

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Application and Reports for Scientific Research and Enhancement Permits Under the
Endangered Species Act
OMB Control No. 0648-0402

Abstract

This request is for the revision and extension of a currently approved information collection. The National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS) is responsible for conserving and recovering marine and anadromous species listed as threatened or endangered under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et seq.). With some exception, the ESA prohibits "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 10(a)(1)(A) of the ESA allows NMFS to issue permits that authorize take of listed species for scientific purposes or to enhance their propagation or survival. The regulations implementing the authority to issue permits for scientific research or enhancement are found at 50 CFR §222.308. The information collection discussed here relates to the issuance and continued exercise of scientific research permits under the ESA. There is one minor revision requested to the collection itself: NMFS will no longer require "final" permit reports; the reports are still filled out, but they are simply annual reports that are submitted at the end of a permit's life span.

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.

As noted above, 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 information required on an application is laid out in §222.308(b). The specific reporting requirements may vary depending on the nature of the activity, but consist primarily of information relating to any listed species taken (species, dates, location, numbers of individuals taken, biological information and procedures performed, condition of animal, any preliminary analysis of data, etc.).

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. We need 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 for all issued permits 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. 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.

NMFS uses the information provided in the applications (see §222.308(b) for required content) to ascertain the applicants' qualifications, gauge the purpose of the proposed activity, analyze the sufficiency of the information provided, and determine whether the proposed activity meets the goals and objectives of the ESA. To fulfill our mandate under the ESA when we issue a permit, we must determine (among other considerations) (1) whether the permit was applied for in good faith; (2) whether the permit, if granted and exercised, will not operate to the disadvantage of the endangered species; (3) whether the permit would be consistent with the purposes and policy set forth in section 2 of the ESA. These determinations form the bases for deciding whether to issue or deny a permit and we need the information contained in the application materials to make them.

NMFS uses the reports required by the permits (§222.308(d)(5)) to ensure (1) that researchers are continuing to comply with the terms and conditions of the permit, (2) that the research continues to serve a bona fide scientific purpose, and (3) that the taking of the affected species is not jeopardizing their continued existence by appreciably reducing the likelihood of their survival and recovery (50 CFR 402.02(d)).

The information collected relates to the means and methods by which proposed research would be conducted. It also covers the timing, geography, and purposes of the proposed research as well as the likely affect carrying out the work may have on species listed under the ESA. None of the information to be collected requires especially burdensome effort.

The information is collected from prospective permittees (in the case of the applications) and from permit holders (in the case of the yearly reports). These may include state, Federal, tribal, educational, and private individuals and entities.

The information is collected over the internet through a specially-built portal/platform called APPS (Authorizations and Permits for Protected Species)(<https://apps.nmfs.noaa.gov/>). It provides the basic forms for both the applications and the reports as well as guidance for filling them out and contact information for when help might be needed.

As noted above, NMFS uses the information to ensure that permit conditions are followed and that permittees comply with the law (ESA) when carrying out their work (i.e., adhere to the purposes of the ESA and follow all implementing regulations). State, Federal, private, and Tribal interests use the information to see what sorts of research activities are occurring in the West Coast Region (WCR) (as might any member of the public). They may also use the information to see how their own work might dovetail with work that is already being performed, gauge how much work is being done in a particular watershed, and answer general questions about methods, timing, and locations of various kinds of listed species research.

The information could be provided in hardcopy by mail or fax or sent as email attachments, but by far the least effortful means is to submit them electronically through the APPS portal (above), and all applications and reports for the last several years have been submitted that way.

The applications are collected solely when an applicant *voluntarily* submits one in the hope of receiving a permit to conduct research on listed species. As a result, an application could come in at literally any time of the year, but because the permits are generally in force for five years, the information would only be collected every five years. However, if a permittee wanted to modify an already-issued permit or receive another permit, they would need to submit another application. The reports are collected yearly and are due on January 31 (typically one month after all research in a given year has ceased).

The information is not “shared” per se, as a general rule, but the applications and reports are public documents and, as such, are subject to FOIA. Moreover, APPS is a public-facing, searchable portal, so any number of individuals can view much of what is posted there.

The collection has effectively not changed over time. Since the first species were listed in NMFS’s West Coast Region, we have required researchers to apply for permits and submit yearly reports detailing their activities and displaying the effects those activities are having on listed species—neither the reports nor the applications have changed in terms of what information they require. The only difference is that what were once called “final” reports are now just considered annual reports that are submitted at the end of permit’s life span (see Table 3).

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 and in 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 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.

In 2007, NMFS developed and began to use the APPS system described above. It is an on-line system (with clear instructions) that numerous individuals and groups use to apply for and report on research and enhancement permits for marine mammals, Pacific salmon, and other threatened and endangered species listed under the ESA and [Marine Mammal Protection Act](#). Though paper applications can still be used, it has probably been more than ten years since one was submitted. Applicants are able to submit applications and reports electronically and thus substantially reduce the need to submit paper forms (and hopefully decrease the actual application/reporting time as well). Individuals are also able to search the APPS database and obtain information available to the public more efficiently than was previously possible when it was necessary for a government employee to respond to such requests by conducting a physical search of paper files.

Moreover, we continually seek to update the APPS system and make it more responsive to the needs of the public. As some of the answers to comments (below) illustrate, we are seeking even now to reduce some redundancy in the system and make some of the information it contains more clear and easy to use. Further, some of the efficiencies we have gained in the years since our last report are directly due

to improvements we have made in the APPS system, resulting in applicants receiving their permits much faster than in the past.

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

The type of information requested is not typically available from any other source because each project for which an applicant requests a permit is unique (as is the resulting permit report). However, if an applicant already has documented some of the required information in, for example, a NEPA document or a request to obtain funding for a project, they may submit it as an attachment to a submitted application (with appropriate referencing) and thereby help inform the process.

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

There should be no significant impact. Unless an applicant seeks to modify an already-issued permit, the application information is submitted one time for each permit. Because 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. The yearly reports are generally very short and required by regulation (see above). There are no special provisions related to the collection that would variably affect small businesses or other small entities.

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.

Permit applications are initiated by an applicant who wishes the privilege of being protected from the take prohibitions found under section 9 of the ESA. Without a permit application that follows the requirements at §222.308, NMFS cannot legally issue such a permit. The application is only required once unless an applicant wants to modify their action or continue working after five years.

If reports were to be submitted less frequently than annually, NMFS would not be able to adequately monitor the permit activities or ensure permittees are complying with permit conditions. Additionally, the information gained from the annual reports is used in making management decisions intended to help listed species recover to the point where they can be de-listed. Therefore, if this information is not available, it may negatively affect listed species and their recovery and NMFS may be viewed as unresponsive to the Congressional mandates expressed in the ESA.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that is inconsistent with OMB guidelines.

The collection is consistent with Office of Management and Budget (OMB) guidelines and timelines except that we require researchers to notify us when significant events take place (e.g., unexpected animal deaths or injuries, instances when the authorized take is exceeded, or the a species is taken that is not authorized by the permit). When such an event occurs, we typically require that the researcher notify us within two days. This allows us to respond quickly and act with the permit holder to avoid significant and unanticipated impacts on listed species. This is the only time any information would be required

more often than yearly.

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.

A Federal Register Notice published on April 21, 2021 ([86 FR 20661](#)) soliciting public comments. No comments were received.

NMFS also sought comments from state fish and wildlife agencies, other NMFS personnel, and Science Center personnel who collaborate with us in the scientific research permit effort. Their comments are below.

From the Oregon Department of Fish and Wildlife:

1. Are the online permit applications and reports easily available? **Yes**

Response: Thank you.

2. What is your impression of the frequency of collection? (Voluntary, one-time for applications, yearly for reports.) **Appropriate.**

Response: Thank you.

3. What is your impression of the clarity of instructions and record keeping, disclosure, and reporting format? **Appropriate and clear.**

Response: Thank you.

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

Response: Thank you.

5. What is your impression of the accuracy of the estimated burden displayed below [see tables in answers to questions 12 and 14]? **Seems like 12 hours per application for applicants is appropriate and 40 hours for NOAA per permit is high- I don't think NOAA spends this much time on each permit response unless they are including time on BiOp here.**

Response: Thanks for the confirming the estimates, and yes, the 40 hours of response to the application does include the hours spent working on the biological opinions through which we analyze and, eventually, approve the proposed action.

From the Washington Department of Fish and Wildlife:

1. Are the online permit applications and reports easily available? **Yes, with the exception of the data fail last year (during the 4d limit 7 review period) where there was no operable back up in place. I guess I'm assuming this interrupted the Section 10 process as well, but did not affect my workflow with Section 10 at the time.**

Response: Yes, the system outage was problematic, and it did have some impact on research permit applications and reports, but for our purposes here, we are not counting the increased workload it caused because we strongly believe it was a one-time thing only.

2. What is your impression of the frequency of collection? (Voluntary, one-time for applications, yearly for reports.) **Appropriate. Having the two application deadlines I think will prove advantageous in that it provides clearer timelines for approvals.**

Response: Thank you.

3. What is your impression of the clarity of instructions and record keeping, disclosure, and reporting format? **Appropriate and efficient.**

Response: Thank you.

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

Response: Thank you.

5. What is your impression of the accuracy of the estimated burden displayed below [see tables in answers to questions 12 and 14]? **Reasonable.**

Response: Thank you.

From the Idaho Department of Fish and Game

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

Response: Thank you.

2. What is your impression of the frequency of collection? **Sufficient for the required purposes.**

Response: Thank you.

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.**

Response: Thank you.

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.

Response: Thank you.

5. What is your impression of the accuracy of estimated burden listed below? **The reporting burden appears accurate.**

Response: Thank you.

From the Northwest Fisheries Science Center

1. Are the online permit applications and reports easily available? **Finding permits that include my name is straight forward and easy in the APPS system. Permits that are open for comment are harder to find without a direct link.**

Response: Thank you. The direct links for those are found on the “Permits open for public comment” tab on the APPS front page.

2. What is your impression of the frequency of collection? (Voluntary, one-time for applications, yearly for reports.) **Being well versed in the expectations, this frequency of interaction works well for us.**

Response: Thank you.

3. What is your impression of the clarity of instructions and record keeping, disclosure, and reporting format? **I wish the instructions were more obvious for each requested section when they are being filled out, but the separate document is comprehensive in its descriptions when you use [it] as a resource.**

Response: Thank you.

4. What is your impression of the information/data elements to be recorded, disclosed, or reported? **They seem like appropriate types of information. As a NOAA employee, the question regarding NOAA/federal funding for a project is always confounding. The take table can be difficult to navigate as it does not easily fit on a screen and there are many similar entry choices.**

Response: Thank you. We are currently working on making the take tables easier to handle in a number of respects--including eliminating redundant entry choices.

5. What is your impression of the accuracy of the estimated burden displayed below [see tables in answers to questions 12 and 14]? **I have no idea if this estimation table is accurate. However, it is unfortunate that modification requests take the same amount of time as new/renewal applications if the changes are not substantial. It is not always clear the extent of changes requested in a modification, and it seems a more streamlined process could be enacted.**

Response: Thank you, and yes, that can be frustrating, but unfortunately the modifications need to undergo the same public comment and the same analysis as new applications, so there is not much we can do beyond streamlining the process for everything—and we have been actively striving to do that for a number of years.

From the California Department of Fish and Wildlife

1. Are the online permit applications and reports easily available? **Yes. I found learning to APPS system to be easy and understandable. I can easily access most issued permits and reports and send links to colleagues/regional staff. I cannot access Sec. 10 applications that are still in progress.**

Response: Thank you. When the applications are still in progress, there is often negotiation/clarification occurring, so until the application is final, it is considered pre-decisional and deliberative and therefore access is limited.

2. What is your impression of the frequency of collection? (Voluntary, one-time for applications, yearly for reports.) **As far as I can tell, it seems appropriate. Reporting on annual take activities when listed species are involved and getting a sense of who is involved in these activities is necessary.**

Response: Thank you.

3. What is your impression of the clarity of instructions and record keeping, disclosure, and reporting format? **I find the system to be clear and understandable. Additionally, the APPS help guide is extremely helpful. I use it frequently and send it to applicants because of the images and step-by-step instructions.**

Response: Thank you. It is good to know you are finding it useful.

4. What is your impression of the information/data elements to be recorded, disclosed, or reported? **Overall I think the information collected is great. However, I do wish that there was some consistency in the amount of details required for the take methods and procedures similar to the 4(d) Program applications. I find that some permits are very specific while others are very general. From a State Cooperator POV, it is helpful to have more of these details to ensure the permits and conditions CA issues are not in conflict.**

Response: Thank you. We are currently working to come up with a more consistent means of displaying and analyzing the various methods and procedures. We are hoping the effort will lead both to more consistency and greater ease-of-use.

5. What is your impression of the accuracy of the estimated burden displayed below [see tables in answers to questions 12 and 14]? **I cannot say if the [burden information] is accurate.**

Response: Thank you.

9. Explain any decision to provide any payment or gift 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 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.

No assurance of confidentiality is given. We are required by statute to publish a notice of receipt of permit applications in the Federal Register. Applications and supporting documentation are available for review by the public at nearly 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. No PII is required either to apply or to report.

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 questions of a sensitive nature are asked.

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

See table below. The hour burden was estimated by polling frequent users of the APPS system—largely members of state fish and wildlife agencies and NOAA fisheries personnel. The wage rate used comes from the Bureau of Labor and Statistics site (<https://www.bls.gov/bls/blswage.htm>). The query was for mean wage rates among wildlife biologists in Oregon (\$33.90/hour), Idaho (\$33.06/hour), Washington (\$36.10/hour), and California (\$37.19/hour)—these four figures were then averaged. In any given year, the work would be roughly equally distributed among the four states, with Idaho and Washington being generally a bit less. The forms are all filled out and submitted online, so there have been no hardcopy submittals for many years.

Table 1. Yearly Burden Estimates for Individuals and Groups Applying for and Reporting on Scientific Research Permits

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)
Permit Applications	Wildlife Biologists	40	1	40	12	480	35.06 *	16,828.80
Permit modification requests	Wildlife Biologists	15	1	15	6	90	35.06*	3,155.40
Permit Reports*	Wildlife Biologists	120	1	120	2	240	35.06*	8,414.00
Totals				175		810		28,398.20

*Based on a permit length of three years.

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 capital/start-up or ongoing operation/maintenance costs associated with this information collection. While the previous renewal included costs assuming one respondent completed the annual report via paper, as all responses received have been submitted electronically via the APPS system for the last several years. NMFS does not expect to receive any paper applications or reports, though it is still admissible to submit this way.

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.

See table below. The estimate was made by determining the following:

1. Hours per response (see table footnote).
2. The pay band level of employees reviewing/analyzing the responses: All analysts are Pay Band III employees at varying levels (steps). Assuming a low to average Pay Band III wage of slightly over \$80,000 per year, and 2,087 work hours per year, the average hourly wage rounds to about \$42/hour.
3. It is necessary to pool the pay-banded employees because in any given year as many as four analysts may work on the responses, and there is no way to predict what percent of the total effort each would contribute. In one year, a single employee might contribute most of the effort. In another year, it might be two. In another, in the effort might be more evenly distributed.
4. Contractor cost per year with approximately 50% of the contractor’s effort devoted to further developing the APPS system and thus helping its users with applications and reports for our Division. There is one contractor and her contract cost has run from \$98,000 to \$100,000 per year for the last few years. Thus, the information collection incurs a contractor cost of about \$50,000 per year.
5. No cost for developing/printing/storing forms.
6. No cost to develop computer systems, screens, or reports to support the collection beyond those accounted for in the contractor’s cost line.
7. No travel costs.
8. No costs for collecting the information—only for reviewing and analyzing it.

Table 2. Yearly Cost Estimates for Federal and Contract Personnel Processing Scientific Research Permit Applications and Reports

Cost Descriptions	Grade/Step	Loaded Salary /Cost	Hours worked*	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	Pay Band III	\$42/hour	2,500	%100		\$105,000
Contractor Cost		\$100,000/year		50%		\$50,000
Travel						none

Other Costs:						none
TOTAL						\$155,000

*See table above for numbers and types of responses. Government burden in terms of time is 40 Hours per response for applications, 20 hours per response for modifications and 5 hours per response for reports, so: (40 hours X 40 responses) + (20 hours X 15 responses) + (5hours X 120responses) = 2,500 hours worked, total.

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

Tables 3 and 4, below, reflect changes made since the last report. **There are no regulatory changes. All the changes reflect adjustments.** Several things have changed since the last report, but almost all of those changes are adjustments and recalculations due to three main factors:

- (1) NMFS changed the wages for respondents and Federal employees to more accurately reflect the market;
- (2) NMFS vastly increased our efficiency in analyzing and processing both applications and reports and that, in turn, greatly reduced the numbers of hours we needed to spend on each response; and
- (3) NMFS essentially eliminated overhead by going paperless, by not travelling, by conducting all business through the APPS platform.

Table 3. Changes in Hourly Burden Since the Last Report.

Information Collection	Respondents		Responses		Burden Hours		Reason for change or adjustment
	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	
Permit Applications	40	40	40	40	480	480	No change
Permit Modification Requests	15	20	15	20	90	120	Reduced number of modifications to reflect current numbers.
Final Reports	0	5	0	5	0	10	NMFS stopped requiring final reports —the annual reports were deemed sufficient to our informational needs.
Annual Reports	120	115	120	115	240	230	Slight increase in responses as final reports are now considered annual reports.
Total for Collection	180	180	180	180	810	840	
Difference		-5		-5		-30	

Table 4. Changes in Cost Since the Last Report.

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
Permit Applications	16,828.80	9,600	0	83	Updated wage information. No longer a need for copying, printing, and stamps costs as all applications and reports have been submitted electronically for several years.
Permit Modification Requests	3,155.40	2,400	0	0	
Final Reports	0	200	0	0	
Annual Reports	8,414	4,600	0	0	
Total for Collection	28,398	\$16,800	0	83	
Difference	\$11,598		-\$83		

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.

Although NMFS uses permit-generated data, we do not have plans to publish it. (Though, some researchers may publish the results of their projects once they are complete.) During the project, NMFS uses information from permit reports to monitor activities authorized by permits and ensure that they meet the requirements stated in the Biological Opinions that are the authorizing instruments for the permits. In addition, NMFS and the Science Centers use information generated by the permit activities (e.g., such as salmonid run-size estimates) 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 that display would be inappropriate.

The application website will display the expiration date for OMB approval.

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

The agency certifies compliance with [5 CFR 1320.9](#) and the related provisions of [5 CFR 1320.8\(b\)\(3\)](#).