

**SUPPORTING STATEMENT
APPLICATIONS AND REPORTS FOR SCIENTIFIC RESEARCH AND
ENHANCEMENT PERMITS UNDER THE ENDANGERED SPECIES ACT
OMB CONTROL NO. 0648-0402**

A. JUSTIFICATION

This request is for extension of this information collection.

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

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) is responsible for the conservation and recovery of marine and anadromous species listed as threatened or endangered under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et seq.). The ESA prohibits, with some exceptions, "take" of listed species. Take is defined by the ESA as: "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Section (a)(1)(A) of the ESA allows the issuance of permits which authorize take of listed species for scientific purposes or to enhance the propagation or survival of the affected listed species. The regulations implementing the authority to issue permits for scientific research or enhancement are found at 50 CFR §222.308.

The regulations contain two sets of information collections: (1) §222.308(b) – applications for scientific research/enhancement permits; (2) §222.308(d)(5) – reporting requirements for permits issued under §222.308. The specific reporting requirements may vary depending on the nature of the activity, but consist of specific information on any listed species taken (species, dates, location, numbers of individuals taken, biological information and procedures performed, condition of animal, any preliminary analysis of data).

A permit applicant who wishes to obtain an exemption to the take prohibitions of the ESA must provide justification as to why NMFS should grant the permit. NMFS needs the information provided in the permit application to make an informed decision as to whether to grant or deny the permit. Without a permit, any taking of a listed species would be subject to prosecution as a violation of section 9 of the ESA. Anyone requesting an additional permit must submit a new application.

The reports required by an issued permit help NMFS determine: (1) whether or not the conditions of the permit are being followed, (2) the impact of the permitted activities on the listed species, and (3) new information about the species which may then help NMFS to improve the species management.

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.

NMFS uses the information provided to determine the sufficiency of the application and whether the activity proposed meets the goals and objectives of the ESA. This determination is the basis for a decision on issuance or denial of the permit.

The reports required by the permits (§222.308(d)(5)) are used by NMFS to ensure that the terms and conditions of the permit are being complied with, as required by section (a)(2)(C) of the ESA, and that the taking of the affected species is not appreciably reducing the likelihood of the survival and recovery of the species.

NMFS 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. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and 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.

NMFS developed, and began to use in 2007, an on-line application system known as Authorizations and Permits for Protected Species (APPS), for application instructions for research and enhancement permits for marine mammals, Pacific salmon, and other threatened and endangered species under the Marine Mammal Protection Act and ESA. The intent of the APPS on-line system is to provide a user-friendly and efficient electronic format for the public to apply for ESA scientific research and enhancement permits for protected species, in addition to the paper applications. Applicants are able to submit applications and reports electronically, thus substantially reducing the need to submit paper applications and hopefully reducing the time spent filling out the paper applications. The public is also able to search the APPS database and obtain information available to the public more efficiently and in an electronic format.

4. Describe efforts to identify duplication.

The type of information requested is not typically available from any other source, as each project for which an applicant requests a permit is unique. However, if the applicant already has a proposal (for example, to obtain funding for the project), they may submit it as an attachment in as much as it covers the information requested in the application.

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

There should not be a significant impact. The information is submitted one time for each permit, unless the applicant requests a modification to the permit. Since some projects may take several years to complete, NMFS has discretion to issue long-term permits to provide continuity, and avoid the need to apply for a permit each year.

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

Permit applications are initiated by an applicant who wishes the privilege of protection from the prohibitions of ESA section 9. Without a permit application which follows the requirements at §222.308, NMFS cannot legally grant such a permit.

A reporting period of less than annually will not allow NMFS to adequately monitor the permit activities and compliance with permit conditions. Additionally, the information gained from the annual reports is used in making management decisions to aid in the recovery of listed species. Therefore, if this information is not available, it may negatively affect the recovery of listed species, and NMFS may be viewed as unresponsive to the Congressional mandates expressed in the ESA.

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

The collection is consistent with Office of Management and Budget (OMB) guidelines except for the requirement of notification when significant events take place (e.g., mortality or injury of an animal, exceeding the authorized take, or the taking of a species not authorized by the permit). Notification for these events must take place typically within two days after the event, to allow for quick response by NMFS and the permit holder to incidents with a significant impact on listed species and that were not authorized by the permit and therefore not anticipated.

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 February 18, 2015 (80 FR 8618) solicited public comments. No comments were received.

Comments were received from **ESA Coordinators in Idaho Department of Fish and Game and Washington Department of Fish and Wildlife.**

Idaho:

1. Is the online data (permit applications) easily available?

Yes.

2. What is your impression of the frequency of collection?

Sufficient for the required purposes.

3. What is your impression of the clarity of instructions and record keeping, disclosure, or reporting format (if any)?

Staff at IDFG have found the electronic reporting to be very efficient.

4. What is your impression of the information/data elements to be recorded, disclosed, or reported?

My impression is that the information is relevant to the permits being issued.

5. What is your impression of the accuracy of estimated burden listed below?

Given the staff administering these permits the cost of reporting (\$20/hour) is too low. Probably closer to the \$25-\$30 salary only, exclusive of benefit rate. I think for our relatively simple section 10 permits the estimated hours per response is probably too high. I would say closer to 8 hours.

Response: Thanks for taking the time to respond. The cost estimates are difficult to calculate for the array of government agencies and NGOs. We will add your estimates into the formula.

WA Dept Fish and Wildlife

1. Is the online data (permit applications) easily available?

Generally, yes. My only complaint here would be that if my name isn't listed, I can't access the permit/application. There are limited 'holders' to be named that have access. I would ideally be able to go online and see all of my Agency's section 10 permits, not just the ones where I'm named. The other piece to that would be those permits associated with HGMPs—are those available on-line?

Response: The ESA Section 10a1A permit applications are set to allow access to individuals who are listed on the permit. The permit is a contract between the researchers and NOAA Fisheries. For that reason we have limited access to these permits. The public can see the permit application, but they cannot manipulate the application. I'm not sure if we can broaden the permission level of a state coordinator to include access to all of the agencies 10a1A permit applications. I will ask the team if this is possible.

2. What is your impression of the frequency of collection?

If this is referring to how often they are 'batched' and processed, I think this could be improved. We're told generally to expect 6 months between submittal and finalized permit. But to allow for the 'batching' of permits under basically a group biop, the application might not be looked at for a time. I've told folks to budget for 10 months to a year.

Response: We batch them into at least two biological opinions: spring and winter. If we receive enough applications we may do an additional biological opinion in the fall. Sometimes there may be circumstances that are beyond our control (i.e. changes in policy directives, new regulations, lawsuits) that delay the process). Although we often complete the permit process in less time, it is best to allow for at least 9 months.

3. What is your impression of the clarity of instructions and record keeping, disclosure, or reporting format (if any)?

No concerns, except that sometimes annual reports are requested to be done off-line (thinking mainly of the 10a1b permits, but perhaps there are others). If there was a way that that could be indicated, as a coordinator, it would make it easier to track where the Agency is with respect to meeting their deadlines. Perhaps the offline reports that don't match the format for online reports could be attached somehow online. This again would hinge on a coordinator being able to access all Agency permits, not just where they're named.

Response: The 10a1b permits are not available through our permits website and they are not part of this PRA submission. Please contact our area office for questions about 10a1b permits. You can find contact information on our homepage at:
http://www.westcoast.fisheries.noaa.gov/about_us/index.html.

4. What is your impression of the information/data elements to be recorded, disclosed, or reported?

Fine.

5. What is your impression of the accuracy of estimated burden listed below?

This seems reasonable--except overall I think it's an overestimation for WDFW as we don't hold very many Section 10 research permits.

Response: Thank you, that is helpful.

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

No payment or gifts have been provided to any respondents.

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

No assurance of confidentiality is given. A notice of receipt of permit applications is required by statute to be published in the Federal Register. Applications and supporting documentation are available for review by the public at every stage of processing and throughout the duration of the permit. This is explained in the application instructions. Even after the permit expires, the documents remain open as historical information as long as the file is maintained. The information collection is a matter of public record and no confidential material is required. All permit documentation including reports is subject to the Freedom of Information Act.

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.

See table below Question 14. The number of unduplicated respondents is estimated to average 115 for any year, responses are expected to be approximately 180 and the total hours, 840.

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).

Total recordkeeping/reporting costs for materials, printing, mailing, etc. are \$83: \$2 to fax the signature page of 39 out of 40 annual applications to NMFS, totaling \$78, plus an average of \$5 in postage for the 1 out of the 40 complete annual applications that is expected to be mailed rather than submitted via the Web. The rest of the responses are entered into the APPS system at no cost.

There is a fee to the applicant allowed for by the regulations at §222.308(d)(8), but this is waived.

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

See the table below. The total government cost, including labor, overhead and incidental costs, is \$158,780.

	Permit Applications (once per permit)	Modification Requests from Permit Holder	Annual Reports *	Final Reports (once per permit)*	Totals
Respondent Burden and Labor Cost					
Annual # of Responses	40	20	115	5	180
Hours per Response	12	6	2	2	
Total Hours (Annually)	480	120	230	10	840
Labor Cost per Response @\$20/hr	\$240	\$120	\$40	\$40	
Total Labor Costs to all Respondents	\$9,600	\$2,400	\$4,600	\$200	\$16,800
Federal Government Burden and Costs					
Govt. Hrs. per Response	120	80	10	10	
Labor Cost per Response @\$20/hr	\$2,400	\$1,600	\$200	\$200	
Overhead per Response	\$60	\$40	\$5	\$5	
Incidental Cost per Response	\$56.00	\$28.00	\$1.50	\$1.50	
Total Cost to Govt. per Response	\$2,516	\$1,668	\$207	\$207	
Total Cost to Fed. Govt.	\$100,640	\$33,360	\$23,748	\$1,033	\$158,780

* Based on an average permit length of 3 years.

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

Not applicable.

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

Although NMFS uses the data, NMFS does not have plans to publish it. Typically, the researcher will publish at the end of his/her project. During the project, NMFS uses information from permit reports to monitor activities authorized by permits, and to monitor requirements under the ESA Biological Opinions that are associated with the permits. In addition, information such as run estimates for salmonids are used by the NMFS Science Centers to better manage the species.

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.

Not Applicable.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.