

**SUPPORTING STATEMENT
LIST OF GEAR BY FISHERIES AND FISHERY MANAGEMENT COUNCIL
OMB CONTROL NO. 0648-0346**

A. JUSTIFICATION

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

Under provisions of [Section 305\(a\)](#) of the [Magnuson-Stevens Fishery Conservation and Management Act](#) (16 U.S.C. et seq) as amended by the [Sustainable Fisheries Act](#) (P.L. 104-297), the Secretary of Commerce is required to publish a [list](#) of all fisheries and gear under the authority of each Fishery Management Council and of all fishing gear to be used in such fisheries. Any person wishing to use gear not on the list, or engage in a fishery not on the list, must provide the appropriate Fishery Management Council (or in some cases the Secretary) with 90 days advance written notice. If the Secretary takes no action to prohibit such a fishery or use of such gear, the person may proceed.

This request is for extension of this information collection.

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.

An individual may provide notification to the appropriate council of any unlisted gear that the individual wishes to employ or unlisted fishery in which the individual wishes to engage. The individual must wait 90 days after the respective council signs a return receipt, before using such gear or participating in such fishery. The individual must provide the following information as described in [50 CFR 600.747\(c\)](#):

- The name, address, and telephone number of the person submitting the notification;
- Written description of gear to be used;
- A diagram, and/or photograph of the gear, as well as any specifications and dimensions necessary to define the gear;
- Identification of the fishery or fisheries in which the gear will be used;
- Identification of the likely bycatch species to be caught by the gear, including protected species, such as marine mammals, sea turtles, sea birds, or species listed as endangered or threatened under the Endangered Species Act;
- Season in which the gear will be fished;
- Description of how the gear will be deployed and fished including portions of the aquatic environment in which the gear will be deployed (near surface, midwater, bottom); and,
- Area to be fished with such gear (location(s) (outer boundaries) by latitude and longitude).

If the appropriate council has no initial objection to the use of an unlisted gear or participation in a new fishery, the council will recommend that the authorized list of fisheries and gear be amended and request National Marine Fisheries Service (NMFS) publish a notice of intent to amend the

regulations and invite a 30-day public comment period. The appropriate council and NMFS will use the information provided in the notification process to decide after public comment is received whether a new gear should be allowed in a given fishery or an unlisted fishery should be added to the listing.

The appropriate council will notify the individual of its disapproval of the request if, based on its review of the information, the appropriate council determines that use of the gear or participation in a fishery would compromise conservation and management efforts.

It is anticipated that information collected will be disseminated to the public or used to support publicly disseminated information. 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 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.

This collection does not use automated or electronic technology. As described in 50 CFR 600.747(c)(3), a return-receipt method by certified mail is used because the submission of the notification gives the submitter certain rights to continue to use a gear type until action is taken. Given the small number of respondents, establishing a similar electronic system would not be cost effective.

4. Describe efforts to identify duplication.

There is no other requirement that fishermen provide these data to NMFS for new gear in an authorized fishery or a new fishery in a given area. Unless a gear already is specifically regulated, fishermen can employ new gear at will until NMFS implements specific regulations concerning such gear.

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.

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

This is a statutorily required collection under the Sustainable Fisheries Act. Without the collection of this information, the agency would not be in compliance with the law, and would not have the data necessary to properly decide whether a given gear is beneficial to a fishery, its

effects on the environment, and whether or not the gear is beneficial or harmful to the conservation of given fish stocks.

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

None.

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 16, 2018 (73 FR 16345) solicited public comment on this information collection. No comments were received.

We requested comment from the one previous commenter to our prior submission, the Marine Mammal Commission (MMC), and the Executive Directors of the eight Fishery Management Councils. We received 3 comments, one each from the MMC, Pacific Fishery Management Council (PFMC), and the Western Pacific Regional Fishery Management Council (WPRFMC). The other six Councils did not respond.

The MMC supports the action, and their comment is below. They also suggested adding a table to link the list of gear with the marine mammal list.

We support the continuation of the collection requirement to enable the National Marine Fisheries Service to meet its responsibilities under section 305(a) of the Magnuson-Stevens Fishery Conservation and Management Act.

Interactions between fishing gear and marine mammals can lead to serious injury or death of individuals, and, in some cases, can jeopardize the viability of marine mammal populations. Mitigating these impacts, as required under the Marine Mammal Protection Act and, in some cases, the Endangered Species Act, requires information on the fisheries and the gear they use. The “List of Gear by Fisheries and Fishery Management Council” (List of Gear) provides important information in this regard. We believe that this list is also known as the “List of Authorized Fisheries and Gear” or the “List of Fisheries and Authorized Gear” (50 C.F.R. § 600.725(v)). In addition to this list, the National Marine Fisheries Service (NMFS) maintains a “List of Fisheries” that interact with marine mammals. However, the names of fisheries on the List of Fisheries often do not have exact counterparts on the List of Gear, which can lead to inconsistencies when trying to access information about a fishery that has been identified on the List of Fisheries as having significant interactions with marine mammals. For example, the following ‘fisheries’ listed in the List of Fisheries appear to have no counterpart in the List of Gear: “CA thresher shark/swordfish drift gillnet (≥14 in mesh)”, “AK Bering Sea, Aleutian Islands Pacific cod longline”, and “Mid-Atlantic Gillnet”. While it would be helpful if the two lists could be

reconciled, the Commission realizes that, because of their different purposes and requirements, it might be difficult and confusing to change the names in one list to match the other. However, we do suggest that NMFS could develop a correspondence table that would link the fisheries in the two lists.

Response: To follow-up on your comments, specifically, the suggestion to consolidate and/or add a correspondence table that would link the fisheries in the two lists, if/when we ever revise the regulations, we will consider adding the necessary language. Congress is currently drafting/revising language in various bills reauthorizing the Magnuson-Stevens Act. If things progress in that exercise, then this may give us the opportunity to address this issue sooner, and we will work with you and your staff to come up with the needed language.

Thanks for providing comments, it is greatly appreciated.

The PFMC does not have any requested revisions to the List of Gear and Fisheries and does not object to the proposed extension of information collection.

The WPRFMC did not specify if they support, or not, the continuation of the collection requirement. They did have some potential specific changes and updates to the list of gears. NMFS will coordinate with the Councils to determine if revisions are needed to the list of authorized fisheries and gear in regulation at 50 CFR 600.725(v).

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

There is no payment or gift to respondents.

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

NOAA is authorized under the Magnuson-Stevens Act and other statutes to collect and protect proprietary or confidential commercial or financial information. Confidentiality of statistics provisions of [50 CFR 600, subpart E](#), applies to data collected with respect to any fishery management plan. This information is available to respondents when they consult the regulations in order to complete the information required.

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 total estimated reporting burden is 9 hours.

It is estimated that 6 submissions for new gear in an authorized fishery or a new fishery per year (an average of a little less than three submissions per fishery management council (8 councils)

will occur to which this collection of information would apply. Each new submission is expected to take one and a half hours to complete. Therefore, the total annual reporting burden for submitting reports, per vessel, is estimated to be: 6 submissions x 1 hour and 30 minutes/submission = 9 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).

No capital or start-up costs are anticipated. Most, if not all, of the information collected is expected to be available and recorded by the fishing vessel as a normal part of conducting business. The only costs associated with this collection would be for contacting the Regional Administrator (telephone, fax, or mail) and copying and sending the submission for new gear via certified mail. It is estimated that these costs would be approximately \$10/vessel/contact or \$60.

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

The costs to the Federal Government associated with this collection are expected to be negligible. Other than providing copies of specific reporting requirements upon request, and copying and processing the data received, there are no expenditures required. No capital equipment would be required; systems already exist for data processing and record storage.

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

There were no changes.

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

There is no publication of the submissions *per se*, but accepted gear will be listed in regulations and notices.

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.

No exceptions are requested.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.