vessels to the geographic area where the vessels land their catch. As a result, catches and effort by fishing vessels identified in a specified fishing agreement would continue to be allocated to the geographic area where catch is landed and not to the territory with which a fishing vessel has made an agreement.

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

None.

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 proposed rule, RIN 0648-BD46, published in the Federal Register on January 8, 2014 (79 FR 1354) soliciting public comments on this submission. The comment period ends on February 24, 2014. Additionally, NMFS consulted representatives of the fishing community who would be affected by the proposed rule to help estimate the reporting burden experienced when completing specified fishing agreements in previous years.

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

No payments or gifts are provided.

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

Under Section 402(b) of the [Magnuson-Stevens Act](#), amended in 2006, and [NOAA Administrative Order 216-100](#), information submitted in accordance with regulatory requirements under the Act is confidential. Any guidance issued subsequent to NMFS publishing a final rule in the [Federal Register](#) will include this statement.

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

No questions are asked of a sensitive nature.

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

NMFS expects to receive and process up to nine agreements each year. U.S. participating territories and small businesses and small entities (e.g., fishing vessel owners) are expected to spend six hours collecting and reviewing information necessary to complete the specified fishing agreement. Thus, the total collection-of-information burden for the collection of information is estimated at 54 hr per year.

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).

There is no start-up or capital cost for complying with this requirement. Respondents may incur costs for submitting a specified fishing agreement to NMFS and the Council. The maximum estimated annual cost to respondents for postage, faxes, copies, etc., related to this collection is \$90 (\$10 per agreement).

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

The estimated annual cost to the Federal government to administer this information collection is up to \$225. This includes cost of reviewing specified fishing agreements for consistency with the criteria set forth in 50 CFR 665, provisions of the Magnuson-Stevens Act, and other applicable law based on nine (9) agreements x 1 hr/agreement x \$25/hr.

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

This is a new information collection.

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

No formal scientific publications based on these collections are planned at this time.

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.

Not Applicable.

18. Explain each exception to the certification statement.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not use statistical methods.