

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Reporting Requirements Under Sections 101 and 118 of the Marine Mammal Protection Act
OMB Control No. 0648-0292

Abstract

This request is for the revision of an existing information collection. Reporting injury and /or mortalities of marine mammals is mandated under Section 118 of the Marine Mammal Protection Act. This information is required to determine the impacts of commercial fishing on marine mammal populations. This information is also used to categorize commercial fisheries into Category I, II or III. Participants in the first two categories have to be authorized to take marine mammals, while those in Category III are exempt from that requirements. All categories must report injuries or mortalities on the NMFS Marine Mammal Authorization Program marine mammal mortality/injury form. Revision to the current MMAP M/I form (0648-0292) add fields to collect information on if a deterrent device was used and if a marine mammal was incidentally killed or injured during deterrence use. The proposed rule 0648-BG55 would add a new information collection (IC) that will be used by recreational fishermen and private and public property owners to report marine mammal mortalities and injuries incidental to deterring marine mammals. The title for 0648-0292 will be revised to “Reporting Requirements Under Sections 101and 118 of the Marine Mammal Protection Act,” due to the addition of a new IC pursuant to proposed rule 0648-BG55.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The [Marine Mammal Protection Act](#) (16 U.S.C. 1361 et seq.; MMPA or the Act) mandates the protection and conservation of marine mammals and makes the taking of marine mammals, except under limited exceptions, a violation of the Act. MMPA section 118 provides an exception to that prohibition for taking of marine mammals incidental to commercial fishing operations subject to requirements listed in that section. The owner of any fishing vessel engaged in any fishery identified by the National Marine Fisheries Service (NMFS) as having either frequent (Category I) or occasional (Category II) takes of a marine mammal is to register with the Secretary of Commerce (Secretary) in order to obtain an authorization for the purpose of lawfully, incidentally taking marine mammals. Fishers operating in fisheries identified by NMFS as having only a remote chance (Category III) of taking marine mammals need not register for such an authorization. The collection of information for the registration of fishers is approved under OMB Control No. 0648-0293.

The owner or operator of a commercial fishing vessel, regardless of the classification of the fishery, is required under the Act to report all incidental mortality and injury of marine mammals in the course of commercial fishing operations. Supplying the information within 48-hours after the end of a fishing trip is mandated under Section 118(e) of the MMPA and is needed by NMFS to determine the correct category placement for fisheries. MMPA section 118(c) requires NMFS to reexamine the classification

of fisheries based on information gathered under the MMPA, including these injury and mortality reports from fishermen.

NOAA's National Marine Fisheries Service (NMFS) is proposing regulations to safely deter marine mammals from damaging fishing gear or catch, damaging personal or public property, or endangering personal safety pursuant to the Marine Mammal Protect Act (MMPA) section 101(a)(4). To ensure that we can evaluate the impacts of the guidelines and specific measures on marine mammals, the proposed rule 0648-BG55 includes a reporting requirement for people who incidentally kill or injure a marine mammal during deterrence. This new information collection will be used by recreational fishermen and private and public property owners to report marine mammal mortalities and injuries that occur while deterring marine mammals for the purposes noted above.

If a marine mammal is observed injured or killed during or as a result of using a deterrent included in the guidelines or recommended specific measures, that injury or death must be reported to NMFS within 48 hours in order for the protection from liability in section 101(a)(4)(B) to apply.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information supplied by the owner or operator of a commercial fishing vessel is mandated by Section 118(e) of the MMPA and is needed by the agency to determine the correct category placement of fisheries. The MMPA states:

“The owner or operator of a commercial fishing vessel subject to the Act shall report all incidental mortality and serious injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

- a. The vessel name, and Federal, states, or tribal registration numbers of the registered vessel.
- b. The name and address of the vessel owner or operator.
- c. The name and description of the fishery.
- d. The species of each marine mammal incidentally killed or injured, and the date, time, and geographic location of such occurrence.”

Since 1996, NMFS has received marine mammal mortality and serious injury reports as well as additional information available on the taking of marine mammals. Based on these reports and available scientific information, NMFS has classified or reclassified fisheries as Category I, II, or III. Regardless of the classification of the fishery, all incidental mortality and injury of marine mammals in the course of commercial fishing operations must be reported to NMFS.

For the new information collection, recreational fishermen and public/private property owners who injure or kill a marine mammal while using a deterrent will provide the following information:

1. The name and address of the person deterring the marine mammal(s);
2. The vessel name, and Federal, state, or tribal registration numbers of the registered vessel and/or the saltwater angler registration number if deterrence occurred during fishing;
3. A description of the fishery, including gear type and target, or of the property where the deterrence occurred;
4. A description of the deterrent including number of attempts/deployments, specifications of devices, and any other relevant characteristics;
5. The species and number of each marine mammal incidentally killed or injured or a description (and/or photograph or video if available) of the animal(s) killed or injured if the species is unknown;
6. The disposition of the animal (e.g., injured or dead, type of wounds);
7. The date, time, and approximate geographic location where the mortality or injury occurred; and
8. Other relevant information such as the behavior of the animal in response to the deterrent, other protected species in the vicinity, etc.

Forms may be submitted via any of the following means: (1) online using the online google form; (2) emailed as an attachment to nmfs.mireport@noaa.gov; (3) faxed to the NMFS Office of Protected Resources at 301-713-0376; or (4) mailed to the NMFS Office of Protected Resources using the postage-paid form.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. NMFS will use the information to evaluate whether the deterrence guidelines and recommended specific measures are working as intended for safely deterring marine mammals. NMFS will also use this information in marine mammal stock assessment reports that are required by MMPA section 117.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

The Act requires that all reports of incidental mortality and serious injury be submitted to the Secretary by mail on the postage paid form or other means acceptable within 48 hours after the end of each fishing trip. Such forms are capable of being readily entered into and usable by an automated or computerized data processing system. The legislative history of the amendments indicates that Congress intended for the report forms to be machine-readable for use in a computerized data system. Online electronic forms and fillable PDF forms are available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#reporting-a-death-or-injury-of-a-marine-mammal-during-commercial-fishing-operations>.

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4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2

NMFS has joint authority with the U.S. Fish and Wildlife Service (USFWS), Department of the Interior, to manage marine mammals. The U.S. Department of the Interior has not been authorized by statute to promulgate regulations on this matter: therefore, USFWS has not established its own registration and reporting system for authorization on its marine mammal species, but cooperates with NMFS in establishing a single registration and reporting system. NMFS remains responsible for the information collection process, distributing authorizations, and maintaining the marine mammal reporting system for all marine mammal species.

The proposed regulations to safely deter marine mammals from damaging fishing gear or catch, damaging personal or public property, or endangering personal safety pursuant to the Marine Mammal Protect Act (MMPA) section 101(a)(4) are new agency regulations. The information proposed in this collection are not collected by NOAA, DOC or other government agency.

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

This collection will not have a significant impact on small entities. The MMPA Amendments instructs the Secretary to develop a standard postage-paid reporting form capable of being readily entered into and usable by an automated or computerized data processing system. This postage-paid form requires less than 15 minutes to complete and can be dropped in any mailbox, faxed, emailed, or completed online within 48 hours of the vessel's return to port. There is no cost or significant investment of time required to fulfill the reporting requirement.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Without reports of mortality or serious injury, NMFS would be unable to implement the statutory mandate to assess the impact of U.S. commercial fisheries on marine mammal populations and stocks. NMFS would also be unable to implement the statutory mandate to ensure non-lethal deterrence of marine mammals.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

MMPA section 118(e) requires owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage paid form. In addition, the proposed rule requires reporting marine mammal injuries and mortalities from deterrent use within 48 hours.

8. If applicable, provide a copy and identify the date and page number of publications in the

Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

This existing collection 0648-0292 was last renewed in 2019. A Federal Register Notice published on November 1, 2018 (83 FR 54916) solicited public comment on this submission. No comments were received.

Additionally, NMFS solicited comments from three non-NOAA stakeholders and received two comments from commercial fishermen.

The first comment we received supports the use of the form and stated the form is very straightforward and does not ask for any personal information that would put fishermen's PII at risk.

The second comment we received identified that it is not possible to squeeze the text in the mailing address section on the fillable pdf form. When the address is long, the font becomes too small and is not readable. The commenter also stated the form is very easy to fill out and appreciates the prompt response from NMFS when submitting the form via email. NMFS appreciates this comment and has corrected the formatting on the fillable pdf form to make the text in the mailing address section more readable.

NMFS routinely shares information gathered under 0648-0292 with marine mammal take reduction teams. These stakeholder-based teams are charged with providing consensus recommendations to NMFS for reducing bycatch of marine mammals in specific commercial fisheries. The value of and need for information provided via 0648-0292 is often discussed with take reduction teams in terms of the specific details provided, the format of the information, etc. Those teams include several representatives from the fishing industry.

Public comments will be solicited through the proposed rule 0648-BG55.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no provision to provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

NMFS regulations at 50 CFR 229.11 (a): Proprietary information collected under this part is confidential and includes information, the unauthorized disclosure of which could be prejudicial or harmful, such as information or data that are identifiable with an individual fisher. This information is covered by the Privacy Act System of Record Notice COMMERCE/NOAA-12, Marine Mammals, Endangered and Threatened Species, Permits and Authorizations, Applicants.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No sensitive questions are asked.

12. Provide estimates of the hour burden of the collection of information.

Information Collection	Type of Respondent (e.g., Occupational Title)	# of Respondents/year (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Burden Hrs / Response (d)	Total Annual Burden Hrs (e) = (c) x (d)	Hourly Wage Rate (for Type of Respondent) (f)	Total Annual Wage Burden Costs (g) = (e) x (f)
Reporting Requirements for Commercial Fisheries Authorization Under Section 118 of the Marine Mammal Protection Act	Commercial fishermen	200	1	200	.25	50	\$22.25*	\$1,112.50
Reporting Marine Mammal Mortalities and Injuries While Using Deterrents Under Section 101 of the Marine Mammal Protection Act	All occupations	50	1	50	.25	12.5	\$25.72**	\$321.50
Totals				250		62.5		\$1,434

*National annual hourly wage rate for commercial fishermen from BLS's *Occupational Outlook Handbook* - a good wage source. <https://www.bls.gov/bls/blswage.htm>

**National annual hourly wage rate for all occupations from BLS's *Occupational Outlook Handbook* - a good wage source. <https://www.bls.gov/bls/blswage.htm>

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

There are no expected costs to respondents to complete the postage-paid reporting form. Respondents print the fillable pdf and mail the form postage paid to NOAA. Respondents can also email the completed form or complete the form online. Respondents are not required to keep a record of the form. The original is provided to NOAA.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

Estimated costs to the Federal government include federal employee time to collect form and collate responses and paid postage for the forms. Estimating more than half the forms are emailed or completed online, therefore, estimates below for postage are for 100 mailed forms (under other costs).

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZP3	\$112,000	10%		\$11,200
Contractor Cost					0
Travel					0
Other Costs:					\$55
TOTAL					\$11,255

15. Explain the reasons for any program changes or adjustments reported in ROCIS.

Changes to the existing form include the addition of four fields requesting information on the use of deterrents on marine mammals. This change is due to upcoming proposed rule 0648-BG55. The four fields are: 1) deterrent used, 2) number of attempts, 3) type of deterrent used and species targeted and 4) visual scan conducted.

Estimated costs for printing and postage were updated from 2019 based on actual agency practice. Prior costs estimates included printing 30,000 copies of the form and paying postage for all 30,000 forms. NOAA is not printing hard copies of the form and mailing them to all commercial fishermen anymore. Fishermen obtain the form from the NOAA Fisheries website. In addition, the postage rate changed from 2019 to 2020 and that is reflected here. In addition, this 2020 renewal is the first time federal government labor costs estimates were provided for the information collection.

Information Collection	Respondents	Responses	Burden Hours	Reason for change or
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	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	adjustment
Reporting Marine Mammal Mortalities and Injuries While Using Deterrents Under Section 101 of the Marine Mammal Protection Act	50	NA	50	NA	12.5	NA	New collection added pursuant to proposed rule 0648-BG55
Total for Collection	250	200	250	200	62.5	50	
Difference	+50		+50		+12.5		

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
Reporting Requirements for Commercial Fisheries Authorization Under Section 118 of the Marine Mammal Protection Act	\$1112.50	NA	\$0	\$0	Labor costs not included in previous revision
Reporting Marine Mammal Mortalities and Injuries While Using Deterrents Under Section 101 of the Marine Mammal Protection Act	\$321.50	NA	\$0	NA	New collection added pursuant to proposed rule 0648-BG55
Total for Collection	\$1,434	NA	\$0	\$0	
Difference	+1,434		-		

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The results from this information collection are not published but are available upon request.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The agency displays the expiration date for OMB approval of the information collection on all instruments.

18. Explain each exception to the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

Certification Statement for Paperwork Reduction Act Submissions

On behalf of this Federal agency, I certify that the collection of information encompassed by this request

complies with [5 CFR 1320.9](#) and the related provisions of [5 CFR 1320.8\(b\)\(3\)](#).