



U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE
SOUTHWEST FISHERIES SCIENCE CENTER



DATA CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Data Confidentiality and Non-Disclosure Agreement is prepared by the National Marine Fisheries Service (NMFS) – Southwest Fisheries Science Center (SWFSC), an agency of the United States Government. This Agreement covers information, technical data, trade secrets, and data access to which is under the control of the Department of Commerce (DOC), the disclosure is subject to and shall be in accordance with all conditions and limitations set forth herein.

§ 1. Restrictions on Disclosure and Use

Data shall be disclosed under provisions of the Disclosure of Confidential Information Generally (18 U.S. Code § 1905) and the Freedom of Information Act (5 U.S. Code § 552), with applicable criminal and civil penalties for unauthorized or improper disclosure of confidential information.

- (a) The Recipient agrees to adopt or establish operating procedures and physical security measures designed to protect these Data from inadvertent release or disclosure to unauthorized third parties.
- (b) The Recipient agrees to accept these Data “as is” without any Government representation as to suitability for intended use or warranty whatsoever.
- (c) The Recipient agrees to indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including court costs, and expenses arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of data received from the Government.

§ 2. Requirements for Public Dissemination

Fisheries data from commercial and recreational fisheries activities are collected for scientific and management purposes and protected by federal confidentiality laws and policy including the Fishery Conservation and Management Act of 1976 (16 U.S. Code § 1801) and the NOAA Administrative Order on Confidentiality of Statistics (NAO 216-100).

- (a) Information will be made available to the public in aggregate, summary, or other such form that does not disclose the identity or business of any person.
 - (1) Aggregate or summary form means data structured so that the identity of the submitter cannot be determined either from the present release of the data or in combination with other releases.
- (b) Fishing vessel geographic information is considered sensitive data as it constitutes business identifiable information in accordance with 5 U.S. Code § 552 (b)(4), therefore individual vessel geographic location information is confidential data and shall not be disclosed.

§ 3. Definitions

For purposes of this Data Confidentiality and Non-Disclosure Agreement, the following definitions apply:

- (a) Confidential Information means nonpublic information in written, graphic, electronic, oral or other tangible form, including without limitation data, algorithms, formulae, techniques, improvements, computer software and materials owned or controlled by a party to this Agreement.
- (b) Disclosing Party means a party disclosing and Recipient means a party receiving Confidential Information under this Agreement. Confidential Information belonging to the Disclosing Party at the time of disclosure will remain the property of the Disclosing Party.

By signing this data confidentiality and non-disclosure agreement, the Recipient:

- (1) Acknowledges NOAA Administrative Order 216-100 regarding Protection of Confidential Fisheries Statistics and understands the contents of the aforementioned document.
- (2) Is fully aware of the civil and criminal penalties for unauthorized disclosure, misuse, or other violation of the confidentiality of such data.
- (3) Has been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of classified information could cause damage or irreparable injury to the United States or could be used to advantage by a foreign nation.
- (4) Understands that all classified information obtained by signing this Agreement is now and will remain the property of, or under the control of, the United States Government unless and until otherwise determined by an authorized official or final ruling of a court of law.
- (5) Accepts that this agreement will become effective on the date when the last party has signed and executed the agreement, and will end one (1) year after the effective date, or when the information is no longer required for the performance of work, or at a date established by the disclosing party.

| | | |
|---------------------------|--------------------|---------------|
| _____ Recipient | _____ Signature | _____ Date |
| _____ Disclosing Party | _____ Signature | _____ Date |

Affiliation:

- NMFS
- Other Federal
- State Agency
- Fisheries Council
- Fisheries Commission
- Contractor/Grantee
- Other: _____

Type of data:

- Source
- Subregional
- Regional
- Multi-regional
- Special

Access Number:
