

**SUPPORTING STATEMENT
REPORTING REQUIREMENTS FOR COMMERCIAL FISHERIES AUTHORIZATION
UNDER SECTION 118 OF THE MARINE MAMMAL PROTECTION ACT
OMB CONTROL NO. 0648-0292**

A. JUSTIFICATION

This request is for an extension of this information collection.

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 and makes the taking of marine mammals, except under limited exceptions, 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 any fishery identified by the National Marine Fisheries Service (NMFS) as having either a frequent (Category I) or an occasional (Category II) taking of a marine mammal is to register with the Secretary of Commerce (Secretary) in order to obtain an authorization for the purpose of incidentally 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) of taking marine mammals need not register for such an authorization. The collection of information for the registration of fishers is approved under Office of Management and Budget (OMB) Control No. 0648-0293.

The owner or operator of a commercial fishing vessel, regardless of the classification of the fishery, is required under the Act to report all incidental mortality and injury of marine mammals in the course of commercial fishing operations. Supplying the information is mandated under Section 118(e) of the MMPA and is needed by NMFS to determine the correct category placement for fisheries.

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.

Reports. The information supplied by the owner or operator of a commercial fishing vessel is mandated by Section 118(e) of the MMPA and is needed by the agency to determine the correct category placement of fisheries. The MMPA states:

The owner or operator of a commercial fishing vessel subject to the Act shall report all incidental mortality and serious injury of marine mammals in the course of commercial fishing operations to the Secretary by mail, or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being

readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

- a. The vessel name, and Federal, states, or tribal registration numbers of the registered vessel.
- b. The name and address of the vessel owner or operator.
- c. The name and description of the fishery.
- d. The species of each marine mammal incidentally killed or injured, and the date, time, and geographic location of such occurrence.

NMFS has received mortality and serious injury reports provided from 1996 to present as well as additional information available on the taking of marine mammals. Based on these reports and available scientific information, NMFS has classified or reclassified fisheries as Category I, II, or III. Regardless of the classification of the fishery, all incidental mortality and injury of marine mammals in the course of commercial fishing operations must be reported to NMFS.

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.

The Act requires that all reports of incidental mortality and serious injury be submitted to the Secretary by mail on the postage-paid form or other means acceptable within 48 hours after the end of each fishing trip. Such forms are capable of being readily entered into and usable by an automated or computerized data processing system. The legislative history of the amendments indicates that Congress intended for the report forms to be machine-readable for use in a computerized data system. Fillable PDF forms are available at http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf and may be printed and mailed, faxed or emailed.

4. Describe efforts to identify duplication.

NMFS has joint authority with the United States Fish and Wildlife Service (USFWS), Department of the Interior, to manage marine mammals. The United States (U.S.) Department of the Interior has not been authorized by statute to promulgate regulations on this matter; therefore, USFWS has not established its own registration and reporting system for authorization on its marine mammal species but cooperates with NMFS in establishing a single 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. NMFS remains responsible for the information collection process, distributing authorizations, and maintaining the marine mammal reporting system.

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 postage-paid form requires less than 15 minutes to complete and can be dropped in any mailbox or faxed within 48 hours of the vessel's return to port (or if downloaded from the program website, may also be emailed).

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

Without reports of mortality or serious injury, NMFS would be unable to implement the statutory mandate to assess 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.

NA.

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 April 6, 2009 (74 FR 15459) solicited public comment on this submission.

Two comments were received. One comment states we are wasting tax dollars collecting this information. The second comment states "...this information is critical to meeting the goals of the Marine Mammal Protection Act and should be continued." There was no need to respond to the comments.

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

NA.

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

It is stated on the information collection form that certain information is propriety and therefore will be treated as confidential.

NMFS regulations at 50 CFR 229.11 (a): Proprietary information collected under this part is confidential and includes information, the unauthorized disclosure of which could be prejudicial or harmful, such as information or data that are identifiable with an individual fisher. Proprietary information obtained under part 229 will not be disclosed, in accordance with NOAA Administrative Order 216-100, except (1) To Federal employees whose duties require access to such information; (2) To state employees under an agreement with NMFS that prevents public disclosure of the identity or business of any person; (3) When required by court order; (4) In the case of scientific information involving fisheries, to employees of regional Fishery Management Councils who are responsible for fishery management plan development and monitoring. (5) To other individuals or organizations authorized by the Assistant Administrator to analyze this information, so long as the confidentiality of individual fishers is not revealed. (b) Information will be made available to the public in aggregate, summary or other such form that does not disclose the identity or business of a person in accordance with NOAA Administrative Order 216-100.

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 the total reported mortality and injury of marine mammals as a result of U.S. commercial fishing activity is 200 per year. Average response time to complete the report form is 15 minutes. Therefore, estimated total annual hours requested is 200 x 15 minutes = 50 hours.

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).

There are no expected costs to respondents to complete the postage-paid reporting form.

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

Costs: Materials – Reporting forms: 30,000 x 0.07/page = \$ 2,100
Postage -- Reports: 30,000 x \$0.44 (postage) = 13,200
\$15,300.

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

In the previous submission, the hours were calculated in error, multiplying the responses by 0.15 hours (9 minutes), rather than 15 minutes. The total burden has been adjusted to the correct figure of 50.

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

The results are not published but are available upon request.

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.

NA.

18. Explain each exception to the certification statement.

NA.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.