

## **Appendix F**

### **Non-Disclosure Forms for Staff Handling Confidential Data**

## FISHERIES STATISTICS AND ECONOMICS DIVISION OFFICE HANDBOOK

### PROTECTION OF CONFIDENTIAL FISHERIES STATISTICS

#### PURPOSE:

This section:

- prescribes policies and procedures for protecting the confidentiality of data submitted to and collected by the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) as authorized or required by law;
- informs authorized users of their obligations for maintaining the confidentiality of data received by NMFS;
- provides for operational safeguards to maintain the security of data; and
- states the penalties provided by law for disclosure of confidential data.

This Order covers all confidential data received, collected, maintained, or used by NMFS.

The NMFS headquarters office with primary interest in confidentiality is F/ST1

#### POLICY:

For data subject to this Order, it is NMFS policy that:

- confidential data shall only be disclosed to the public if required by the Freedom of Information Act (FOIA), 5 U.S.C.552, the Privacy Act, 5 U.S.C. 552a, or by court order.
- Disclosure of data pursuant to a subpoena issued by an agency of competent jurisdiction is a lawful disclosure.
- Disclosure pursuant to a subpoena must be approved by GC;
- individual identifiers shall be retained with data, unless the permanent deletion is consistent with the needs of NMFS and good scientific practice [See Section 6.02c];
- and a notice is required on all report forms requesting data and must comply with 5 U.S.C. 552a(e)(3) and Paperwork Reduction Act requirements in NAO 216-8, Information Collections and Requirements Needing Office of Management and Budget Clearance. [See E.O. 12600 of June 23, 1987, for additional information regarding the rights of submitters to designate commercial confidential data at the time of submission.]

#### DATA COLLECTION:

To collect data, the Secretary may use Federal employees, contractor employees, or, pursuant to an agreement, State employees.

#### General Requirements

- Personnel authorized to collect Federal data must maintain all documents containing confidential data in secure facilities; and

- may not disclose confidential data, whether recorded or not, to anyone not authorized to receive and handle such data.

#### Specific Requirements

- Each Federal or contractor employee collecting or processing confidential data will be required to read, date, and sign a statement of nondisclosure, that affirms the employee's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and disclosure of the data.
- Upon signature, the employee's name will be placed on record as an "authorized user," and the employee will be issued certification.
- Data collected by a contractor must be transferred timely to authorized Federal employees; no copies of these data may be retained by the contractor.
- NMFS may permit contractors to retain aggregated data. A data return clause shall be included in the agreement.
- All procedures applicable to Federal employees must be followed by contractor employees collecting data with Federal authority.
- Under agreements with the State, each State data collector collecting confidential data will sign a statement at least as protective as the one signed by Federal employees, which affirms that the signer understands the applicable procedures and regulations and the penalties for unauthorized disclosure.

STATEMENT OF NON DISCLOSURE:

I have read the NOAA Administrative Order on Confidentiality of Statistics and understand its contents.

I will not disclose any data identified as confidential to any person(s), except as directed by the Assistant Administrator for Fisheries. I am fully aware of the civil and criminal penalties for unauthorized disclosure, misuse, or other violation of the confidentiality of such data.

I understand that I may be subject to criminal and civil penalties under provisions of Titles 5 U.S.C. 552 and 18 U.S.C. 1905, which are the primary Federal statutes prohibiting unauthorized disclosure of confidential data. I may also be subject to civil penalties for improper disclosure of data collected under the Magnuson Act or the MMPA.

\_\_\_\_\_  
Name typed, date

\_\_\_\_\_  
Signature

- Affiliation:    \_\_\_ NMFS  
 (Check one) \_\_\_ Other Federal  
                   \_\_\_ State  
                   \_\_\_ Council Staff  
                   \_\_\_ Council Member  
                   \_\_\_ Contractor  
                   \_\_\_ Grantee

- Type of Data: \_\_\_ Source  
                   \_\_\_ Subregional  
                   \_\_\_ Regional  
                   \_\_\_ Multiregional  
                   \_\_\_ Special

Access Number: \_\_\_\_\_

\_\_\_\_\_  
Signature  
Designated NMFS Official