

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Reporting Requirements for Commercial Fisheries Authorization under Section 118 of the Marine
Mammal Protection Act
OMB Control No. 0648-0292

Abstract

This request is for extension without revision of a currently approved information collection. Reporting injury and /or mortalities of marine mammals is mandated under Section 118 of the Marine Mammal Protection Act. This information is required to determine the impacts of commercial fishing on marine mammal populations. This information is also used to categorize commercial fisheries into Category I, II or III. Participants in the first two categories have to be authorized to take marine mammals, while those in Category III are exempt from that requirements. All categories must report injuries or mortalities on the NMFS Marine Mammal Authorization Program (MMAP) marine mammal mortality/injury form. Minor administrative changes are being made to the form to clarify the instructions for completing the “Description of the mortality/injury incident” (DESCRIPTION OF UNKNOWN SPECIES OR CIRCUMSTANCES OF MORTALITY/INJURY INCIDENT field) and the “Coast Guard document number” (COAST GUARD DOCUMENT NO. or VESSEL’S STATE REGISTRATION NO field).

Justification

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

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

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

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

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

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

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

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

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

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

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

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

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

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 a standard postage-paid reporting form capable of being readily entered into and usable by an automated or computerized data processing system. This postage-paid form requires less than 15 minutes to complete and can be dropped in any mailbox, faxed, emailed, or completed online within 48 hours of the vessel's return to port. There is no cost or significant investment of time required to fulfill the reporting requirement.

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

Without reports of mortality or injury, NMFS would be unable to implement the statutory mandate to assess the impact of U.S. commercial fisheries on marine mammal populations and stocks.

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

MMPA section 118(e) requires owner or operator of a commercial fishing vessel to report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage paid form.

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 soliciting public comments for this renewal published on July 19, 2022 (87 FR 43003). The public comment period closed on September 19, 2022. No comments were received.

NMFS reached out to several anglers 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 responses 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 any payment or gift to respondents.

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

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

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

No sensitive questions are asked.

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

Information Collection	Type of Respondent (e.g., Occupational Title)	# of Respondents/year (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Burden Hrs / Response (d)	Total Annual Burden Hrs (e) = (c) x (d)	Hourly Wage Rate (for Type of Respondent) (f)	Total Annual Wage Burden Costs (g) = (e) x (f)
Reporting Requirements for Commercial Fisheries Authorization Under Section 118 of the Marine Mammal Protection Act	Commercial fishermen	200	1	200	.25	50	\$25.23*	\$1,261.50
Totals				200		50		\$1,261.50

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

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

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

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

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

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZP3	\$114,000	10%		\$11,400
Contractor Cost					0
Travel					0
Other Costs:					\$58
TOTAL					\$11,455

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

The only adjustment reported in ROCIS is the other costs to the government for mailing the form. The postage rate changed in 2022 and that is reflected here.

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

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

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

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

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

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