

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Scientific Research, Exempted Fishing, and Exempted Educational Activity Submissions
OMB Control No. 0648-0309

Abstract

This request is for an extension of a currently approved information collection. Under section 318 (d) 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 promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits. Regulations under 50 CFR 648.12 and 50 CFR 600.745 establish processes for scientific research plans as well as exempted fishing and exempted educational activities that are exempted from applicable fishing regulations. Fishing regulations do not generally affect scientific research activities conducted by a scientific research vessel. Persons planning to conduct such research are encouraged to submit a scientific research plan to ensure that the activities are considered research and not fishing. The researchers are requested to submit reports of their scientific research activity after its completion. Eligible researchers on board federally permitted fishing vessels that plan to temporarily possess fish in a manner not compliant with applicable fishing regulations for the purpose of collecting scientific data on catch may submit a request for a temporary possession letter of authorization. The researchers are requested to submit reports of their scientific research activity after its completion. The National Marine Fisheries Service (NMFS) may also grant exemptions from fishery regulations for educational or other activities (e.g., using non-regulation gear). The applications for these exemptions must be submitted, as well as reports on activities.

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.

a. Scientific research plan. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) (MSA), as amended in 2006, authorizes the Secretary of Commerce to conserve and manage fishery resources in the exclusive economic zone (EEZ) by regulating “fishing.” Most such regulatory functions have been delegated to the National Marine Fisheries Service (NMFS). Section 3 of the MSA, defines “fishing” as the catching, taking, or harvesting of fish; the attempted catching, taking, or harvesting of fish; any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or any other operations at sea in support of, or in preparation for, any of the aforementioned activities. “Fish” includes finfish, mollusks, crustaceans, and all other forms of marine life other than marine mammals and birds.

Excluded expressly from the definition of fishing, and therefore from the MSA purview, is “scientific research activity which is conducted by a scientific research vessel.” The MSA does not, however, define “scientific research activity” or “scientific research vessel.” NMFS defines, in context, “scientific research activity” and “scientific research vessel” based on review of a research plan, in order to reduce the potential for abuse by using the exemption to obtain marketable fish outside of established fishing seasons or areas, or to otherwise avoid applicable regulations. An accepted convention of any bona fide scientific research project is the advance preparation of a written research plan that guides the conduct of

the research. NMFS requests the voluntary submission of a scientific research plan, which is acknowledged by a letter of acknowledgment (LOA) from the appropriate NMFS official, to establish a basis for a presumption that an activity in the EEZ is scientific research, and unregulated, as opposed to regulated fishing. Enforcement officers may verify activities outside the research plan or by a vessel without an LOA on site. Researchers following the recommendations of the regulations for scientific research vessels at 50 CFR 600.745 may also avoid occasional confusion and delay caused when a research vessel conducting unannounced research in the EEZ is boarded by enforcement officers to determine whether the vessel is fishing illegally. The determination of an activity as scientific research requires an acceptable standard of reference for researchers and regulators.

The regulations at 50 CFR 600.745(c) request (but do not require) that the researcher provide a copy of any cruise report or publication related to the research to help determine the amount of catch. The amount of fish taken in scientific research is of increasing importance. Because these fish are taken outside the regulatory regime, these catches are not considered as part of any quota, catch limit, harvest guideline, days-at-sea, or other allocation scheme. However, it is important, especially in the case of overfished and/or rebuilding stocks to take the research catch into account as part of the mortality in the fishery. This mortality can then be used as part of the inputs in determining the status of the fishery and the allowable catch in the fishery, as well as determining the cumulative effects of research on the fishery for purposes of analysis under the National Environmental Policy Act (NEPA).

b. Exempted fishing and exempted educational activities. Section 301 of the MSA sets out national standards for fishery management plans and regulations. Standard one requires that “Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery...” To comply with this standard and effectively manage a fishery, NMFS needs to know the amount and species of fish caught, where caught, and the catch disposition. Exempted fishing, by definition, is fishing outside of the standard regulations. To control this fishing and determine the extent of this fishing, NMFS needs information to determine the justification of granting an exempted fishing permit (EFP) or exempted educational activity authorization (EEAA), and documentation of catches landed as a result of granting the permit/authorization. A NMFS Regional Administrator or Director may authorize, for limited testing, public display, data collection, exploratory fishing, compensation fishing, conservation engineering, health and safety surveys, environmental cleanup, and/or hazard removal purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. These regulations at 50 CFR 600.745(b) supplement existing information collections required by the various fishery management plans establishing minimum standards for these activities. The regulations dealing with specific fisheries may impose additional requirements.

c. Temporary possession. Eligible researchers on board federally permitted fishing vessels that plan to temporarily possess fish in a manner not compliant with applicable fishing regulations for the purpose of collecting scientific data on catch may submit a request for a temporary possession letter of authorization. The researchers are requested to submit reports of their scientific research activity after its completion. The regulations at 50 CFR 648.12(d) have similar information collection requirements to scientific research LOAs.

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.

a. Scientific Research Plan. NMFS Regions, Fishery Science Centers, and NMFS and Coast Guard enforcement use information obtained from voluntarily submitted research plans and subsequent reports in monitoring such activities to ensure they are bona fide scientific research activities. NMFS reviews

each scientific research plan submitted to establish that the sponsoring organization and personnel involved are recognized scientific investigators, that the specific project contemplated appears to be scientific research and not fishing, and that the vessel or vessels to be used are or will be used exclusively for research for the duration of the scientific research cruise. The information collected, which is likely to include confidential research catch statistics and proprietary research information, will not be disseminated to the public except in aggregate as part of the total mortality in the fishery. Total mortality is part of a routine NMFS determination of the status of the affected stocks and is subject to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554 whenever conducted. NMFS also uses any reports or articles, voluntarily submitted, to confirm that the activities conducted were scientific research, and to consider the appropriateness of acknowledging future requests.

b. Exempted fishing and exempted educational activities. Regulations at 50 CFR 600.745(b)(2) and (d)(2) identify the information that an applicant must submit to receive an EFP or EEAA. This information includes:

(i). The date of the application.

(ii). The applicant's name, mailing address, and telephone number.

(iii). A statement of the purposes and goals of the exempted fishery for which an EFP/EEAA is needed, including justification for issuance of the EFP/EEAA. For EEAA, evidence the sponsoring institution is a valid educational institution.

(iv). For each vessel to be covered by the EFP/EEAA, as soon as the information is available and before operations begin under the EFP:

(a) A copy of the United States Coast Guard (USCG) documentation, state license, or registration of each vessel, or the information contained on the appropriate document.

(b) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel.

(v). The species (target and incidental) expected to be harvested under the EFP, the amount(s) of such harvest necessary to conduct the exempted fishing, the arrangements for disposition of all regulated species harvested under the EFP, and a detailed explanation of any anticipated impacts on marine mammals or endangered species. See (viii) for authorization.

(vi). For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used.

(vii). The signature of the applicant.

(viii). The Regional Administrator or Director, as appropriate, may request from an applicant additional information necessary to make the determinations required under this section.

NMFS Regions, and NMFS and USCG enforcement use EFP and EEAA applications to identify the entities and vessels involved and ensure the applicant carries out activities within the restraints of the permit.

NMFS Regions, Regional Fishery Management Councils, Fishery Science Centers, and NMFS and USCG enforcement use the EFP application statement of purpose and goals in evaluating proposals to

determine their usefulness to the overall goals of the applicable fishery management plan and for issuance of permits, and evaluate them comparatively with other applicants for the same fishery.

NMFS evaluates EEAA applications to confirm their educational value and determine their usefulness to the overall goals of the applicable fishery management plan and for issuance of permits.

NMFS Regions use the species (including marine mammals and endangered species) and amounts to be caught, the time and location of the projected catch, and any additional information requested to be provided to analyze the impact of the activity on the fishery stocks, endangered species, marine mammals and cumulative effects on the environment for the purposes of compliance with NEPA. NMFS has required more detailed information as EFPs have become more numerous and complex, with greater associated impacts on the fisheries and other parts of the environment.

NMFS Regions, Centers, and enforcement use exempted fishing and exempted educational activity reports to ensure activities are carried out as described in the permit, document the catch for inclusion in the total catch, and consider the permittee for future permits.

NMFS anticipates that the information collected, which is likely to include confidential fish catch statistics and proprietary fishing practice and strategy information, will not be disseminated to the public unless specifically authorized as part of the EFP or EEAA. If NMFS makes public non-confidential information, then 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.

c. Temporary possession. The regulations at 50 CFR 648.12(d)(3) have similar information collection requirements to scientific research plans (as outlined above).

Specific examples of how certain information will be used to determine compliance or what area of a program is being evaluated and how the information collected will enable that evaluation to occur is required. A sample table demonstrating compliance with this requirement, which include statues and regulation authorizing the National Marine Fisheries Service to collect this information, is provided below:

Sample Table: Information Requirements and Needs and Uses of Information Collected

Item #	Requirement	Statute	Regulation	Form #	Needs and Uses
1	List Requirement	116 U.S.C. et seq	50 CFR 600.745 50 CFR 648.12	NA	Used by the public to apply for exemptions to fishing regulations or secure a letter of acknowledgement or authorization for scientific research, exempted fishing and exempted educational activities. Used by the agency to issue exemptions to fishing regulations or secure a letter of acknowledgement or authorization for scientific research, exempted fishing and exempted educational activities.

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 involves no use of forms. Necessary information for submission is described in the relevant regulations. Documents and application information may be submitted electronically via email.

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

To the extent that scientific research organizations are required to submit scientific research plans to the sponsor(s) of their research, those same plans would be acceptable for the purposes of this information collection. Copies of any scientific cruise report or research documentation required to be submitted by a scientific research organization would be acceptable as a voluntary report for the purposes of this collection. The requirements for an EFP or exempted educational activity and associated reports are the minimum requirements. The EFP or exempted educational activity may have additional requirements as specified by the regulations of the fishery in which the activity is authorized.

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

Respondents to this information collection vary from large research organizations to individual fishermen or educators. Many respondents are categorized as small businesses or entities. These regulations were drafted with the consideration that the typical respondent would be a small entity, with the requirement made flexible enough that the Regional Administrator can tailor them to the scope of the project.

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.

If the information requested in the scientific research plan is not obtained, enforcement of violations of the MSA where the violator asserts he/she was conducting scientific research and not fishing will continue to be difficult to prove. Legitimate researchers will continue to be inconvenienced and enforcement units will continue to conduct needless and inappropriate boardings of scientific research vessels whose activities are confused with fishing. If the information requested by exempted fishing and exempted educational activity permits is not obtained, there will be no standard way of dealing with these activities from Region to Region, there will be more incidents of persons who believe they are conducting scientific research being found in violation of the MSA, and the catches of some activities taking large amounts of fish currently considered scientific research may go unrecorded, possibly contributing to overfishing.

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.

Scientific Research Plans	Scientific researcher	89	1	89	13	1157	**\$58.73	\$67,950.6
Scientific Research Reports	Scientific researcher	89	1	89	6	534	\$58.73	\$31,361.8
EFP Requests	Scientific researcher, fisherman	31	1	31	10	310	\$46.83	\$14,517.3
EFP Reports	Scientific researcher, fisherman	31	1	31	4.5	139.5	\$46.83	\$6,532.7
Exempted Educational Requests	Educational institution	3	1	3	5	15	\$53.42	\$801.3
Exempted Educational Reports	Educational institution	3	1	3	2.5	7.5	\$53.42	\$400.6
Totals				123*		2,164		\$121,565

* Unduplicated respondents; the same respondents appear multiple times (applications and reports)

**Inflated to 2021 constant dollars

Detailed Occupation - Scientific Research and Development Services BLS OES 19-1009. Available at <https://www.bls.gov/bls/blswage.htm>

Captain or first made equivalent to BLS OES 45-1011. <https://www.bls.gov/bls/blswage.htm>

Detailed Occupation – College, University, and Professional Schools BLE OES 25-1051.

<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 capital/start-up or ongoing operation/maintenance costs associated with this information collection. While respondents may still submit information by mail and postage, all have been using email to submit information electronically. This shift began during the COVID-19 pandemic and is expected to continue into the future.

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)
Scientific Research Plans	89	1	89	\$0	\$0
Scientific Research Reports	89	1	89	\$0	\$0
EFP Requests	31	1	31	\$0	\$0
EFP Reports	31	1	31	\$0	\$0
Exempted Educational Requests	3	1	3	\$0	\$0
Exempted Educational Reports	3	1	3	\$0	\$0
TOTALS			*123	\$0	\$0

* Unduplicated respondents; the same respondents appear multiple times (applications and reports)

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.

The estimated annual Federal cost of this information collection is \$108,395.54, based on the following:

Scientific research activities:

(GS-6 equivalent) for letter preparation and report filing x 2.4 hrs/request + (GS-13/6 equivalent) for final review of LOA x 89 LOAs = \$27,741 (**\$27,741**).

EFPs:

(GS-9 equivalent for research and analysis, permit preparation, and report filing x 66.5 hrs/application) + GS-13/6 equivalent for final review of EFP x 4.1 hrs/application) x 31 EFPs = \$76,749 (**\$76,749**).

EEAAs:

(GS-9 equivalent) for research and analysis, permit preparation, and report filing x 39.3 hrs/application =) + GS-13/6 equivalent for final review of EEA x 2.5 hrs/application) x 2 EEAAs = **\$3,905 (\$3,905)**.

Total government cost: \$27,741 + \$76,749+ \$3,905 = \$108,396

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	GS-13	\$139,070	22.2%		\$31,006
Other Federal Positions	GS-9	\$69,125	104%		\$72,185
	GS-6	\$50,855	10.2%		\$5,205
Contractor Cost		0	0	0	0
Travel					0
Other Costs:					0
TOTAL					\$108,396

Notes:

- 2021 Rest of US General Schedule Pay Annual Rate was used as a regional average to calculate salary. The pay table broken down by grade and step are available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/RUS.aspx>.
- Salary was adjusted by 50 percent to account for benefits compensation.
- The 2,087-hour divisor must be used for almost all civilian Federal employees in an executive agency, including employees under the General Schedule (GS), and most other employees, unless excluded by law. Percent effort was calculated by dividing the hours of effort per task by the 2087 hour divisor. Information on this estimate is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/computing-hourly-rates-of-pay-using-the-2087-hour-divisor/>

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	
Scientific Research Plans	89	89	89	89	1,157	1,157	No changes
Scientific Research Reports	89	89	89	89	534	534	No changes
EFP Requests	31	30	31	30	310	300	Based on regional input we anticipate one additional EFP request during the current renewal period.
EFP Reports	31	30	31	30	139.5	135	Based on regional input we anticipate one additional EFP report during the current renewal period.
Exempted Educational Requests	3	2	3	2	15	10	Based on regional input we anticipate one additional Exempted Educational request during the current renewal period.
Exempted Educational Reports	3	2	3	2	7.5	5	Based on regional input we anticipate one additional Exempted Educational report during the current renewal

							period.
Total for Collection	123*	121*	246	242	2,164	2,141	
Difference		+2		+4		+23	

* Unduplicated respondents; the same respondents appear multiple times (applications and reports)

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
Scientific Research Plans	\$67,950.61	NA	0	141	Labor costs not previously included. Anticipated decrease in miscellaneous costs based on all current respondents submitting electronically, reducing previous mail and postage costs.
Scientific Research Reports	\$31,361.82	NA	0	141	
EFPP Requests	\$14,517.30	NA	0	47	
EFPP Reports	\$6,532.79	NA	0	47	
Exempted Educational Requests	\$801.30	NA	0	3	
Exempted Educational Reports	\$400.65	NA	0	3	
Total for Collection	\$121,565	NA	0	\$382	
Difference		+121,565		-382	

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 of this collection will not be published.

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.

There are no forms in this information collection, therefore display of the OMB approval of the information collection is not applicable.

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