

## § 600.420

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.

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### § 600.420 Control system.

(a) The Assistant Administrator maintains a control system to protect

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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:

(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