

**SUPPORTING STATEMENT
SOUTHWEST REGION PERMIT FAMILY OF FORMS
OMB CONTROL NO. 0648-0204**

A. JUSTIFICATION

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

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) established regional fishery management councils, including the Pacific Fishery Management Council (Pacific Council), to develop fishery management plans (FMP) for fisheries in the U.S. exclusive economic zone (EEZ). These plans, if approved by the Secretary of Commerce, are implemented by Federal regulations, which are enforced by the National Marine Fisheries Service (NMFS) and the United States (U.S.) Coast Guard (USCG), in cooperation with State agencies to the extent possible. FMPs are intended to regulate fishing for stocks to prevent overfishing and achieve the optimum yield from the fisheries for the benefit of the U.S.

The Pacific Council has prepared a FMP for the coastal pelagic species (CPS) fishery off the U.S. West Coast and for U.S. West Coast Fisheries for Highly Migratory Species. Each of these FMPs contain a requirement that commercial fishery participants obtain permits for the fishery. This request deals with the information collection requirements for permits. The Southwest Region, NMFS, administers the permit program. Both permits are valid for a two-year term.

There are three types of permits: basic fishery permits (e.g., highly migratory species (HMS)), limited entry permits for selected fisheries (e.g., West Coast coastal pelagic fishery), and experimental fishing permits (EFP). Basic permits are used in all fisheries where there are no specific limitations or eligibility criteria for entry to the fishery. Limited access/entry permits are used to prevent overcapitalization or address other management goals in the fishery. EFPs are used to authorize controlled and observed fishing with gear or techniques or within closed areas, which would otherwise be prohibited. Such fishing may demonstrate new ways to fish economically without significant adverse biological problems or with less take of protected resources such as sea turtles. In addition, there are provisions for transfers among owners and for appeals of actions of certain limited entry permits such as the coastal pelagic species limited entry permits.

General permit requirements are found in 50 CFR 660.1-3 (Subpart A) with the specific requirements contained in relevant sections of 50 CFR 660 (Subpart I and Subpart K).

There are typically provisions in the permit process for appeals of permit denials. Appellants may use any appropriate format in requesting NMFS to review their case.

Permits and the information obtained through permit applications are essential in the management of these fisheries. They serve to identify actual or potential participants in the various fisheries. These data are needed to help measure the impacts of management controls on the participants in the fisheries. Permits are also effective tools in the enforcement of other fishery regulations. The threat of permit sanctions that would exclude a vessel from the fishery may be more effective than fines for violations of specific fishery regulations. Further,

transferable limited access/entry permits may have a resale value and may be an asset that the government can seize in settlement of penalties for fishery violations.

Permits also provide an important link between the NMFS and fishermen via the permit application process. They make it easier for NMFS staff to contact fishermen and advise them of changes in the regulations or fishery conditions and give fishermen a direct point of contact in case they have questions or issues they want to bring to the attention of NMFS or a fishery management council.

Section 303 (b) (1) of the Magnuson-Stevens Act specifically authorizes the establishment of permit requirements. Almost all international, federal, state, and local fishery management authority uses permits as part of their management systems.

A non-substantive change request was approved July 22, 2009 in advance of a final rule to establish an annual permit application fee for Pacific HMS fishery permits. This was a request to implement permit fees under the Fishery Management Plan for United States West Coast Fisheries for Highly Migratory Species under the Office of Management and Budget (OMB) Control No. 0648-0204, Southwest Region Permit Family of Forms.

The National Marine Fishery Service's Southwest Region Sustainable Fisheries Division published a final rule, Regulation Identifier Number (RIN) 0648-AW50, "Fisheries off West Coast States; Highly Migratory Species Fisheries," that amended regulations implemented under the U.S. West Coast Fisheries for Highly Migratory Species, Fishery Management Plan (HMS, FMP) to establish a framework for the collection of permit fees. The purpose was to comply with NMFS National Policy Directive 30-120 pertaining to NMFS Permit Fees. Historically, only some fishery management plans have authorized the collection of permit fees. This resulted in a set of inconsistent permit fee policies around the country. NMFS issued Policy Directive 30-120 to establish a more consistent agency permit program that recovers the expense of permit processing and issuance for all permits issued by NMFS to the extent of the law allowed.

The final rule specified that an application for an HMS permit, including the renewal of an existing permit, will include an application fee payable by the permit applicant. In accordance with the National Oceanic and Atmospheric Administration (NOAA) Finance Handbook guidelines for cost recovery permits, the initial fee has been calculated at \$30 for the Pacific HMS Permit, which is valid for two years. The Assistant Administrator may change the fee amount required at any time if a different fee is determined appropriate in accordance with the NOAA Finance Handbook and specified by the Administrator, Southwest Region, on the application form. The final rule became effective August 27, 2009.

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.

The information requested on the NMFS Southwest Region federal fisheries permit application forms by the Southwest Region is utilized to determine whether the applicant meets the eligibility criteria for a permit for the fishery the applicant intends to participate in. The data

may also be used by several offices of NMFS, USCG, and state and territorial fishery-management, research, and enforcement agencies. As requested, summaries of permit application information are provided to the Western Pacific and Pacific Councils, member states, and interested parties to describe the characteristics of the fishery and estimate the nature and magnitude of the impacts of fishery regulations on different permit holders. Information on the vessel (as provided in documentation or registration certificates) is used to ascertain actual or potential participants in different sectors of each fishery and the amount of harvesting pressure they might exert on the fishery. This is important in determining the potential effectiveness and impacts of different management approaches and in assessing the capacity of the fleets in the fisheries.

The information collected is basic data on applicants, such as name of owner and vessel operator, name of vessel and its official number, address, telephone number, and radio call sign. Independently verifiable data on the vessel's USCG documentation or state registration certificates identify the legal ownership of the vessel being permitted. This latter requirement is essential for imposing permit sanctions, which are an effective fisheries enforcement tool. Since many vessels may be owned by partnerships or corporations, identification of ownership on the application form allows NMFS to sanction the company as well as the individual vessel operator for repeated violations of federal regulations. By having addresses, the NMFS can mail fishery information to vessel owners and operators; also permit renewal forms are sent to permit holders quickly and easily. Telephone numbers (business, home, facsimile) are used to assist NMFS in processing the application by allowing questions to be resolved more quickly than by correspondence.

Disclosure of the Employer Identification Numbers of the corporate applicants is mandatory in accordance with the Debt Collection Improvement Act (31 U.S.C. 7701), which requires that agencies obtain taxpayer identification numbers from persons applying for Federal permits.

Vessel owner or his or her agent's signature is required as legally binding actions, which ensure eligibility to receive or transfer a permit under specific FMP regulations. False statements without the signature of the applicant would be difficult to prosecute.

Appeals of permit denials must be accompanied by documentation from the appellant to demonstrate why the permit should have been granted. This could include fishing logs, invoices from fish sales, State landings records, auction house receipts, financial transaction records relative to vessel ownership, or other records to demonstrate that the appellant had met the eligibility criteria for the particular fishery.

EFPs are issued to applicants for fishing activities that would otherwise be prohibited under a FMP. A specific form for an EFP application is not required; however, an application for an EFP must provide a narrative description of the proposed activity to fully document the intended operations. This documentation allows NMFS, the Pacific Council and affected state/territorial fishery agency to evaluate the consequences of the experimental fishing activity and weigh the benefits and costs. EFPs allow innovation that may relieve excessive fishing effort or discover new methods that may resolve existing technological barriers to better management of the fishery and resource.

The implementing regulations of Amendment 10 to the CPS FMP revised criteria and provisions to allow limited entry permits to be transferred to permit owners or associated vessel. A permit may be transferred only once during a calendar year. Information obtained from transfer and renewal applications allows NMFS to determine eligibility and status of each vessel and permit and overall fishery capacity goals. The coastal pelagic species permit collection is necessary for NMFS to administer and monitor the limited entry program for the fishery. Vessels authorized to fish in a restricted U.S. West Coast fishery need to be distinguished from unauthorized vessels with regard to assessing economic impacts and enforcement at sea.

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. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with 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 Southwest Region's (SWR) Web site at <http://swr.nmfs.noaa.gov/permits.htm> is used to inform the public about the SWR permit programs and provides a means by which the application form for the Pacific HMS and coastal pelagic species limited entry permits may be obtained. EFP applications have no forms associated with them. These applications are relatively rare events and cannot be predicted in advance. While there is no current improved information technology that would simplify the application process, implementation of the National Permits System (NPS) is ongoing. NPS is expected to soon have a public interface option that will allow SWR permit applicants to apply for permits via the internet.

4. Describe efforts to identify duplication.

One Federal program that provides some similar information is the vessel documentation program of the U.S. Coast Guard. The permit process incorporates verification of the current USCG Certificate of Documentation data on file for vessels to determine information about the vessels and their ownership. This is achieved via a NMFS internet site that reflects quarterly updates from USCG data sources. Similar verification is occasionally conducted via state vessel registration contacts. The permit application form no longer contains a requirement to provide duplicate information.

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

All of the vessels in the Pacific coastal pelagic fishery are small business entities of similar size and are affected comparably. All fishing operations involving vessels in the highly migratory fisheries, except the large scale tuna purse seine vessels, can be categorized as small businesses.

However, the reporting burden of applying for a permit is slight relative to the overall cost of fishing. No special measures are needed to accommodate different sized businesses. Only the minimum data to meet the permit program objectives are requested from the permit applications.

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

If permit data are not available or are collected less frequently, NMFS will have difficulty monitoring the fishery, determining entry and exit patterns, and providing information needed to ensure full impact analysis from the regulatory programs. NMFS Enforcement will be unable to assure the identity of current permit holders for purposes of compliance monitoring and enforcement of the regulations. There will be less frequent contact with fishermen and our ability to contact permit holders to consult them prior to adopting new regulations and to advise them of regulatory changes will diminish. Our ability to document transfers of marketable permits under the current CPS limited access permit programs will be compromised.

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 OMB 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 November 5, 2009 (74 FR 57289) solicited public comment on this collection. None was received.

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

No payments or gifts are involved in this program.

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

As stated on the forms: under the Magnuson-Stevens Act and NOAA Administrative Order 216-100, information submitted in accordance with regulatory requirements under the Act is confidential. This includes confidential information submitted with a permit application. Personal and proprietary information is not released to the public.

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 questions of a sensitive nature are asked.

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

For the west coast HMS fishery permits, it was estimated that after the initial first 2-year cycle has been completed, 90 percent of all permit holders (1,587 of 1,763 current valid permit holders) will renew permits every 2 years with minimal changes in information, taking 6 minutes (0.1 hours) per year. Thus, 1,587 vessels would renew with a burden of 158.7 hours, or an annualized burden of 79.4 hours (794 responses). Permit renewals are staggered, with only half of current permit holders expected to renew in a given year. In addition, there will be substitution vessels for the 10 percent (176 vessels) which depart the fishery, at a burden of 30 minutes for a new permit, with a total burden estimated at 88 hours. The annualized burden for this sector is 44 hours per year (88 responses). **Thus, the total annualized burden is 123 hours (79.4 + 44). Total annualized responses are 882.**

For the west coast coastal pelagic fishery permits, there will be no new permits issued, only biannual renewals. It is estimated that there will be 65 respondents x 0.25 per hour equaling 16.25 hours. The annualized burden for this sector would be 8.1 hours (33 responses). Transfers are estimated at 7 respondents x 0.50 hr/response = 3.50 hours (annualized to 1.75 hours, 4 responses). Appeals are estimated at 5 respondents x 2 hours/response = 10 hours (annualized to 5 hours; 3 responses). **Thus, the total annualized burden is 15 hours (8.1 + 1.75 + 5). Total annualized responses are 40.**

For EFPs, it is estimated that there will be one new permit issued each year x 60 minutes to complete. **Thus, the total annualized burden hours would be 1 hour and 1 response per year.**

Total respondents will be 1829. Total annualized responses will be 923. Total annualized burden hours will be 139.

The estimated total annual labor cost to respondents is estimated at \$2,780 per year. This was derived by multiplying the number of hours of burden each year times an hourly cost rate of \$20, the estimated total cost for administrative staff support in an office setting.

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 is no "start-up" capital cost for complying with these requirements. The annual cost to the respondents for postage, faxes, copies, etc. related to this collection is estimated at \$851.00 (approximately \$0.92 per response).

A total of 882 Pacific HMS permit applications (794 renewals and 88 new applications) are expected per year. At \$30 per permit application fee, this will add \$26,460 to the adjusted total recordkeeping/reporting costs of \$851, bringing the new total to **\$27,304**.

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

The estimated annualized cost to the government is estimated at \$19,524.19. This is based on the approximate cost of a GS-7/8 Permits Technician in the Los Angeles Area for sending out permit renewal notices, reviewing application, responding to inquiries, awarding the permit and processing the data. The breakdown is as follows:

1.10 hrs x 923 responses = 1,015.3 hours x \$19.23 per hour = \$19,524.19.

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

Although there has been an increase of 213 annual HMS permit responses, with other response categories remaining the same, there is a small net decrease in burden hours due to an adjusted estimate for new HMS applications, from 60 minutes to 30 minutes.

The total cost burden for recordkeeping has increased by \$6,701, due to greater numbers of HMS respondents and responses: both the number of permit submission recordkeeping/reporting costs and the number of \$30 HMS permit fees.

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

No publications based solely on permit data are planned at this time.

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.

The expiration dates will be shown on the application forms.

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.