

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Designation of Fishery Management Council Members and Application for Reinstatement
of State Authority
OMB Control No. 0648-0314

Abstract

This request is for extension of a currently approved information collection. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the establishment of eight Regional Fishery Management Councils to manage fisheries within regional jurisdictions. This collection pertains to several sections of the Magnuson-Stevens Act related to the Councils. Section 302(b) provides for appointment of Council members nominated by State Governors, Territorial Governors, or Tribal Governments and for designation of a principal state fishery official for the purposes of the Act. Section 306(b)(2) provides for a request by a state for reinstatement of state authority over a managed fishery. Nominees for Council membership must provide their State Governor, Territorial Governor, or Tribal Government leadership with background documentation, which is then submitted to NOAA, on behalf of the Secretary of Commerce to review qualifications for Council membership. The information collected with these actions is used to ensure that the requirements of the Magnuson-Stevens Act are being met in regards to Council membership and state authority.

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.**

This submission contains five information collection requirements associated with implementation of the Magnuson-Stevens Act:

(a) Principal State Officials and Their Designees. Section 302(b)(1)(A) requires that each Governor designate the principal state fishery official that will perform certain duties under the Act. The information submitted with the designation allows the National Marine Fisheries Service (NMFS) to determine whether the requirements of the Magnuson-Stevens Act are being met in terms of the responsibilities and expertise of the individual named, and to ensure that the person named is a full-time State employee.

(b) Governors' Nominees for Council Appointments. Section 302(b)(2)(C) requires each eligible State or Territorial Governors to nominate no less than three qualified individuals to serve as members of the Councils. Nominee's background information is needed to determine the qualifications of individuals.

(c) Treaty Indian Tribal Governments' Nominees for Council Appointments. Section 302(b)(5)

of the Magnuson-Stevens Act requires Tribal Governments with federally-recognized fishing rights in California, Oregon, Washington, or Idaho to nominate representatives to serve on the Pacific Fishery Management Council. Information is needed to determine the qualifications of individuals.

(d) Background Documents Completed by Nominees and Submitted to Governors or Treaty Indian Tribal Government. Nominees must furnish a current resume, or equivalent, describing career history and other relevant information as required in order to be considered as a candidate by the State Governor, Territorial Governor, or Tribal Government.

(e) Application for Reinstatement of State Authority. Section 306(b)(2) of the Magnuson-Stevens Act allows states to apply for reinstatement of their authority to manage a fishery after the Secretary has assumed the responsibility for that fishery. In its application for reinstatement of its authority, the state must provide information documenting the reasons the Secretary's authority no longer prevails.

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) Principal State Officials and Their Designees. The information is used by the Secretary to appoint state officials as voting members of Councils under Section 302(b)(1)(A) of the Act. The Secretary seeks, on an annual basis, information about the expertise, employment, and responsibilities of the Governors' designees to meet the requirements of the Act. The information has been collected and used in the Council appointment process since 1977.

(b) Governors' Nominees for Council Appointments. The information is used by the Secretary to appoint members to the Councils. One third of the Councils' membership is appointed by the Secretary each year. The information submitted helps the Secretary ensure that the candidates are qualified as specified in Section 302(b)(2)(B) and (C) of the Magnuson-Stevens Act, and to ensure that there is a balance in Council representation between sectors with fishery interests (e.g., commercial and recreational interests). This information has been collected and used by the Secretary in the Council appointment process since 1977 and in mandated reports to Congress since 1991. Information required includes the following:

Part 1, a written statement as to why they want to be a Council member; a current resume, or equivalent, describing career history, detailing fisheries background and experience; and a statement of guiding philosophy on the conservation and management of living marine resources;

Part 2, Nominees must specify their personal fisheries experience and background, participation in a fishing sector, and other management interests within a Council's geographic area;

Part 3, Nominees must meet applicable financial disclosure requirements as required by Section 302(j) of the Magnuson-Stevens Act prior to appointment. The requirements of Part 3 are listed on NOAA Form 88-195 "Statement of Financial Interests for Use by Voting members of, and Nominees to, the Regional Fishery Management Councils." In addition, nominees must

certify if they or a spouse, partner, or organization in which they are serving as an officer, director, trustee, general partner, or employee, have participation in a NMFS-funded grant or an Intergovernmental Personnel Agreement.

Part 4, each nominee must certify, pursuant to the Foreign Agents Registration Act of 1938, if they serve as an agent of a foreign principal. In addition, each nominee must certify, pursuant to the Lobbying Disclosure Act of 1995, as amended, if they serve as a registered Federal lobbyist. Nominees cannot be appointed to the councils if they are acting as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, or if they are a registered Federal lobbyist pursuant to the Lobbying Disclosure Act of 1995, as amended.

(c) Treaty Indian Tribal Governments' Nominees for Council Appointment. Section 302(b)(5)(B) of the Magnuson-Stevens Act requires Tribal Governments with federally-recognized fishing rights in California, Oregon, Washington, or Idaho to nominate representatives to serve on the Pacific Fishery Management Council. Criteria set forth for appointment by the Secretary includes requirements for information on the qualifications of nominees, geographic area in which the tribe of the nominee is located, the various fishing rights of the tribes involved and judicial cases that set out how those rights are to be exercised. One appointment will be made to the Pacific Fishery Management Council every third year from no less than three nominees proposed by the Tribal Governments. The Indian Tribal Governments may nominate either as a collective group or individually in proposing nominees.

(d) Background Documents completed by Nominees and Submitted to Governors or Treaty Indian Tribal Government. The current resume, or equivalent, describing career history, and other relevant information as required are necessary to evaluate who is best qualified, knowledgeable, and broadly experienced to address management actions that the Council will consider in the upcoming future. Nominees must meet all requirements and have a favorable adjudication on background checks conducted by the Federal Bureau of Investigation and NOAA's Office of Law Enforcement. Information submitted by the Governors on their nominees helps the Secretary ensure that the nominees are properly qualified as specified in Section 302(b)(2)(B) and (C) of the Magnuson-Stevens Act, and can be considered for possible appointment to one of the Councils.

(e) Application for Reinstatement of State Authority. A state may apply, under Section 306(b)(2), to the Secretary for reinstatement of state authority over a fishery. The state making the application must provide information to the Secretary to enable her to determine whether the reasons for which the Secretary had assumed responsibility still exist, or whether the Secretary should return responsibility back to the state in question. There is no form associated with this application. There is no expectation that a state will request the Secretary to exercise this authority in the next three years.

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.

NMFS has created a website to assist Governors and Tribal Governments in compiling nomination lists for the annual appointments process:
<https://www.fisheries.noaa.gov/national/partners/council-nomination-process-guidance>

Complete information is required for any individual seeking nomination to one of the eight Councils. A fillable PDF of the application kit is available for the nominees of Governors and Tribal Governments. The Governors and Tribal Governments are responsible for gathering nomination information and application kits from their nominees and submitting completed packets to NMFS. Applications may be submitted to NMFS either electronically or by mail.

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 is the sole organization collecting nomination information for the Secretary and administering the appointment process. NMFS is also the sole organization charged with the management of fisheries in the U.S. Exclusive Economic Zone. Thus there is no possible duplication of other collections.

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

The respondents for collections listed in Question 2, sub-paragraphs 2(a), 2(b), and 2(e) above are State Governments, not small entities. The respondents for the collection listed in sub-paragraph 2(c) above are Indian Tribal Governments. The burden is considered not to be significant and has been further reduced from the information collection burden placed on the Tribal Governments in the following ways:

(a) Participation in the nomination process by the Indian tribes from California, Oregon, Washington, and Idaho with federally-recognized fishing rights is at the discretion of the individual Tribal Governments.

(b) The nomination process and information collection only takes place every third year for one Council member's seat on the Pacific Fishery Management Council.

(c) The Tribal Governments have the option of combining to nominate qualified persons in order to further reduce the burden on any one Tribal Government.

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.

Through the Act, Congress has mandated the program activities of the councils and the frequency of council nomination requirements. Therefore, the collection of nomination materials must occur annually, or in the case of Tribal members must occur every three years, to avoid a lapse in council membership.

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 was published on November 7, 2022 (87 FR 67019). No public comments were received.

Each year NMFS interacts with the state fisheries management agency representatives and Governors' offices on the information collection methods. Feedback is collected as part of the appointment process via conversations and e-mail. We make changes to the website and guidance as a result of the feedback received from these offices and nominees.

Additionally, NMFS reached out to 3 fisheries management agency representatives 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.

No payment or gift will be made for responses.

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 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. The information collection is designed to yield data that meet all applicable information quality guidelines. The information will be subjected to quality control measures pursuant to Section 515 of Public Law 106-554.

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)
Principal State Officials and Their Designees	State Governors	15	1	15	1	15	\$70	\$1,050
Governors' Nominees for Council Appointments	Governors' Nominees	30	1	30	80	2,400	\$70	\$168,000
Indian Tribal Governments' Nominees for Council Appointments Tribal Governments	Tribal Government	9	1 (3 nominees per tribe)	9	80	720	\$60	\$43,200
Background documents by nominees	Council nominees	92	1	92	16	1,472	29.00	\$42,688
Applications for Reinstatement of State Authority	State Governors	0	0	0	1	0	0	0
Totals				146		4,607		\$254,938

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 respondent 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.

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
(a) Principal State Officials and Their Designees	GS-15	64.00	40 hours		\$2,560
	GS-11	36.00	20 hours		\$720
	GS-11	36.00	20 hours		\$720
	GS-8	26.00	20 hours		\$520
				100 hours (a)	
(b) Governors' Nominees for Council Appointment	GS-15	64.00	80 hours		\$5,120
	GS-11	36.00	560 hours		\$20,160
	GS-11	36.00	560 hours		\$20,160
	GS-8	26.00	160 hours		\$4,160
				1,360 hours (b)	
(c) Indian Tribal Governments' Nominees for Council Appointment	GS-15	64.00	80 hours		\$5,120
	GS-11	36.00	160 hours		\$5,760
	GS-11	36.00	160 hours		\$5,760
	GS-8	26.00	80 hours		\$2,080
			380 hours (c)		\$18,720 (c)
(d) Applications for Reinstatement of State Authority			0 hours		0
Contractor Cost (a, b, c, d)		34.00	325 hours (d)		\$11,050 (d)
Travel					
Other Costs:					
TOTAL			2,165 hours		\$83,890

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	
Nominations	54	54	54	54	3,135	3,135	No change
Principal State Officials and Their Designees	15	15	15	15	15	15	
Governors' Nominees for Council Appointments	30	30	30	30	2,400	2,400	
Indian Tribal Governments' Nominees for Council Appointments	9	9	9	9	720	720	
Tribal Governments							
Background documents by nominees	92	92	92	92	1,472	1,472	
Applications for Reinstatement of State Authority	0	0	0	0	0	0	

Total for Collection	146	146	146	146	4,607	4,607	
Difference	0		0		0		

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
Nominations	\$212,250	\$190,815	0	607.50	Increase in wage rates since previous renewal. All responses expected electronically going forward, reducing miscellaneous costs to zero
Principal State Officials and Their Designees	\$1,050	\$ 975	0	168.75	
Governors' Nominees for Council Appointments	\$168,000	\$156,000	0	337.50	
Indian Tribal Governments' Nominees for Council Appointments	\$43,200	\$33,840	0	101.25	
Background documents by nominees	\$42,688	\$36,800	0	142.60	
Applications for Reinstatement of State Authority	0	0	0	0	
Total for Collection	254,938	227,615	0	751	
Difference	27,323		-751		

16. For collections 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 collection results will not be published. A list of all qualified nominee names received from State, Territorial, and Tribal Governments is posted via the NMFS website for the public.

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.

No forms are required. The requirements will be contained in the regulations governing appointments to, and procedures for, the Councils. The instructions are also on the website.

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