

SUPPORTING STATEMENT

TERRITORIAL CATCH AND EFFORT LIMITS AND SPECIFIED FISHING AGREEMENT - FISHERY ECOSYSTEM PLAN FOR PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

OMB CONTROL NO. 0648-0689

This Supporting Statement is for an extension of the previously approved information collection under OMB Control No. 0648-0689.

A. JUSTIFICATION

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

The Fishery Ecosystem Plan (FEP) for Pelagic Fisheries of the Western Pacific contains a process that allows NOAA's National Marine Fisheries Service (NMFS) to implement catch and/or fishing effort limits for management unit species (MUS) caught by pelagic fisheries in the American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (hereinafter, the U.S. territories). The process also allows NMFS to authorize the government of each U.S. territory to allocate a specific amount of MUS to a U.S. fishing vessel permitted under the FEP through a specified fishing agreement, not to exceed the amount made available for allocation by NMFS. Funds provided by U.S. fishing vessels through a specified fishing agreement are deposited into the Western Pacific Sustainable Fisheries Fund (SFF) to support fisheries development projects listed in a marine conservation plan of a U.S. territory submitted to and approved by the Secretary of Commerce.

Data gathered under a specified fishing agreement will include the identity of fishing vessels subject to the agreement, the amount (weight) of MUS or fishing effort to which the agreement applies, and the amount of monetary contributions that fishing vessel, subject to the agreement, will deposit into the SFF, if applicable. Additionally, specified fishing agreements must be signed by an authorized official of the U.S. territory or designated representative, and be signed by each vessel owner or designated representative. There is no form for an agreement.

2. 1 Explain how, by whom, how frequently, and for what purpose the information will be used. 1 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. territory and a U.S. fishing vessel(s) permitted under the Pelagics FEP, and provides the vessel(s) identified in the agreement with access to a specified amount (weight) of MUS or fishing effort, not to exceed the amount made available for allocation by NMFS.

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

effort limit, and amount of allocation in the Federal Register. A U.S. territory may submit a specified fishing agreement to NMFS at any time during the fishing year.

NMFS will use the information provided in a specified fishing agreement to determine whether the vessels identified in the agreement possess a valid federal fishing permit issued under § 665.801, and ensure the amount of MUS or fishing effort available for allocation to a U.S. fishing vessel is consistent with the Pelagic FEP, the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and other applicable laws, and the conservation needs of the stock. NMFS will also use the information to ensure that catches or fishing effort made by vessels identified in a 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 specified 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 the Pelagics FEP. NOAA Office of Law Enforcement and the U.S. Coast Guard may also use the information provided in the specified fishing agreements to 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 use of forms. Copies of the relevant regulations (50 CFR 665.819) and requirements for submitting specified fishing agreements are available on the Internet at https://ecfr.io/Title-50/pt50.13.665#se50.13.665_1819. This collection of information does not require any knowledge of automated, electronic, mechanical, or other technology.

4. Describe efforts to identify duplication.

There are no existing forms for the collection of this information and none are being created.

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

Although a specified fishing agreement can only be submitted by the governments of American

Samoa, Guam, and the Northern Mariana Islands, 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. 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 from NMFS to collect the information, an authorized official of the applicable U.S. 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. 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 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 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.

NMFS published a notice in the Federal Register on September 18, 2018 (83 FR 47138) to solicit public comments on this submission. NMFS received no comments.

NMFS sent the FRN and request for comments to six persons from the fishing industry, territorial and commonwealth governments, and fishery council staff. One person responded.

Comment: "I think the existing data collection is needed and time and costs seem reasonable."

Response: We thanked the responder for their comment.

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

No payments or gifts are provided to respondents.

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 MSA, amended in 2006, and NOAA Administrative Order 216-100, information submitted in accordance with regulatory requirements under the MSA is confidential.

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.

NOAA Fisheries expects to receive and process up to five (5) agreements each year. U.S. participating territories and small businesses and small entities (e.g., fishing vessel owners) are expected to spend 6 hours collecting and reviewing information necessary to complete the specified fishing agreement. One appeal, taking 2 hours to complete, may be received. Thus, the total collection-of-information burden for the collection of information is estimated at 32 hours per year.

$(5 \text{ fishing agreements} \times 6 \text{ hr}) + (1 \text{ appeal} \times 2 \text{ hr}) = 32 \text{ hr total estimated burden.}$

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).

There is no startup 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 \$60 per agreement or \$10 per appeal.

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 \$150. 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 five (5) agreements x 1 hr./agreement x \$30/hr.

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

We have received a maximum of three agreements in one year to date. The total number of responses expected was reduced to five.

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.

This question is not applicable.

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

This question is not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not use statistical methods.