

**SUPPORTING STATEMENT
SCIENTIFIC RESEARCH, EXEMPTED FISHING, AND
EXEMPTED EDUCATIONAL ACTIVITY SUBMISSIONS
OMB CONTROL NO. 0648-0309**

A. JUSTIFICATION

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

a. Scientific research plan. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)(**MSA**) as amended in 2006 authorizes the Secretary of Commerce to conserve and manage fishery resources in the exclusive economic zone (EEZ) by regulating “fishing.” Most such regulatory functions have been delegated to the National Marine Fisheries Service (NMFS). Section 3 of the MSA, defines “fishing” as the catching, taking, or harvesting of fish; the attempted catching, taking, or harvesting of fish; any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or any other operations at sea in support of, or in preparation for, any of the aforementioned activities. “Fish” includes finfish, mollusks, crustaceans, and all other forms of marine life other than marine mammals and birds.

Excluded expressly from the definition of fishing, and therefore from the MSA purview, is “scientific research activity which is conducted by a scientific research vessel.” The MSA does not, however, define “scientific research activity” or “scientific research vessel.” NMFS defines “scientific research activity” and “scientific research vessel” based on review of a research plan, in order to reduce the potential for abuse by using the exemption to obtain marketable fish outside of established fishing seasons or areas, or to otherwise avoid applicable regulations. An accepted convention of any bona fide scientific research project is the advance preparation of a written research plan that guides the conduct of the research. NMFS requests the voluntary submission of a scientific research plan, which is acknowledged by a letter of acknowledgment (LOA) from the appropriate NMFS official, to establish a basis for a presumption that an activity in the EEZ is scientific research, and unregulated, as opposed to regulated fishing. Enforcement officers may verify activities outside the research plan or by a vessel without an LOA on site to avoid possible disruption of research. Researchers following the recommendations of the regulations for scientific research vessels at 50 CFR 600.745 may also avoid occasional confusion and delay caused when a research vessel conducting unannounced research in the EEZ is boarded by enforcement officers to determine whether the vessel is fishing illegally. The determination of an activity as scientific research requires an acceptable standard of reference for researchers and regulators.

The regulations at 50 CFR 600.745(c) request (but do not require) that the researcher provide a copy of any cruise report or publication related to the research to help determine the amount of catch. The amount of fish taken in scientific research is of increasing importance. Because these fish are taken outside the regulatory regime, these catches are not considered as part of any quota, harvest guideline, days-at-sea, or other allocation scheme. However, it is important, especially in the case of overfished and/or rebuilding stocks to take the research catch in account as part of the mortality in the fishery. This mortality can then be used as part of the inputs in determining the status of the fishery and the allowable catch in the fishery, as well as any

determining the cumulative effects of research on the fishery for purposes of analysis under the National Environmental Policy Act (NEPA).

b. Exempted fishing and exempted educational activities. Section 301 of the MSA sets out national standards for fishery management plans and regulations. Standard one requires that “Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery...” To comply with this standard and effectively manage a fishery, NMFS needs to know the amount and species of fish caught, where caught, and the catch disposition. Exempted fishing, by definition, is fishing outside of the standard regulations. To control this fishing and determine the extent of this fishing, NMFS needs information to determine the justification of granting an exempted fishing permit (EFP) or exempted educational activity authorization (EEAA), and documentation of catches landed as a result of granting the permit/authorization. These regulations at 50 CFR 600.745(b) supplement existing information collections required by the various fishery management plans establishing minimum standards for these activities. The regulations dealing with specific fisheries may impose additional requirements.

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 all applicable Information Quality Guidelines.

- a. Scientific Research Plan. NMFS Regions, Fishery Science Centers, and NMFS and Coast Guard enforcement use information obtained from voluntarily submitted research plans and subsequent reports in monitoring such activities to ensure they are bona fide scientific research activities. NMFS reviews each scientific research plan submitted to establish that the sponsoring organization and personnel involved are recognized scientific investigators, that the specific project contemplated appears to be scientific research and not fishing, and that the vessel or vessels to be used are or will be used exclusively for research for the duration of the scientific research cruise. The information collected, which is likely to include confidential research catch statistics and proprietary research information, will not be disseminated to the public except in aggregate as part of the total mortality in the fishery. Total mortality is part of a routine NMFS determination of the status of the effected stocks and is subject to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554 whenever conducted. NMFS also uses any reports or articles, voluntarily submitted, to confirm that the activities conducted were scientific research, and to consider the appropriateness of acknowledging future requests.
- b. Exempted fishing and exempted educational activities. Regulations at 50 CFR 600.745(b)(2) and (d)(2) identify the information that an applicant must submit to receive an EFP or EEAA. This information includes:

(i). The date of the application.

(ii). The applicant's name, mailing address, and telephone number.

(iii). A statement of the purposes and goals of the exempted fishery for which an EFP/EEAA is needed, including justification for issuance of the EFP/EEAA. For EEAA, evidence the sponsoring institution is a valid educational institution.

(iv). For each vessel to be covered by the EFP/EEAA, as soon as the information is available and before operations begin under the EFP:

(a) A copy of the United States Coast Guard (USCG) documentation, state license, or registration of each vessel, or the information contained on the appropriate document.

(b) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel.

(v). The species (target and incidental) expected to be harvested under the EFP, the amount(s) of such harvest necessary to conduct the exempted fishing, the arrangements for disposition of all regulated species harvested under the EFP, and any anticipated impacts on marine mammals or endangered species. Note: Since the last renewal request for this collection, we have begun requiring an explanation in detail of any anticipated impacts, rather than a "yes" or "no" and a simple explanation. See (viii) for authorization.

(vi). For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used.

(vii). The signature of the applicant.

(viii). The Regional Administrator or Director, as appropriate, may request from an applicant additional information necessary to make the determinations required under this section. NMFS Regions, and NMFS and USCG enforcement use EFP and EEAA applications to identify the entities and vessels involved and ensure the applicant carries out activities within the restraints of the permit.

NMFS Regions, Regional Fishery Management Councils, Fishery Science Centers, and NMFS and USCG enforcement use the EFP application statement of purpose and goals in evaluating proposals to determine their usefulness to the overall goals of the applicable fishery management plan and for issuance of permits, and evaluate them comparatively with other applicants for the same fishery.

NMFS evaluates EEAA applications to confirm their educational value and determine their usefulness to the overall goals of the applicable fishery management plan and for issuance of permits.

NMFS Regions use the species (including marine mammals and endangered species) and amounts to be caught, the time and location of the projected catch, and any additional information requested to be provided to analyze the impact of the activity on the fishery stocks, endangered species, marine mammals and cumulative effects on the environment for the purposes of compliance with NEPA. NMFS has required more detailed information as EFP have become more numerous and complex, with greater associated impacts on the fisheries and other parts of the environment.

NMFS Regions, Centers, and enforcement use exempted fishing and exempted educational activity reports to ensure activities are carried out as described in the permit, document the catch for inclusion in the total catch, and consider the permittee for future permits.

NMFS anticipates that the information collected, which is likely to include confidential fish catch statistics and proprietary fishing practice and strategy information, will not be disseminated to the public unless specifically authorized as part of the EFP or EEAA. If NMFS makes public non-confidential information, then 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.

This collection involves no use of forms, but copies of the relevant regulations with the application requirements can be found on the Internet at [Electronic Code of Regulations](http://www.nwr.noaa.gov/Electronic%20Code%20of%20Regulations) or at <http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/upload/50cfr600.745.pdf>. Documents may be submitted via e-mail.

4. Describe efforts to identify duplication.

To the extent that scientific research organizations are required to submit scientific research plans to the sponsor(s) of their research, those same plans would be acceptable for the purposes of this information collection. Copies of any scientific cruise report or research documentation required to be submitted by a scientific research organization would be acceptable as a voluntary report for the purposes of this collection. The requirements for an EFP or EEAA and associated reports are the minimum requirements. The EFP or EEAA may have additional requirements as specified by the regulations of the fishery in which the activity is authorized. The Regional Administrator will specify all applicable reporting requirements as part of issuing the EFP or EEAA.

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

Respondents to this information collection vary from large research organizations to individual fishermen or educators. Many respondents are categorized as small businesses or entities. These regulations were drafted with the consideration that the typical respondent would be a small entity, with the requirement made flexible that the Regional Administrator can tailor them to the scope of the project.

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

If the information requested in the scientific research plan is not obtained, enforcement of violations of the MSA where the violator asserts he/she was conducting scientific research and not fishing will continue to be difficult to prove. Legitimate researchers will continue to be inconvenienced and enforcement units will continue to conduct needless and inappropriate boardings of scientific research vessels whose activities are confused with fishing. If the information requested by exempted fishing and exempted educational activity permits is not obtained, there will be no standard way of dealing with these activities from Region to Region, there will be more incidents of persons who think they are conducting scientific research being found in violation of the MSA, and the catches of some activities taking large amounts of fish currently considered scientific research may go unrecorded, possibly contributing to overfishing.

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

There are no special circumstances involved with this action.

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 17, 2008 (73 FR 41040) solicited public comment. No comments were received.

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

There are no payments or gifts.

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

It is NMFS policy not to release confidential data, other than in aggregate form, as the MSA, Section 402b, protects (in perpetuity) the confidentiality of those submitting data. Whenever data are requested, the NMFS ensures that information identifying the pecuniary business activity of a particular vessel operator is not identified.

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 recently re-surveyed all Regions and Science Centers for the annual and projected annual number of scientific research letters of acknowledgment, exempted fishing, and exempted educational activity authorization requests they processed. The number of respondents is now estimated to be 91 (previously 124) with correspondingly lower responses, 182 (previously 248). However, several Regions also reported from respondents that estimated response times for most of the various plans, reports and requests were not adequate. Thus, the estimated hours increased from 1,357 to 11,003. See the table below, with previous response time estimates in parentheses.

Requirement	Number of Respondents	Frequency of Response	Total Responses	Avg. Hrs. per Response	Total Annual Burden
Scientific Research Plans	58	1	58	113 (3.1)	6,554
Scientific Research Reports	58	1	58	3 (0.5)	174
EFP Requests	30	1	30	95 (20.6)	2,850
EFP Reports	30	1	30	47 (2.1)	1,410
Exempted Educational Requests	3	1	3	3 (4.4)	9
Exempted Educational Reports	3	1	3	2	6
TOTALS	91*		182		11,003

*The total is not a sum of all respondents in column, since the same respondents appear multiple times (applications and types of reports).

Estimate of annualized labor cost to respondents:

\$25.98/hr. (GS-12/1 equivalent) x 11,003 hrs = \$285,857.94.

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 costs for postage, envelopes, and copying are estimated at \$262.08, based on the following: \$1.44 (stamps (2 @ \$.042 = \$0.84) + envelopes (1 at \$0.10) + copying (10 pages at \$.05 = \$0.50)) x 182 applications/reports = \$262.08.

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

The estimated annual Federal cost of this information collection is \$51,710.29, based on the following:

Scientific research activities:

(\$13.18/hr (GS-6 equivalent) for letter preparation and report filing x 2.4 hrs/request = \$31.63) + (\$36.04/hr (GS-13/6 equivalent) for final review of LOA x 3.8 hrs/request = \$136.95) x 58 LOAs = \$9,777.76.

EFPs:

(\$17.62/hr (GS-9 equivalent) for research and analysis, permit preparation, and report filing x 66.5 hrs/application = \$117,173) + (\$36.04/hr (GS-13/6 equivalent) for final review of EFP x 4.1 hrs/application: \$147.76) x 30 EFPs = \$39,584.82.

EEAAs:

(\$17.62/hr (GS-9 equivalent) for research and analysis, permit preparation, and report filing x 39.3 hrs/application = \$692.47) + (\$36.04/hr (GS-13/6 equivalent) for final review of EFP x 2.5 hrs/application = \$90.10) x 3 EEAAs = \$2,347.71.

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

Based on the currently lower estimates for respondents and responses, if estimated response times had not changed, there would have been a decrease of 449 hours. But due to increased estimated response times based on feedback from the Regions, the estimated hours are now almost ten times the previous estimate (11,003; previously 1,357). Therefore, the net result of adjusting respondents and responses down, and adjusting response times up, is an increase in hours of 9,646.

NOTE: as the current costs of \$332 were migrated into ROCIS and rounded down to zero, it appears that there is an increase of \$262 in costs, whereas in fact there is a decrease of \$70 (increased postage costs but fewer responses).

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

The results of this collection will not be published.

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.

There are no forms, therefore display of the OMB approval of the information collection is N/A.

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

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.