

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
List Of Gear by Fisheries and Fishery Management Council
OMB Control No. 0648-0346

Abstract

This request is for an extension of a currently approved information collection by the NOAA's National Marine Fisheries Service, Office of Sustainable Fisheries. Under the provisions of the Magnuson-Stevens Fishery and Conservation and Management Act (Magnuson-Stevens Act) [16 U.S.C. 1801 et seq.], as amended by the Sustainable Fisheries Act [Pub. L. 104-297], the Secretary of Commerce (Secretary) is required to publish a list of all fisheries under authority of each Regional Fishery Management Council (Council) and all such fishing gear used in such fisheries (see section 305(a) of the Magnuson-Stevens Act). The list has been published and appears in 50 CFR Part 600.725(v). Any person wishing to use gear not on the list, or engage in a fishery not on the list, must provide the appropriate Council or the Secretary, in the case of Atlantic highly migratory species, with 90 days of advance notice. If the Secretary takes no action to prohibit such a fishery or use of such a gear, the person may proceed.

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.

Under provisions of Section 305(a) of the Magnuson-Stevens 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 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 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. 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.

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. The Councils and the Marine Mammal Commission routinely use this information, and have commented they are in support on previous renewals of this PRA collection. 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. There has been no change in the collection requirements changed over time.

Table: Information Requirements and Needs and Uses of Information Collected

Item #	Requirement	Statute	Regulation	Form #	Needs and Uses
1	List Requirement	16 U.S.C. et seq	50 CFR Part 600.725(v)	N/A	Used by the public to know authorized fishing gear in federal waters; Councils for managing U.S. fisheries; and the Marine Mammal Commission to evaluate authorized gear impacts to marine mammals. Used by the NMFS to establish and maintain the list of authorized gear used in federal waters.

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.

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. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2

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 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.

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.

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 would cause an information collection to be conducted in a manner inconsistent with OMB guidelines.

This collection will be conducted in a manner consistent with OMB guidelines.

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 20665) solicited public comment on this information collection. We forwarded the Notice to the Marine Mammal Commission (MMC), and the Executive Directors of the eight Fishery Management Councils. We received 4 comments, one each from the New England Fishery Management Council (NEFMC), Mid-Atlantic Fishery Management Council (MAFMC), North Pacific Fishery Management Council (NPFMC), and the Western Pacific Regional Fishery Management Council (WPRFMC). The MMC and the other Councils did not respond.

The NEFMC and MAFMC had “no comment” and *do not have any requested revisions to the List of Gear and Fisheries and do not object to the proposed extension of information collection.*

The NPFMC did not specify if they support, or not, the continuation of the collection requirement. However, they did ask if this information collection concerns when a person requests written notice, and also they had a process question on how/when a request is made.

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

There is no 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.

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 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.

The total estimated reporting burden is 1 hour at an average wage of \$26.16 per hour. Therefore the total annual wage burden cost per submission is \$26.16.

Annualizing over the three year renewal period, the total annual reporting burden for submission per vessel, is estimated to be: 0.33 of a burden hour which equates to a total annual wage burden cost of \$8.72 per year. However, no requests have been received in the last three years. Therefore, we expect the actual total annual wage burden cost to be zero.

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)
Unlisted gear review request.	Commercial and recreational fishers.	0.33	1	0.33	1	0.33	\$26.16/hr**	\$8.72
Totals								

** 2020 BLS Mean Hourly wage for 45-1011 First-Line Supervisors of Farming, Fishing, and Forestry Workers

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).

We have received no requests in over the last three years. 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, if we received a request.

Information Collection	# of Respondents/year (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Cost Burden / Respondent (h)	Total Annual Cost Burden (i) = (c) x (h)
Unlisted gear review request.	0.33	1	0.33	\$10	\$3.30
TOTALS					\$3.30

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.

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZA-III	\$ 96,974	1%		\$ 970
Other Federal Positions					
Contractor Cost					
Travel					
Other Costs:					
TOTAL					\$ 970

Minimal costs are incurred by the federal government for this information collection as the maintenance/preparation for this information collection is less than 1% of a federal employee's effort annually. 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 reported in ROCIS.

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	
Unlisted gear review request.	1	6	1	6	1	9	Updated response burden estimate based on having received no responses to this collection over the last 3 years. Estimated time to complete request reduced from 1.5

							hours to 1 hour based on feedback.
Total for Collection	1	6	1	6	1	9	
Difference		-5		-5		-8	

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
Unlisted gear review request.	\$8.72	n/a	\$3	\$60	Labor costs not previously included.
Total for Collection	\$8.72	n/a	\$3	\$60	
Difference		+\$8.72		-\$57	

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.

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 that display would be inappropriate.

This collection has no forms, and therefore cannot display the expiration date.

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\(b\)\(3\)](#).