

**§ 600.415**

**50 CFR Ch. VI (10-1-06 Edition)**

**§ 600.415 Access to statistics.**

(a) *General.* In determining whether to grant a request for access to confidential data, the following information will be taken into consideration (also see § 600.130):

(1) The specific types of data required.

(2) The relevance of the data to conservation and management issues.

(3) The duration of time access will be required: continuous, infrequent, or one-time.

(4) An explanation of why the availability of aggregate or non-confidential summaries of data from other sources would not satisfy the requested needs.

(b) *Federal employees.* Statistics submitted as a requirement of an FMP and that reveal the identity of the submitter will only be accessible to the following:

(1) Personnel within NMFS responsible for the collection, processing, and storage of the statistics.

(2) Federal employees who are responsible for FMP development, monitoring, and enforcement.

(3) Personnel within NMFS performing research that requires confidential statistics.

(4) Other NOAA personnel on a demonstrable need-to-know basis.

(5) NOAA/NMFS contractors or grantees who require access to confidential statistics to perform functions authorized by a Federal contract or grant.

(c) *State personnel.* Upon written request, confidential statistics will only be accessible if:

(1) State employees demonstrate a need for confidential statistics for use in fishery conservation and management.

(2) The state has entered into a written agreement between the Assistant Administrator and the head of the state's agency that manages marine and/or anadromous fisheries. The agreement shall contain a finding by the Assistant Administrator that the state has confidentiality protection authority comparable to the Magnuson-Stevens Act and that the state will exercise this authority to limit subsequent access and use of the data to fishery management and monitoring purposes.

(d) *Councils.* Upon written request by the Council Executive Director, access to confidential data will be granted to:

(1) Council employees who are responsible for FMP development and monitoring.

(2) A Council for use by the Council for conservation and management purposes, with the approval of the Assistant Administrator. In addition to the information described in paragraph (a) of this section, the Assistant Administrator will consider the following in deciding whether to grant access:

(i) The possibility that Council members might gain personal or competitive advantage from access to the data.

(ii) The possibility that the suppliers of the data would be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings.

(3) A contractor of the Council for use in such analysis or studies necessary for conservation and management purposes, with approval of the Assistant Administrator and execution of an agreement with NMFS as described by NOAA Administrative Order (NAO) 216-100.

(e) *Prohibitions.* Persons having access to these data are prohibited from unauthorized use or disclosure and are subject to the provisions of 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NAO 216-100.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

**§ 600.420 Control system.**

(a) The Assistant Administrator maintains a control system to protect the identity of submitters of statistics required by an FMP. The control system:

(1) Identifies those persons who have access to the statistics.

(2) Contains procedures to limit access to confidential data to authorized users.

(3) Provides for safeguarding the data.

(b) This system requires that all persons who have authorized access to the data be informed of the confidentiality of the data. These persons are required to sign a statement that they:

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(1) Have been informed that the data are confidential.

(2) Have reviewed and are familiar with the procedures to protect confidential statistics.

### § 600.425 Release of statistics.

(a) The Assistant Administrator will not release to the public any statistics required to be submitted under an FMP in a form that would identify the submitter, except as required by law.

(b) All requests from the public for statistics submitted in response to a requirement of an FMP will be processed consistent with the NOAA FOIA regulations (15 CFR part 903), NAO 205-14, Department of Commerce Administrative Orders 205-12 and 205-14 and 15 CFR part 4.

(c) NOAA does not release or allow access to confidential information in its possession to members of Council advisory groups, except as provided by law.

## Subpart F—Foreign Fishing

### § 600.501 Vessel permits.

(a) *General.* (1) Each FFV fishing under the Magnuson-Stevens Act must have on board a permit issued under this section, unless it is engaged only in recreational fishing.

(2) Permits issued under this section do not authorize FFV's or persons to harass, capture, or kill marine mammals. No marine mammals may be taken in the course of fishing unless that vessel has on board a currently valid Authorization Certificate under the MMPA. Regulations governing the taking of marine mammals incidental to commercial fishing operations are contained in 50 CFR part 229 of this title.

(b) *Responsibility of owners and operators.* The owners and operators of each FFV are jointly and severally responsible for compliance with the Magnuson-Stevens Act, the applicable GIFA, this subpart, and any permit issued under the Magnuson-Stevens Act and this subpart. The owners and operators of each FFV bear civil responsibility for the acts of their employees and agents constituting violations, regardless of whether the specific acts were authorized or even forbidden by the

employer or principal, and regardless of knowledge concerning the occurrence.

(c) *Activity codes.* Permits to fish under this subpart may be issued by the Assistant Administrator for the activities described in this paragraph, but the permits may be modified by regulations of this subpart and by the conditions and restrictions attached to the permit (see paragraphs (e)(1)(v) and (1) of this section). The Assistant Administrator may issue a permit, as appropriate, for one or more of the activity codes listed. Only vessels of nations having a GIFA with the United States may be issued permits for activity codes 1 through 9. A GIFA is not required for a vessel to be issued a permit for activity code 10. The activity codes are described as follows:

(1) *Activity Code 1.* Catching, scouting, processing, transshipping, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(2) *Activity Code 2.* Processing, scouting, transshipping, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(3) *Activity Code 3.* Transshipping, scouting, and supporting foreign vessels. Activity is limited to fish harvested or to be harvested by foreign vessels in the EEZ.

(4) *Activity Code 4.* Processing, scouting, transshipping, and supporting U.S. vessels delivering fish to foreign vessels. Activity is limited to the receipt of unprocessed fish harvested or to be harvested by U.S. vessels.

(5) *Activity Code 5.* Transshipping, scouting, and supporting foreign vessels. Transshipment limited to fish received or to be received from foreign vessels processing fish from U.S. harvesting vessels.

(6) *Activity Code 6.* Transshipping, scouting, and supporting U.S. vessels. Transshipment limited to U.S.-harvested fish processed on board U.S. vessels.

(7) *Activity Code 7.* Processing, transshipping, and supporting foreign vessels. Activity limited to fish harvested or to be harvested by foreign vessels seaward of the EEZ.