

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Application for Commercial Fisheries Authorization under Section 118 of the Marine Mammal
Protection Act (MMPA)
OMB Control No. 0648-0293

Abstract

This request is for the renewal of a currently approved information collection. Section 118 of the Marine Mammal Protection Act (MMPA) requires any commercial fisherman operating in Category I and II fisheries to register for a certificate of authorization that will allow the fisherman to take marine mammals incidental to commercial fishing operations. Category I and II fisheries are those identified by NOAA as having either frequent or occasional takings of marine mammals. There are no revisions to this information collection.

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) mandates the protection and conservation of marine mammals. The taking of marine mammals, except under limited exceptions, is a violation of the MMPA. MMPA section 118 provides an exception to this prohibition for taking of marine mammals incidental to commercial fishing operations and this exception is subject to requirements listed in section 118. The owner of any fishing vessel engaged in a fishery identified by the National Marine Fisheries Service (NMFS) as having either frequent (Category I) or occasional (Category II) taking of a marine mammal must register with the Secretary of Commerce (as described in the MMPA) in order to obtain an authorization for taking marine mammals and to be legally operating in that fishery. Fishermen operating in fisheries identified by NMFS as having only a remote chance (Category III) to take marine mammals need not apply for an authorization.

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 to obtain an authorization is supplied by the vessel owner operating in a Category I and II fishery as mandated by section 118 (c)(2)(A) of the MMPA. The MMPA states: "An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A)(i) or (ii) upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used."

A valid certificate of authorization protects the vessel owner from prosecution under the MMPA for violation of the moratorium on taking marine mammals. The information needed to register or update a commercial fishery authorization is found at 50 CFR 229.4 and includes the following:

- a. Name, address, and telephone number of the owner(s) of a vessel or non-vessel gear and name

and address of the operator if other than the owner;

- b. Name and length of the vessel, home port, United States Coast Guard (USCG) documentation number or State registration number, State commercial license number of the fishing vessel which will operate under the authorization, and for a non-vessel fishery, a description of the gear and state commercial license number;
- c. A list of the fishery(s) in which the fisher will be engaged;
- d. Social security number and date of birth of the owner(s) of a vessel or non-vessel gear; and
- e. Corporation name, tax identification number and date of incorporation.

Modifications to (a), (b), and (c) above must be submitted within 10 days of any change. Social security number or tax identification number is not mandatory. To facilitate the application process, NMFS has integrated the authorization application and renewal with Federal and State commercial fishing license application and renewal.

Most of the information requested above is required by statute. NMFS determined that the home port and the length of the vessel were necessary information. This information is vital for the mandatory observer program for Category I and II fisheries. Information concerning the time, duration, and location of fishery operations, and the type and nature of gear is mandated by the MMPA. The MMPA requires NMFS to establish an observer program for Category I and II fisheries; therefore the home port and the size of the vessel is required because NMFS will need to know the location for boarding the vessel, and whether the vessel is large enough to take an observer. While this additional information is required only for participants in Category I and II fisheries, the categories are subject to change.

Certain information available elsewhere may be used to assist and /or verify the information collection request for registrations. For example, copies of existing State fishing licenses, federal fishing license applications, or foreign fishing permit applications may be used for this information request. Not all vessel owners have interaction with marine mammals. Therefore, short of registering all United States (U.S.) vessel owners through State licenses and requiring all U.S. vessel owners to send in annual reports, the authorization program is the best alternative for keeping the burden to a minimum.

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. 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.

Information Requirements and Needs and Uses of Information Collected

Item #	Requirement	Statute	Regulation	Form #	Needs and Uses
1	Vessel registration requirement	16 U.S.C. 1387 Sec. 118	50 CFR 229.4	0648-0293	Used by the public to submit required information to NMFS for their marine mammal authorization program certificate. Used by NMFS to register a vessel.

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.

Vessel owners can get a copy of the fillable authorization form by contacting NMFS regional offices. Fishermen may e-mail, mail, or fax in the authorization form.

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

Vessel owners in Category I or II fisheries are statutorily required to submit the information in the authorization form to lawfully take marine mammals' incidental to fishing operations. The authorization is granted on an annual basis. Registration is now completely integrated with all existing federal and state commercial fishing license/permit registration, and a separate MMAP registration is only required for non-permitted fisheries. This integrated process has reduced the burden for vessel owners by automatically registering them through the existing federal or state commercial fishing permit process.

Although NMFS has joint authority with the U.S. Fish and Wildlife Service (USFWS), Department of Interior, to manage marine mammals, the U.S. Department of Interior has not been authorized by statute to promulgate regulations on this matter. Therefore, USFWS has not established its own registration and reporting system. NMFS continues to consult with the USFWS on this matter and a USFWS staff person has attended task force meetings with NMFS, but NMFS remains responsible for the information collection process, distributing authorizations, and maintaining the marine mammal reporting system.

Registration for a marine mammal authorization is coordinated with existing state or Federal fishery or vessel permit or licensing programs. Vessels owners will be notified of this simplified registration process when they apply for their state or Federal permit or license.

For vessels in currently non-permitted fisheries, when applications are received by the regional Sustainable Fisheries (SF) offices, those offices notify the Protected Resources Division, so that they can send information on the MMAP application process to the SF applicants.

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 instructs the Secretary to develop, in consultation with the appropriate states, Regional Fishery Management Councils, and other interested parties, the means by which the granting and administration of authorizations shall be integrated and coordinated with existing fishery licenses, registrations, and related programs, to the maximum extent practicable.

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.

Commercial fishery authorization applications are required annually as mandated by statute (16 U.S.C. 1387 (c)(2)(A)). Without the registrations, NMFS would be unable to execute its observer program and to determine the impact of U.S. commercial fisheries on marine mammal populations and stocks.

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

This information collection is conducted in a manner that is 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 June 8, 2021 (86 FR 30442) solicited public comment on this submission. No comments were received.

Additionally, NMFS solicited comments from three non-NOAA stakeholders in an effort 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. No comments were received.

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 payments or gifts 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.

As stated on the form, certain information, such as Tax Identification Numbers, may be considered confidential/proprietary and therefore subject to data confidentiality restrictions of 50 CFR 229.11 (MMPA regulations).

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.

There are no sensitive questions in this information collection.

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

All states have integrated the NMFS MMAP registration process into the existing state fishery registration processes and do not need to file a separate federal registration. The annual burden hours for Category I & II fisheries are estimated in the table below. As vessel owners are expected to apply for

any additional fisheries at the time of the initial application, no additional burden hours are warranted for multiple fishery applicants. Registration is integrated with existing federal and state commercial fishing license/permit registration, separate MMAP registration is only required for non-permitted fisheries. For vessels in currently non-permitted fisheries, when applications are received by the regional Sustainable Fisheries (SF) offices, those offices notify the Protected Resources Division, so that they can send information on the MMAP application process to the SF applicants.

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)
Application for Commercial Fisheries Authorization under Section 118 of the Marine Mammal Protection Act	Commercial fishermen	100	1	100	.25	25	\$26.16	\$654
Totals				100		25		\$654

*National annual hourly wage rate for commercial fishermen from BLS's Occupational Outlook Handbook - . <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).

The annual cost to the Category I & II vessel owners to apply for authorization is estimated as follows:
 Application fee, \$25 plus postage, \$0.58 = \$25.58 per applicant/year.
 100 applications x \$25.58/application = \$2,558.

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)
Application for Commercial Fisheries Authorization under Section 118 of the Marine Mammal Protection Act	100	1	100	\$25.58	\$2,558
TOTALS			100		\$2,558

*There are no capital costs or operating and maintenance costs associated with this information collection.

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 process marine mammal authorization program certificates.

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
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Federal Oversight	ZP3	\$112,00	5%		\$5,600
Other Federal Positions					
Contractor Cost					
Travel					
Other Costs:					
TOTAL					\$5,600

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

The only changes to this collection since the previous approval are an increase in annual cost burden of \$8 due to an increase postage costs.

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 are no plans to publish the results of this collection.

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 plans to display 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."

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