

**SUPPORTING STATEMENT
APPLICATION FOR COMMERCIAL FISHERIES AUTHORIZATION UNDER
SECTION 118 OF THE MARINE MAMMAL PROTECTION ACT
OMB CONTROL NO. 0648-0293**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The Marine Mammal Protection Act (16 U.S.C. 1361 et seq.; MMPA or the Act) mandates the protection and conservation of marine mammals. The taking of marine mammals, except under limited exceptions, is a violation of the Act. MMPA section 118 provides an exception to that prohibition for taking of marine mammals incidental to commercial fishing operations subject to requirements listed in that section. The owner of any fishing vessel engaged in a fishery identified by National Marine Fisheries Service (NMFS) as having either frequent (Category I) or an occasional (Category II) taking of a marine mammal must register with the Secretary in order to obtain an authorization for taking marine mammals and to be legally operating in that fishery. Fishers operating in fisheries identified by NMFS as having only a remote chance (Category III) to take marine mammals need not apply.

This request is for renewal of the information collection.

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.

The information to obtain an authorization is supplied by the fisher operating in a Category I and II fishery as mandated by Section 118 (c)(2)(A) of the MMPA. The MMPA states: “An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A)(i) or (ii) upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used.”

A valid certificate of authorization protects the fisher from prosecution under the MMPA for violation of the moratorium on taking marine mammals. Without the information collection, NMFS would be unaware of the need for the fisher to be included under the authorization system.

The information needed to register, renew, or update a commercial fishery authorization is found at 50 CFR 229.4 and includes the following:

- a. Name, address, and telephone number of the owner(s) of a vessel or non-vessel gear and name and address of the operator if other than the owner;
- b. Name and length of the vessel, home port, United States (U.S.) Coast Guard

documentation number or State registration number, State commercial license number of the fishing vessel which will operate under the authorization, and for a non-vessel fishery, a description of the gear and State commercial license number;

- c. A list of the fishery(s) in which the fisher will be engaged;
- d. A certification of the accuracy of the information being submitted.

Modifications to (a),(b), and (c) above must be submitted within 10 days of any change. To facilitate the application process, NMFS mails application forms or renewal forms to all fishers identified within the Category I and II fisheries. Renewal forms are pre-populated by a computer generated with previously submitted information, allowing the fishers to make modifications to the form instead of filling out a new form.

Most of the information requested above is required by statute, NMFS determined that the home port and the length of the vessel were necessary information. This information is vital for the mandatory observer program for Category I and II fisheries. Information concerning the time, duration, and location of fishery operations, and the type and nature of gear is mandated by the MMPA. The MMPA requires NMFS to establish an observer program for Category I and II fisheries; therefore the home port and the size of the vessel is required, because NMFS will need to know the location for boarding the vessel, and whether the vessel is large enough to take an observer. While this additional information is required only for participants in Category I and II fisheries, the categories are subject to change.

Certain information available elsewhere may be used to assist and/or verify the information collection request for registrations. For example, copies of existing State fishing licenses, federal fishing license applications, or foreign fishing permit applications may be used for this information request. Not all fishers have an interaction problem with marine mammals. Therefore, short of registering all U.S. fishers through State licenses and requiring all U.S. fishers to send in annual reports for renewal of their certificates, the submission of an application to receive an authorization is the best alternative for keeping the burden to a minimum.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. 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 10 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 information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Most states have integrated the NMFS registration process into the existing state fishery registration process and fishers in those fisheries do not need to file a separate federal registration. Fishers can get a copy of the fillable authorization form from NMFS website

http://www.nmfs.noaa.gov/pr/PR2/Fisheries_Interactions/mmap_reg_form.pdf, NMFS regions, fishery organizations, at docks, etc. Fishers need only to e-mail, mail, or fax in the authorization form. Renewal notifications are pre-filled out by computer; the fishers need only

to make any corrections and sign. Authorization forms must be returned to NMFS accompanied by the required registration fee.

4. Describe efforts to identify duplication.

Fishers in Category I or II fisheries are statutorily required to submit the information in the authorization form to lawfully take marine mammals' incidental in fishing operations. The authorization is granted on an annual basis. Most states have integrated the NMFS registration process into the existing state fishery registration process and fishers in those fisheries do not need to file a separate federal registration.

Although NMFS has joint authority with the United States Fish and Wildlife Service (USFWS), Department of Interior (DOI), to manage marine mammals, the DOI has not been authorized by statute to promulgate regulations on this matter. Therefore, USFWS has not established its own registration and reporting system. NMFS continues to consult with the USFWS on this matter and a USFWS staff person has attended task force meetings with NMFS, but NMFS remains responsible for the information collection process, distributing authorizations, and maintaining the marine mammal reporting system.

For certain fisheries, registration for a marine mammal authorization may be coordinated with existing state or Federal fishery or vessel permit or licensing programs. If applicable, vessels owners will be notified of this simplified registration process when they apply for their state or Federal permit or license.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection will not have a significant impact on small entities. The MMPA instructs the Secretary to develop, in consultation with the appropriate states, Regional Fishery Management Councils, and other interested parties, the means by which the granting and administration of authorizations shall be integrated and coordinated with existing fishery licenses, registrations, and related programs, to the maximum extent practicable. However, as mentioned in Question 4 above, to date, some state license systems do not appear to be compatible.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Commercial fishery authorization applications are required annually as mandated by statute (16 U.S.C. 1387 (c)(2)(A)). Without the registrations, NMFS would be unable to execute its observer program and to determine the impact of U.S. commercial fisheries on marine mammal populations and stocks.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection is consistent with the guidelines.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on July 9, 2008 (73 FR 39282) solicited public comment on this submission. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There is no provision to provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Certain information supplied on this form may be considered proprietary and therefore subject to data confidentiality restrictions of 50 CFR 229.11.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No sensitive questions are asked.

12. Provide an estimate in hours of the burden of the collection of information.

NMFS has estimated that there are 44,000 fishing vessels that can be included in either a Category I or II fishery and therefore will need to register for an authorization and obtain a decal and/or Authorization Certificate.

Most states have integrated the NMFS registration process into the existing state fishery registration process and do not need to file a separate federal registration. The annual burden hours for Category I and II fisheries, based on the estimated number of applicants not covered by states' registration process are:

- New applications*: 600 vessels x 15 minutes/application/year = 150 hours.
- Renewal applications: 200 vessels x 9 minutes/application/year = 30 hours.

Total = 180 hours

Annual labor cost = \$25 x 180 = \$4,500.

(*As fishermen are expected to apply for any additional fisheries at the time of the initial application, no additional burden hours are warranted for multiple fishery applicants.)

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

The annual cost to the Category I & II fishers to apply for authorization annually is estimated as follows:

Application fee, \$25 plus postage, \$.42 = \$25.42 per applicant/year.
800 applications x \$25.42/application = \$20,336.

14. Provide estimates of annualized cost to the Federal government.

The fee recovers all federal processing costs.

15. Explain the reasons for any program changes or adjustments.

The hours and costs have been adjusted to reflect re-estimates. At the time of the last renewal of this information collection request, there were an estimated 12,000 annual responses, 2,800 hours and \$304,440 in reporting/recordkeeping costs. The decreases are adjustments due to most states having included these applications in their registration process. NOTE: In ROCIS, the cost was rounded down to \$304,000 when data was migrated to that system; therefore, the cost difference in ROCIS appears as \$283,664, rather than the actual \$284,000.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish the results of this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.