

Center for Regulatory Effectiveness

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**Comments on Proposed Information Collection Request (“ICR”),
Permits for Incidental Taking of Endangered or Threatened Species,
OMB Control Number: 0648–0230, 76 FR 70417 (November 14, 2011),
Available online at <http://www.gpo.gov/fdsys/pkg/FR-2011-11-14/pdf/2011-29279.pdf>;
Comments filed by email to dHynek@doc.gov), on January 9, 2012**

CRE appreciates the opportunity to comment on this ICR by the National Marine Fisheries Service (“NMFS”). CRE does not oppose this ICR. We do, however, request some changes in its Supporting Statement. These changes relate to the Supporting Statement’s discussion of the ICR’s compliance with the Information Quality Act (“IQA”).

The most recent Supporting Statement contains the following discussion of the ICR’s compliance with the IQA:

**“SUPPORTING STATEMENT
PERMITS FOR INCIDENTAL TAKING OF ENDANGERED OR
THREATENED SPECIES
OMB CONTROL NO. 0648-0230”**

“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 applicable NOAA Information Quality Guidelines.”

“As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response to question 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

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information will be subjected to quality control measures and a pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#) .”¹

We request that the Supporting Statement be amended to more specifically reference and identify the “quality control measures and a pre-dissemination review” required by the IQA, NMFS’ IQA guidelines, and NMFS’ IQA directives and guidance. Some specific revisions follow.

First, the Supporting Statement should be revised to specifically reference NMFS’ IQA guidelines, instead of just referencing the IQA itself.²

Second, the Supporting Statement should be revised to reference NMFS’ *Instruction on NMFS DATA DOCUMENTATION*, which states at pages 11-12 that all NMFS data disseminations must meet NMFS’ IQA guidelines.³

Third, the Supporting Statement should be revised to reference NMFS’ *Instruction on SECTION 515 PRE-DISSEMINATION REVIEW AND DOCUMENTATION FORM*.⁴

Fourth, the Supporting Statement should be revised to reference NMFS’ *Instruction on GUIDELINES FOR AGENCY ADMINISTRATIVE RECORDS*, which states at pages 2-3 that:

“The AR [Administrative Record] first must document the process the agency used in reaching its final decision in order to show that the agency followed required procedures. For NOAA actions, procedural requirements include...the Information Quality Act...”⁵

Fifth, the Supporting Statement should be revised to reference NMFS’ *DIRECTIVE on Data and Information Management* , which states at page 3 that

¹ NMFS’ latest Supporting Statement for this ICR is available online at

http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=200808-0648-008

² NMFS’ IQA guidelines are available online at *Policy Directive on Policy on the Data Quality Act*, <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/policies/04-108.pdf> . See also *NMFS INSTRUCTION on Data Quality Act, SECTION 515 PRE-DISSEMINATION REVIEW AND DOCUMENTATION GUIDELINES*, <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/procedures/04-108-03.pdf> , which should also be referenced in the Supporting Statement.

³ This NMFS *Instruction* is available online at <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/procedures/04-111-01.pdf> .

⁴ This NMFS *Instruction* is available online at <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/procedures/04-108-02.pdf> .

⁵ This NMFS *Instruction* is available online at <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/procedures/30-123-01.pdf>

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“(General Policy and Requirements

A. Data are among the most valuable public assets that NMFS controls, and are an essential enabler of the NMFS mission. The data will be visible, accessible, and understandable to authorized users to support mission objectives, in compliance with OMB guidelines for implementing the “Information Quality Act” (IQA)....”⁶

If NMFS believes that any of the above-cited NMFS IQA requirements do not apply to this ICR, then we ask NMFS to say so and explain why in the Supporting Statement and in NMFS’ response to CRE’s comments on this ICR.

We also ask that NMFS reference in the Supporting Statement any *Instructions* or *Directives* or other IQA requirements that apply to this ICR but which are not cited or referenced in CRE’s comments.

We once again thank you for the opportunity to submit these comments, and we look forward to NMFS’ response.



Jim Tozzi

Member, Board of Advisors

⁶ This NMFS *Directive* is available online at <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/policies/04-111.pdf>