

## **COAST GUARD LIVING MARINE RESOURCES (LMR) ENFORCEMENT SURVEY**

### **A) Justification**

#### **1) Circumstances Making the Collection of Information Necessary**

The Homeland Security Act of 2002 (P.L. 107-296) specified the missions of the U.S. Coast Guard upon its transfer to the Department of Homeland Security. These included living marine resources (LMR) enforcement and other law enforcement (OLE); other law enforcement is defined as enforcement on foreign-flagged fishing vessels to ensure compliance with U.S. law or other international agreements and obligations. Additionally, the Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265) requires the U.S. Coast Guard to enforce the provisions of the Act, which includes a variety of provisions to conserve and manage the fishery resources of the United States. Applicable sections of these two Acts can be found in Appendix B. A variety of other Acts, including but not limited to the Endangered Species Act, Marine Mammal Protection Act, and the Marine Protection, Research, and Sanctuaries Act, also provide statutory authorities that the Coast Guard uses in the conduct of the LMR enforcement and OLE missions.

The Government Performance and Results Act (P.L. 103-62) requires federal agencies to evaluate the performance and effectiveness of their programs. The Coast Guard has developed a strategic plan, *Ocean Guardian*, for the OLE and LMR enforcement missions that includes a suite of performance measures to meet the requirements of GPRA. However, a number of independent analyses have highlighted the lack of a proven direct connection between the Coast Guard's activities and its stated goals.

In 2003, the White House Office of Management and Budget's Program Assessment cited the Coast Guard's LMR and OLE enforcement program for not having "comprehensive, independent evaluations of its performance" to ensure "that the program is effective and achieving results."

In 2006, the Center for Naval Analyses recommended that the Coast Guard:

- "Adopt quantitative decision support tools that relate program outcomes to resources and threats"
- Develop a new program measure, the "Level of Effective Enforcement" that incorporates enforcement activity to "directly link mission execution with program outcomes."

In response to these critiques and to better determine the link between Coast Guard activities and its enforcement goals, the Coast Guard contracted an LMR Enforcement Deterrence Study with ABS Consulting Group. In order to effectively evaluate the Coast Guard's deterrent effect, it is necessary to collect information from fishermen on their perceptions of the effectiveness of various Coast Guard enforcement efforts.

## 2) Purpose of Use of the Information Collection

The Coast Guard will use the information collected in this survey in an analysis determining the effectiveness of each of the Coast Guard's modes of LMR enforcement (e.g. ship or air patrols, vessel boardings, etc.). This analysis of enforcement effectiveness will in turn be used by Coast Guard Operational Commanders to allocate assets in such a way that provides the most efficient deterrent effect. If this survey were not submitted, the Coast Guard would have no method of determining perceptions of the regulated community (permitted commercial, recreational and subsistence fishermen), and therefore no way of determining the deterrent impact of Coast Guard LMR enforcement efforts. Direct results of the survey will not be shared with other agencies and responses will be kept strictly confidential. Statistical analyses that will be shared with agency partners will contain no personal identifying information.

## 3) Use of Improved Information Technology and Burden Reduction

The survey will be available on-line for completion, thereby reducing the paper-work burden on respondents. Prior to the survey launch, a notice will be physically mailed to all permitted fishermen informing the population of the online location of the survey. Members of the survey population that do not have ready access to a personal computer but wish to respond to the survey may take the opportunity from this advance notification to arrange access to public computer sources.

## 4) Efforts to identify Duplication and use of Similar Information

The Coast Guard monitors academic literature on the topic of LMR Enforcement on a continuing basis. No existing studies in the field address the specific question of the Coast Guard's nationwide deterrent effect, and no other Federal agencies have existing data on the topic.

## 5) Impact on Small Business or Other Small Entities

This information collection does not have an impact on small businesses or other small entities.

## 6) Consequences of Collecting the Information less Frequently

The LMR Deterrence Study Survey will be a one-time collection. Data clarifying the deterrent effect of USCG enforcement efforts does not currently exist. If this data were not collected, then the USCG would continue to lack data linking USCG enforcement effort with its LMR program performance and effectiveness, thereby greatly decreasing its enforcement effectiveness and efficiency.

## 7) Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

This information collection is conducted in manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

#### 8) Consultation

A 60-day Notice was published in the *Federal Register* to obtain public comment on this collection (see [USCG-2012-0044]; February 8, 2012; 77 FR 6571). Additionally, a 30-day Notice was published in the *Federal Register* to obtain public comment on this collection (June 11, 2012; 77 FR 34396). The Coast Guard did receive one comment to the 60-day Notice related to our Information Collection Request (ICR) process. We answered that comment in the 30-day Notice (see 77 FR 34396). The comment did not change the estimate of this ICR.

Consultations were conducted with NOAA Fisheries Office of Law Enforcement and NOAA Office of the General Council for Enforcement and Litigation before release of the survey. These consultations were requested because NOAA and the CG are partners in the LMR Enforcement system, with NOAA Fisheries investigating and prosecuting cases that the USCG provides. Therefore, their feedback on the survey questions was sought to ensure the scope of the full LMR enforcement system is appropriately addressed.

#### 9) Explanation of Any Payment or Gift to Respondents

The LMR Enforcement Survey will utilize an incentive in the form of prizes from a raffle-like drawing. The reason a prize drawing was the selected “gift or payment” is that it is the most cost-effective route considering the large population size this survey is intended to reach. Responders to the survey will be given the option to voluntarily offer their personal contact information. If they responder chooses to release this information they will be entered into a prize drawing for an item, like an iPod or gift card, of moderate value (up to \$250 per item). Any personal information that is collected will be made available only to the USCG Office of Law Enforcement. Because the prize must be mailed to the winning individual, personal contact information will be required.

Past surveys that are similar to the one being proposed have suggested that some sort of gratuity is a common vehicle used to incent responses (specifically King and Shaw survey examples)<sup>1</sup>. As aforementioned, it would not be cost effective to offer an individual gratuity to every possible respondent in the population size; however, a prize drawing allows for an affordable incentive vehicle.

#### 10) Assurances of Confidentiality Provided to Respondents

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<sup>1</sup> King, Dennis, An Economic, Legal and Institutional Assessment of Enforcement and Compliance in Federally Managed U.S. Commercial Fisheries, July 2009. And Shaw, Reena, Enforcement and Compliance in the Northeast Groundfish Fishery: Perceptions of Procedural Justice in Fishery Management, the Effects of Regulatory Methods and the Prospects for Compliance, 2005.

The LMR Deterrence Study survey states that respondent's identities will be kept strictly confidential, and their responses will be used for statistical analysis only. (See Appendix A)

Personal Identifiable information will be collected, including name, mailing address, phone number and e-mail address. The only individuals who will have access to any personal information collected from respondents are those located in the USCG Office of Law Enforcement and the consultants that have been contracted by the USCG to analyze survey results. All personal information will be stored in protected, encrypted digital files. Consultant access to personal identifiable information will terminate upon completion of the contract. USCG Office of Law Enforcement personnel will destroy personal identifiable information once review of results has been completed.

The LMR Deterrence Study Survey is completely voluntary. Respondents are informed in both the physically mailed notice and the preamble of the on-line survey that responses are completely voluntary.

This information collection is covered by several Privacy Impact Assessments (PIA) and System of Records Notices (SORN). Copies for all of the below have been submitted with this request.

- DHS/USCG/PIA-015 merchant Mariner Licensing and Documentation System (MMLDS)
- DHS/USCG/PIA-008 Marine Information for Safety and Law Enforcement (MISLE)
- DHS/USCG-030 Merchant Seaman's Records
- DHS/USCG-013 Marine Information for Safety and Law Enforcement (MISLE)
- Commerce/NOAA-19 PIA Permits and Registrations for United States Federally Regulated Fisheries
- Commerce/NOAA SORN Permits and Registrations for NMFS Commercial and Recreational Fisheries and Protected Resources

11) Justification for Sensitive Questions

There are no questions of sensitive language.

12) Estimates of Annualized Burden Hours and Cost

- **The total expected respondents [and responses] is approximately 7,200**
- **The total estimated burden hours requested is 1/2 hour**
- **The total estimated cost is \$6.71**

The LMR Deterrence Study survey will be submitted to approximately 24,000 fishermen. The survey is optional, and the average response rate to similar surveys is 30%. Therefore, ABS Consulting estimates that there will be 7,200 respondents to this survey. Based on the content of the survey, the average time anticipated to complete this survey

for each respondent is a 1/2 hour. According to the Bureau of Labor Statistics Wage Data, personnel working in the fishing industry earn \$13.41/hour on average.<sup>2</sup>

**Table A.1: Estimated Annualized Burden Hours and Costs**

No. of Respondents	No. of Responses per Respondent	Avg. Burden per response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
7,200	1	0.5	3,600	\$13.41	\$48,276

13) Estimates of Other Total Annual Cost Burden to Respondents and Record Keepers

There are no record keeping, capital, start-up or maintenance costs associated with this information collection.

14) Annualized Cost to the Federal Government

Expense Type	Expense Explanation	Annual Costs (USD \$)
<b>Direct Costs to the Federal Government</b>	Survey development (e.g. contractor cost for literature review, supporting research, technical writing, technical editing, technical content review)	\$12,693
	Digital platform (for hosting survey) setup and maintenance	\$3,425
	Survey distribution preparation	\$ 7,480
<b>Other Expenses</b>	Survey solicitation and incentives distribution (e.g. printing, purchasing and mailing costs)	\$15,000
	<b>TOTAL COST TO THE GOVERNMENT</b>	<b>\$38,599</b>

15) Explanation for Program Changes or Adjustments

This is the first submission for an OMB control number for this collection.

16) Plans for Tabulation and Publication and Project Time Schedule

**Table A.2: Project Time Schedule**

Activity	Time Schedule
Launch Online Survey	0-1 month after OMB approval
Mail Survey Informational notice to Respondents	1-2 months after OMB approval

<sup>2</sup> <http://www.bls.gov/news.release/ocwage.htm>

Provide Reminders (to increase response rate)	2-3 months after OMB approval
Download data from web application	3-4 months after OMB approval
Data management and validation	5-6 months after OMB approval
Initial tabulation of results	5-6 months after OMB approval
Final data analysis	6-7 months after OMB approval
Dissemination of results	7-8 months after OMB approval

In this study, we will assess and analyze current perceived levels of compliance, risk-reward factors, social or moral compliance factors, the overall compliance effectiveness of various current USCG enforcement activities, and the likely compliance effectiveness of new technologies, for each US fishery. The study involves a survey of fishers' perceptions of both social factors regarding compliance and violation risk/reward factors. The study also involves quantitative estimates of fishers' economic risks and reward of violation, using information from the survey as well as from other sources such as government enforcement data.

Following the framework of King and Sutinen, we assess fishers' economic risks and rewards of fishing beyond legal limits primarily in terms of the fishers' expected benefits (revenues) and costs (penalties) of noncompliance.<sup>3</sup> In this framework, if the expected benefits are greater than the costs of illegal fishing, the fisher has economic incentive to fish illegally. Our plan for statistical analysis of survey results on economic risk-reward factors is to obtain mean estimates of each parameter for each fishery, with analysis of uncertainties and likely biases due to issues such as non-response.

In addition to survey questions designed to inform the estimation of the above-mentioned economic risk-reward parameters, we also plan survey questions addressing fishers' moral and social attitudes and values. Evidence suggests that many fishers comply with fishery regulations even when the balance of economic risks and rewards favor violation, but that compliance rates decrease when increasing economic pressures reduce the ability of a fishing operation to stay profitable with only legal fishing, or when fishers do not feel that enforcement efforts are legitimate and do not have sufficient value in maintaining the sustainability of a fishery.<sup>4 5</sup> Following the example of the cited studies, our plan for statistical analysis of survey results for questions on non-economic compliance factors is to focus on comparing percentages of multiple-choice selections given on each question for each fishery, with analysis of uncertainties and likely biases due to issues such as non-response.

#### 17) Reason(s) Display of OMB Expiration Date is Inappropriate

<sup>3</sup> King, D. and J. Sutinen (2010). "Rational noncompliance and the liquidation of Northeast groundfish resources." *Marine Policy* 34(1): 7-21.

<sup>4</sup> Kuperan, K. and J. Sutinen (1998). "Blue Water Crime: Deterrence, Legitimacy, and Compliance in Fisheries." *Law & Society Review* 32(2).

<sup>5</sup> King, D. M., E. Price, A. Van Buren, C. Shearin, K. J. Mengerink, R. D. Porter, J. G. Sutinen, A. Rosenberg and J. H. Swasey (2009b). *An Economic, Legal and Institutional Assessment of Enforcement and Compliance in Federally Managed U.S. Commercial Fisheries*, A Report supported by the Lenfest Ocean Program Report,

The Coast Guard will display the expiration date for OMB approval of this information collection.

18) Exception to Certification for Paperwork Reduction Act Submissions

The Coast Guard does not request an exception to the certification of this information collection.