

**SUPPORTING STATEMENT
NOMINATION AND DESIGNATION OF FISHERY MANAGEMENT COUNCIL
MEMBERS AND APPLICATION FOR REINSTATEMENT OF STATE AUTHORITY
OMB CONTROL NO. 0648-0314**

A. JUSTIFICATION

This request is for extension of a current information collection.

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

This submission contains five information collection requirements associated with implementation of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act):

(a) Principal State Officials and Their Designees. Section 302(b)(1)(A) of the Magnuson-Stevens Act requires that each Governor designate the principal state fishery official that will perform certain duties under the Magnuson-Stevens Act. The information submitted with the designation allows the National Marine Fisheries Service (NMFS) to determine whether the requirements of the Magnuson-Stevens Act are being met in terms of the responsibilities and expertise of the individual named, and to ensure that the person named is a full-time State employee.

(b) Governors' Nominees for Council Appointments. Section 302(b)(2)(C) of the Magnuson-Stevens Act requires Governors to nominate people to serve as members of the Councils. Information is needed to determine the qualifications of individuals and to meet other requirements under the Magnuson-Stevens Act.

(c) Treaty Indian Tribal Governments' Nominees for Council Appointments. Section 302(b)(5) of the Magnuson-Stevens Act requires tribal governments of Indian tribes with Federally-recognized fishing rights in California, Oregon, Washington or Idaho to nominate representatives to serve on the Pacific Fishery Management Council. Information is needed to determine the qualifications of individuals and to meet other requirements under the Magnuson-Stevens Act.

(d) Background Documents Completed by Nominees and Submitted to Governors or Treaty Indian Tribal Government. Nominees must furnish a current resume, or equivalent, describing career history and other such information as required in order to be considered as a candidate by the Governor or Treaty Indian Tribal Government.

(e) Application for Reinstatement of State Authority. Section 306(b)(2) of the Magnuson-Stevens Act allows states to apply for reinstatement of their authority to manage a fishery after the Secretary has assumed the responsibility for that fishery. In its application for reinstatement of its authority, the state must provide information documenting why the reasons causing the Secretary to assume that authority no longer prevail.

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) Principal State Officials and Their Designees. The information is used by the Secretary of Commerce (Secretary) to appoint state officials as voting members of Councils under Section 302(b)(1)(A) of the Magnuson-Stevens Act. The Secretary seeks, on an annual basis, information about the expertise, employment, and responsibilities of the Governors' designees to meet the requirements of the Magnuson-Stevens Act. The information has been collected and used in the Council appointment process since 1977.

(b) Governors' Nominees for Council Employments. The information is used by the Secretary to annually appoint members to the Councils. One third of the Councils' membership is appointed by the Secretary annually. The information submitted helps the Secretary ensure that the candidates are properly qualified as specified in Section 302(b)(2)(B) and (C) of the Magnuson-Stevens Act, and to ensure that there is a balance in Council representation between sectors with fishery interests (e.g., commercial, environmental, and recreational interests). This information has been collected and used by the Secretary in the Council appointment process since 1977 and in mandated reports to Congress since 1991. Information required includes the following: Part 1, written statement as to why you want to be a Council member; a current resume, or equivalent, describing career history, detailing fisheries background and experience; and a statement of your guiding philosophy on the conservation and management of living marine resources; Part 2, Nominees must specify their personal fisheries experience and background, participation in a fishing sector, and other management interests within a Council's geographic area; Part 3, Nominees must meet applicable financial disclosure requirements as required by Section 302(j) of the Magnuson-Stevens Act prior to appointment.

The requirements are listed on NOAA Form 88-195 "Statement of Financial Interests for Use by Voting members of, and Nominees to, the Regional Fishery Management Councils." In addition, nominees must select the appropriate block, and sign/date the cover sheet to Part 3, which pertains to potential participation by nominees in a National Marine Fisheries Service Incentive Plan Agreement (IPA); Part 4, Each nominee to, and member of, the eight Councils must certify, pursuant to the Foreign Agents Registration Act of 1938, if they serve as an agent of a foreign principal. In addition, each nominee to, and member of, the eight Councils must certify, pursuant to the Lobbying Disclosure Act of 1995, as amended, if they serve as a registered Federal lobbyist. Nominees cannot be appointed to one of the eight councils if they are acting as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, or if they are a registered Federal lobbyist pursuant to the Lobbying Disclosure Act of 1995, as amended.

(c) Treaty Indian Tribal Governments' Nominees for Council Appointment. Section 302(b)(5)(B) of the Magnuson-Stevens Act requires tribal governments of Indian tribes with Federally-recognized fishing rights in California, Oregon, Washington or Idaho to nominate representatives to serve on the Pacific Fishery Management Council. Criteria set forth for appointment by the Secretary, includes requirements for information on the qualifications of nominees, geographic area in which the tribe of the nominee is located, and the various fishing rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised. One

appointment will be made to the Pacific Fishery Management Council every third year from not less than three nominees proposed by the Indian tribal governments. The Indian tribal governments may act either as a group or individually in proposing nominees.

(d) Background Documents completed by Nominees and Submitted to Governors or Treaty Indian Tribal Government. The current resume, or equivalent, describing career history, and other such information as required are necessary to evaluate who is believed best qualified, knowledgeable, and broadly experienced to address management actions that the Council will consider in the upcoming future. Nominees must meet all requirements and have a favorable adjudication on background checks conducted by the Federal Bureau of Investigation and NOAA's Office of Enforcement. Information submitted by the Governors on their nominees helps the Secretary ensure that the nominees are properly qualified as specified in Section 302(b)(2)(B) and (C) of the Magnuson-Stevens Act, and can be considered for possible appointment to one of the Regional Fishery Management Councils.

(e) Application for Reinstatement of State Authority. A state may apply, under Section 306(b)(2), to the Secretary for reinstatement of state authority over a fishery. The state making application must provide information to the Secretary to enable the Secretary to determine whether the reasons for which the Secretary had assumed responsibility still exist, or whether the Secretary should return responsibility back to the state in question. There is no form associated with this collection. There is no expectation that a state will request the Secretary to exercise this authority in the next three years.

NOAA, 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. The information collection is designed to yield data that meet all applicable information quality guidelines. The information will be subjected to quality control measures 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 has created a Web site to assist Governors and Treaty Indian Tribal Governments in compiling nomination lists for the annual appointments process
http://www.nmfs.noaa.gov/sfa/reg_svcs/Councils/CouncilNomination.htm.

A completed nomination kit is required for any individual seeking nomination to one of the eight Councils. A fillable PDF of the application kit is available, as of 2012, for the nominees of Governors and Treaty Indian Tribal Governments. The Governors and Treaty Indian Tribal Governments are responsible for gathering completed nomination information and application kits from their nominees and submitting to NMFS via overnight mail (this is to ensure receipt of the packages on or before the March 15th deadline. It also helps us track a package if it is lost or arrives late). The use of electronic submission of responses is not possible, and the results of the information collected will not be made available to the public over the internet. Use of automated technology has not been deemed to offer the opportunity to substantially reduce collection-of-information burden on the respondents.

4. Describe efforts to identify duplication.

The NMFS is the sole organization collecting nomination information for the Secretary and administering the appointment process. The NMFS is also the sole organization charged with the regulation of fisheries in the U.S. Exclusive Economic Zone. Thus there is no possible duplication of other collections.

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

The respondents for collections listed in Question 2, sub-paragraphs 2(a), 2(b), and 2(e) above are state governments, not small entities. The respondents for the collection listed in sub-paragraph 2(c) above are Indian tribal governments. The burden is considered not to be significant and has been further reduced from the information collection burden placed on the state governments in the following ways:

(a) The nomination process and information collection takes place only every third year for one Council member's seat on the Pacific Fishery Management Council.

(b) Participation in the nomination process by the 27 Indian tribes is at the discretion of the individual tribal governments.

(c) The tribal governments have the option of combining to nominate qualified persons in order to further reduce the burden on any one tribal government.

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

Congress has mandated the program activities and the frequency of reporting requirements in the Magnuson-Stevens Act.

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

Not Applicable.

8. 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 was published on July 15, 2015 (80 FR 41485). No comments were received.

Each year we interact with the state fisheries management representatives and governors' offices on the accuracy of the burden estimates, clarity of information and the collection method. This information is collected as part of the appointment process and is via phone conversations and e-mail. We do make changes to the Web site and forms as a result of the feedback received from these offices and the nominees.

We received a comment from William Tweit, who works for the Washington State Department of Fish and Wildlife Services: He stated that “ the estimate of 80 hours per Council nomination is reasonable if that is intended to be the summed total of all the WDFW and Governor’s office staff time, as well as the individual candidate’s time. Frequency of collection is consistent with the MSA requirements. The instructions are clear as regards to record keeping, disclosure and reporting format. To the best of my understanding the data elements are consistent with the requirements of the MSA.”

We received another comment from Michelle Duval, Executive Assistant for Councils, N.C. Division of Marine Fisheries: She stated that they have no comments on the frequency of collection, the data elements, format, disclosure, etc. as they all appear to be reasonable. Regarding the estimated accuracy of the reporting burden (in terms of hours spent), that also appears to be reasonable based on their experience.

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

No payment or gift will be made for responses.

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

There is no confidentiality promised.

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.

The estimated burden is 4,607 hours.

(a) Principal State Officials and Their Designees:

15 Governors x 1 response (1 nomination/year x 1 hour/response = 15 hours

Estimated labor cost: 15 hours x \$65/hour (average Governor's pay/hour) = \$975

(b) Governors' Nominees for Council Appointments:

1 nomination package of 3 nominees x 30 Governors x 80 hours per package per year = 2,400 hours.

Estimated labor cost: 2,400 x \$65/hour (average Governors pay/hour) = \$156,000

(c) Indian Tribal Governments' Nominees for Council Appointments:

9 tribal governments x 1 response (3 nominations)/year x 80 hours/response = 720 hours

Estimated labor cost: 720 hours x \$47/hour (average senior tribal government official pay/hour) = \$33,840.

(d) Background Documents Completed by Nominees and submitted to Governors:

92* Nominees x 16 hours per year = 1,472

Estimated cost: 1,472 x \$25.00 (average nominee=s pay/hour.) = \$36,800

(e) Applications for Reinstatement of State Authority (none has been submitted to date):

0 respondents x 2 hours/response = 0 hours

*Based on actual nominees accepting nominations in past three years, annualized.

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).

Public costs for this collection include copying and mailing.

At an estimated \$27.60 for copying costs (3 pages per resume x \$.10) for 92 nominees' background documents,

\$115.00 for mailing 92 responses by nominees (\$1.25 per mailing), and

\$607.50 for mailing 54 response (\$11.25 each) by Principal state officials/designees, Governors, and Treaty Indian Tribal Government

Total Cost = \$750.10.

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

The estimates of annualized cost to the Federal government are:

(a) Principal State Officials and Their Designees:

GS-15 (\$55/hour) x 40 hours = \$ 2,200

GS-11 (\$35/hour) x 20 hours = \$ 700

GS-11 (\$35/hour) x 20 hours = \$ 700

GS-08 (\$25/hour) x 20 hours = \$ 500
\$ 4,100

(b) Governors' Nominees for Council Appointment:

GS-15 (\$55/hour) x 80 hours = \$ 4,400
GS-11 (\$35/hour) x 560 hours = \$ 19,600
GS-11 (\$35/hour) x 560 hours = \$ 19,600
GS-08 (\$25/hour) x 160 hours = \$ 4,000
\$ 47,600

(c) Indian Tribal Governments' Nominees for Council Appointment:

GS-15 (\$55/hour) x 80 hours = \$ 4,400
GS-11 (\$35/hour) x 160 hours = \$ 5,600
GS-11 (\$35/hour) x 160 hours = \$ 5,600
GS-08 (\$25/hour) x 80 hours = \$ 2,000
\$17,600

(d) Applications for Reinstatement of State Authority

0 cost estimated.

Total: Estimated Federal cost: \$69,300.

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

There are no changes or adjustments.

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

The collection results 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.

No forms will be involved. The requirements are described in the regulations governing appointments to, and procedures for, the Councils. The instructions are also on the Web site (link in Question 3).

18. Explain each exception to the certification statement.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.