

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 08/19/2009

Department of Commerce  
National Oceanic and Atmospheric Administration  
FOR CERTIFYING OFFICIAL: Suzanne Hilding  
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 05/13/2009

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 200904-0648-002  
AGENCY ICR TRACKING NUMBER:  
TITLE: Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicant  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0538  
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 08/31/2012 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	1,000	3,000	1,000
New	1,000	3,000	920
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	-80
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE: This request is approved. Prior to resubmission of this information collection for renewal, the Agency should reassess estimates of burden through consultation with affected parties and provide demonstration that revised burden estimates are representative of respondents participating in the program.

OMB Authorizing Official: Kevin F. Neyland  
Deputy Administrator,  
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicant	NA	Environmental Compliance Questionnaire	

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

<p>1. Agency/Subagency originating request</p>	<p>2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span>                  a. _____ - _____</p>
<p>3. Type of information collection (<i>check one</i>)</p> <p>a. <input type="checkbox"/> New Collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note Item A2 of Supporting Statement instructions</p>	<p>4. Type of review requested (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Regular submission</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p>
	<p>5. Small entities                  Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____</p>
<p>7. Title</p>	
<p>8. Agency form number(s) (<i>if applicable</i>)</p>	
<p>9. Keywords</p>	
<p>10. Abstract</p>	
<p>11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>)</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p>	<p>12. Obligation to respond (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p>
<p>13. Annual recordkeeping and reporting burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p>    1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>	<p>14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&amp;M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>
<p>15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>)</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (<i>check all that apply</i>)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting</p> <p>    1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p>    4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p>    7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods</p> <p>Does this information collection employ statistical methods</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p>

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
ENVIRONMENTAL COMPLIANCE QUESTIONNAIRE FOR NATIONAL OCEANIC  
AND ATMOSPHERIC ADMINISTRATION FEDERAL  
FINANCIAL ASSISTANCE APPLICANTS  
OMB CONTROL NO. 0648-0538**

**A. JUSTIFICATION**

This request is for a renewal of this information collection.

**1. Explain the circumstances that make the collection of information necessary.**

This information collection is needed to ensure that all projects supported by the National Oceanic and Atmospheric Administration (NOAA) through grants or other financial assistance awards comply with the [National Environmental Policy Act](#) (NEPA 42 U.S.C. 4321-4347), the Council on Environmental Quality's (CEQ) Regulations for Implementing NEPA ([40 CFR 1500-1508](#)), and [NOAA Administrative Order 216-6](#). The National Environmental Policy Act and CEQ implementing regulations require that an environmental analysis be completed for all major federal actions significantly affecting the environment. Those federal actions may include a federal agency's decision to fund non-federal projects under grants and cooperative agreements. In order to determine NEPA compliance requirements for a project being funded by NOAA, NOAA must assess information which can only be provided by the federal financial assistance applicant.

Each fiscal year, NOAA publishes Announcements of Federal Funding Opportunity in the [Federal Register](#) inviting applications from persons who are interested in obtaining grants to carry out a wide variety of projects. The solicitations contain a description of the grant program, along with evaluation criteria and weights. Applications for federal financial assistance are submitted through [grants.gov](#). In addition, NOAA also awards non-competitive grants.

In Fiscal Year 2005, NOAA awarded approximately 1,500 grant projects, supported by \$971,957,088. It is critical to ensure that an adequate level of detail is provided in every grant application to allow the agency to evaluate the environmental impacts, as required by NEPA, of activities conducted through the support of NOAA funds.

NOAA is responsible for regulatory compliance and must be provided with all of the relevant project information to determine the level of NEPA review and to prepare the subsequent NEPA analysis. The NEPA analysis must be completed prior to awarding any grant. Recipient cooperation to provide NOAA with specific project and environmental information has been an on-going issue. Despite detailed application instructions that outline what information is needed, applicants often do not provide NOAA with the appropriate level of project detail in their applications necessary for NOAA to make NEPA determinations and prepare the subsequent analysis. The information collection tool (questionnaire) was developed to collect all relevant project information required to comply with NEPA and expedite both the NEPA and award processes.

The questionnaire includes questions that encompass a broad range of subject areas. Applicants will not be required to answer every question in the questionnaire. Each program will draw from the comprehensive list of questions to create a relevant subset of questions for applicants to answer. It is the responsibility of the Federal Program Officer and/or NEPA Coordinator, in coordination with the NOAA Grants Division, to incorporate applicable questions into each Announcement of Federal Funding Opportunity or other solicitation announcement. Programs may also choose not to include the questionnaire as part of the application requirements, but to follow up with applicants via mail/email/phone to collect the required information. In addition, applicants conducting activities that have been identified to consistently qualify for a categorical exclusion (i.e., modeling, GIS mapping, planning activities, etc.) would not be required to complete the questionnaire or provide the information by any other means.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used.**

The information collected as part of the regulatory review of grant proposals will be used by NOAA Federal Program Officers, NOAA NEPA coordinators, NOAA NEPA analysts, DOC attorneys, and NOAA attorneys to determine the applicability of NEPA to the activity to be funded. If NEPA applies to the activity, the information would be used to determine the level of NEPA analysis required and for preparation of the analysis.

The collected information would also be a key element of “frontloading” the NEPA process and determining, along with the required level of NEPA analysis, additional regulatory requirements, such as the need for any permits or consultation that would also be subject to NEPA. For example, information provided as part of the regulatory review questionnaire would help program staff determine the need for Magnuson-Stevens Fishery Conservation and Management Act (MSA) Exempted Fishing Permits, Section 7 consultation under the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA) incidental authorization permits, and National Marine Sanctuary permits.

The information would be collected from grant applicants as part of the application package and reviewed during the application review process.

Section A of the questionnaire includes general questions that provide NOAA information about the project, information for NEPA compliance, and information regarding other regulatory reviews that may need to be completed or have been completed. NOAA will use this information to determine the level of NEPA analysis required, for preparation of the analysis, and to gather information on other environmental documents that may have been prepared for the activity.

Section B of the questionnaire includes questions regarding funding of the proposed activity. NOAA will use this information to determine the level of NOAA and other federal agency funding of the activity. This information will be used to determine the applicability of NEPA to the activity to be funded.

Section C of the questionnaire includes questions regarding the level of NOAA and other federal agency involvement of the proposed activity. This information will be used to determine the applicability of NEPA to the activity to be funded.

Section D of the questionnaire includes questions regarding the location of the proposed activity. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

Section E of the questionnaire includes questions regarding permits, authorizations or waivers that may be required to conduct the proposed action. NOAA will use this information to determine the level of NEPA analysis required, for preparation of the analysis, and to gather information on other environmental documents that may have been prepared for the activity.

Section F of the questionnaire includes questions regarding potential impacts of the proposed action. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

Section G of the questionnaire includes questions for activities related to damage assessment and restoration. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

Section H of the questionnaire includes questions for activities related to fisheries research and sampling. NOAA will use this information to determine the level of NEPA analysis required and for preparation of the analysis.

As explained in the preceding paragraphs, the information gathered has utility. NOAA 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. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The responses to the questions may be developed on a personal computer. Electronic submission of the information to be collected will be encouraged but not required. No other type of information technology is necessary to collect the majority of information that will be requested. The downloadable and fillable form will be available from the Grants Management Division website: <http://www.ago.noaa.gov> and may be submitted via e-mail.

**4. Describe efforts to identify duplication.**

There are no other collections that gather similar information. The information requested is unique to each financial assistance proposal. No duplication of effort exists with other Federal Government information collection efforts. Some of the questions may overlap with material provided in other parts of the federal financial assistance application. This overlap occurs

because the answers to the questionnaire are provided to NOAA staff who do not review the other parts of the application. If appropriate, the applicant may copy the information from other parts of the application and paste it into the answers to the questionnaire.

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

The information to be collected is very basic in its nature and should not be a hardship or burden for small entities that receive NOAA funds to produce this information. Furthermore, the applicant conducting the research or applying for funds should already have this information available as part of their research or project plan.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Detailed project information must be collected for every unique grant application in order to determine NEPA compliance requirements and to prepare the subsequent NEPA analysis. If detailed project specific information is not collected upfront from the applicant, NOAA staff must request and wait for additional information from the federal financial assistance applicants in order to fully implement NEPA. This may cause several weeks of delays in awarding and distributing federal financial assistance (grant) awards. If proper NEPA documentation cannot be completed for a particular activity, project or program, NOAA is not authorized to award or release any funds to the project or program applicant.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

The proposed collection of information will be conducted in a manner that is consistent with OMB guidelines.

**8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency 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.**

A Federal Register Notice published on January 28, 2009 (74 FR 4941) solicited public comment on this information collection. No substantive comments were received.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payments or gifts will be provided to any of the respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

The information collection does not request any proprietary or confidential information. No confidentiality is provided.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No information of a sensitive nature is collected.

**12. Provide an estimate in hours of the burden of the collection of information.**

It is estimated that 1,000 financial assistance applicants will complete the questionnaire. Depending on the number of questions the respondent is asked to answer, it is estimated to take the respondent 1 to 3 hours to complete the questionnaire. It is estimated to take most respondents 1 hour to complete the questionnaire. However, there is one grant program that may require respondents to answer numerous questions and it may take up to 3 hours for that group of respondents to answer the questionnaire. To account for the burden hours, the maximum number of hours was used. It is estimated that it will take the respondent no more than 3 hours to complete the questionnaire. The maximum total annual estimated burden hours will be 3,000.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.**

If the information is submitted electronically, this collection will incur no cost burden on respondents beyond the cost of response time (assuming the respondent has a computer). If respondents opt to copy or print the questionnaire it is estimated to cost \$0.05 per page, or \$0.50. Mailing would cost of \$0.42 per envelope for standard mailing. If all respondents chose to copy and mail the questionnaire, the estimated maximum cost would be \$0.92 per respondent, for a total annual cost of \$920.00. However, it is assumed that most respondents would submit the information electronically.

**14. Provide estimates of annualized cost to the Federal government.**

It is estimated that reviewing and distributing the information provided in the questionnaire will require 3 hours of an FTE's time per application reviewed. With an annual average salary of \$24.00 an hour per FTE, it is estimated that each application reviewed will cost the government \$72.00 for a total of \$72,000 annually.

**15. Explain the reasons for any program changes or adjustments.**

There are no program changes or adjustments. NOTE: the actual reporting/recordkeeping cost is \$920. Because the cost was rounded off when the information collection was migrated to ROCIS, there is an apparent decrease in cost from \$1,000.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

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 why display would be inappropriate.**

Not applicable.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

There are no exceptions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.

## **The National Environmental Policy Act (42 U.S.C. 4321-4347)**

### **Sec. 102**

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

## **Council on Environmental Quality's Regulations for Implementing NEPA (40 CFR 1500-1508)**

### **Sec. 1500.1 Purpose**

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.

### **Sec 1508.18 Major Federal Action**

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (Sec. 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (Secs. 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

1. Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

2. Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.
3. Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.
4. Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

## **NOAA Administrative Order Series 216-6**

### **Section 4. Definitions**

4.01b. Applicant. Any party who may apply to NOAA for a Federal permit, funding, or other approval of a proposal or action and whose application should be accompanied by an environmental analysis. Depending on the program, the applicant could be an individual, a private organization, or a Federal, state, tribal, territorial, or foreign governmental body. RFMCs are not considered applicants because of their unique status under Federal law.

4.01m. Major Federal Action. An activity, such as a plan, project or program, which may be fully or partially funded, regulated, conducted, or approved by a Federal agency. “Major” reinforces, but does not have a meaning independent of “significantly” as defined in Section 4.01.x. and 6.01. of this Order. Major actions require preparation of an EA or EIS unless covered by a CE (40 CFR 1508.18). CEQ’s definition of “scope” regarding the type of actions, the alternatives considered, and the impacts of the action should be used to assist determinations of the type of document (EA or EIS) needed for NEPA compliance (40 CFR 1508.25).

### **Section 5. Implementing Procedures**

5.01a. General. Environmental review is the process undertaken by the RPM to identify the scope of environmental issues related to the proposed action, to make decisions that are based on understanding the environmental consequences of the proposed action, and to determine the necessary steps for NEPA compliance (40 CFR 1500.2). Such an analysis must be undertaken for any major Federal action that is subject to NEPA. A similar analysis must be undertaken under E.O. 12114 for certain proposed major Federal actions not otherwise subject to NEPA with environmental effects outside US jurisdiction. See Section 7.01 of this Order for guidance on NEPA compliance for international treaties, commissions, and compacts. The procedures for NEPA compliance with domestic laws, regulations, executive orders, and administrative orders may differ depending on whether the proposed action is a management plan or amendment, a research project, a construction project, regulation, or an emergency action. Section 6. of this Order addresses these differences in detail.

5.01b.3. In those cases where programs or actions are planned by Federal or non-Federal agency applicants as defined in Section 4.01b. of this Order, the RPM will, upon request, supply potential applicants with guidance on the scope, timing, and content of any required environmental review prior to NOAA involvement (see Section 5.08 of this Order for more

information).

5.08 Actions Proposed by Applicants. Any applicant to NOAA regarding a proposed action (e.g., permit, funding, license, or approval of a proposal or action) must consult with NOAA as early as possible to obtain guidance with respect to the level and scope of information needed by NOAA to comply with NEPA.

[Federal Register: January 28, 2009 (Volume 74, Number 17)]  
[Notices]  
[Page 4941-4942]  
From the Federal Register Online via GPO Access [wais.access.gpo.gov]  
[DOCID:fr28ja09-17]

---

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Continued Information Collection; Comment Request; Questionnaire  
To Support Review of Federal Assistance Applications

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

---

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 30, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be

[[Page 4942]]

directed to Cristi Reid, (301) 713-1622 x206 or [Cristi.Reid@noaa.gov](mailto:Cristi.Reid@noaa.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 through 4327) and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies only to the actions of Federal agencies. While those Federal actions may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements, NEPA requires agencies to assess the environmental impacts of actions proposed to be taken by these recipients only when the Federal agency has sufficient discretion or control over the recipient's activities to deem those actions as

Federal actions. To determine whether the activities of the recipient of a Federal financial assistance award (i.e., grant or cooperative agreement) involve sufficient Federal discretion or control, and to undertake the appropriate environmental analysis when NEPA is required, NOAA must assess information which can only be provided by the Federal financial assistance applicant. Thus, NOAA has developed an environmental information questionnaire to provide grantees and Federal grant managers with a simple tool to ensure that project and environmental information is obtained. The questionnaire applies only to those programs where actions are considered major Federal actions or to those where NOAA must determine if the action is a major Federal action. The questionnaire includes a list of questions that encompasses a broad range of subject areas. The applicants are not required to answer every question in the questionnaire. Each program draws from the comprehensive list of questions to create a relevant subset of questions for applicants to answer. The information provided in answers to the questionnaire is used by NOAA staff to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. The information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as permitting.

## II. Method of Collection

Methods of submittal include paper forms via the mail, Internet, and facsimile transmission.

## III. Data

OMB Control Number: 0648-0538.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; and Federal government.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annual Cost to Public: \$1,000 in miscellaneous costs.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 22, 2009.

Gwellnar Banks,  
Management Analyst, Office of the Chief Information Officer.  
[FR Doc. E9-1746 Filed 1-27-09; 8:45 am]

BILLING CODE 3510-NW-P

## **The National Environmental Policy Act (42 U.S.C. 4321-4347)**

### **Sec. 102**

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

## **Council on Environmental Quality's Regulations for Implementing NEPA (40 CFR 1500-1508)**

### **Sec. 1500.1 Purpose**

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.

### **Sec 1508.18 Major Federal Action**

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (Sec. 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (Secs. 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

1. Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

2. Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.
3. Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.
4. Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

## **NOAA Administrative Order Series 216-6**

### **Section 4. Definitions**

4.01b. Applicant. Any party who may apply to NOAA for a Federal permit, funding, or other approval of a proposal or action and whose application should be accompanied by an environmental analysis. Depending on the program, the applicant could be an individual, a private organization, or a Federal, state, tribal, territorial, or foreign governmental body. RFMCs are not considered applicants because of their unique status under Federal law.

4.01m. Major Federal Action. An activity, such as a plan, project or program, which may be fully or partially funded, regulated, conducted, or approved by a Federal agency. “Major” reinforces, but does not have a meaning independent of “significantly” as defined in Section 4.01.x. and 6.01. of this Order. Major actions require preparation of an EA or EIS unless covered by a CE (40 CFR 1508.18). CEQ’s definition of “scope” regarding the type of actions, the alternatives considered, and the impacts of the action should be used to assist determinations of the type of document (EA or EIS) needed for NEPA compliance (40 CFR 1508.25).

### **Section 5. Implementing Procedures**

5.01a. General. Environmental review is the process undertaken by the RPM to identify the scope of environmental issues related to the proposed action, to make decisions that are based on understanding the environmental consequences of the proposed action, and to determine the necessary steps for NEPA compliance (40 CFR 1500.2). Such an analysis must be undertaken for any major Federal action that is subject to NEPA. A similar analysis must be undertaken under E.O. 12114 for certain proposed major Federal actions not otherwise subject to NEPA with environmental effects outside US jurisdiction. See Section 7.01 of this Order for guidance on NEPA compliance for international treaties, commissions, and compacts. The procedures for NEPA compliance with domestic laws, regulations, executive orders, and administrative orders may differ depending on whether the proposed action is a management plan or amendment, a research project, a construction project, regulation, or an emergency action. Section 6. of this Order addresses these differences in detail.

5.01b.3. In those cases where programs or actions are planned by Federal or non-Federal agency applicants as defined in Section 4.01b. of this Order, the RPM will, upon request, supply potential applicants with guidance on the scope, timing, and content of any required environmental review prior to NOAA involvement (see Section 5.08 of this Order for more

information).

5.08 Actions Proposed by Applicants. Any applicant to NOAA regarding a proposed action (e.g., permit, funding, license, or approval of a proposal or action) must consult with NOAA as early as possible to obtain guidance with respect to the level and scope of information needed by NOAA to comply with NEPA.

[Federal Register: January 28, 2009 (Volume 74, Number 17)]  
[Notices]  
[Page 4941-4942]  
From the Federal Register Online via GPO Access [wais.access.gpo.gov]  
[DOCID:fr28ja09-17]

---

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Continued Information Collection; Comment Request; Questionnaire  
To Support Review of Federal Assistance Applications

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

---

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 30, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be

[[Page 4942]]

directed to Cristi Reid, (301) 713-1622 x206 or [Cristi.Reid@noaa.gov](mailto:Cristi.Reid@noaa.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 through 4327) and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies only to the actions of Federal agencies. While those Federal actions may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements, NEPA requires agencies to assess the environmental impacts of actions proposed to be taken by these recipients only when the Federal agency has sufficient discretion or control over the recipient's activities to deem those actions as

Federal actions. To determine whether the activities of the recipient of a Federal financial assistance award (i.e., grant or cooperative agreement) involve sufficient Federal discretion or control, and to undertake the appropriate environmental analysis when NEPA is required, NOAA must assess information which can only be provided by the Federal financial assistance applicant. Thus, NOAA has developed an environmental information questionnaire to provide grantees and Federal grant managers with a simple tool to ensure that project and environmental information is obtained. The questionnaire applies only to those programs where actions are considered major Federal actions or to those where NOAA must determine if the action is a major Federal action. The questionnaire includes a list of questions that encompasses a broad range of subject areas. The applicants are not required to answer every question in the questionnaire. Each program draws from the comprehensive list of questions to create a relevant subset of questions for applicants to answer. The information provided in answers to the questionnaire is used by NOAA staff to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. The information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as permitting.

## II. Method of Collection

Methods of submittal include paper forms via the mail, Internet, and facsimile transmission.

## III. Data

OMB Control Number: 0648-0538.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; and Federal government.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annual Cost to Public: \$1,000 in miscellaneous costs.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 22, 2009.

Gwellnar Banks,  
Management Analyst, Office of the Chief Information Officer.  
[FR Doc. E9-1746 Filed 1-27-09; 8:45 am]

BILLING CODE 3510-NW-P

**Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicants**

**Instructions**

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4327) and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR 1500-1508) require that an environmental analysis be completed for all major federal actions significantly affecting the environment. NEPA applies only to the actions of federal agencies. Those actions may include a federal agency's decision to fund non-federal projects under grants and cooperative agreements. In order to determine NEPA compliance requirements for a project receiving National Oceanic and Atmospheric Administration (NOAA) funding, NOAA must assess information which can only be provided by the federal financial assistance (grant) applicant.

NEPA requires that a number of items be considered prior to funding and conducting any activity. The following Environmental Compliance Questionnaire provides federal financial assistance applicants and NOAA staff with a tool to ensure that project and environmental information is obtained. NOAA staff will use the information provided in answers to the questionnaire to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. Information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as permitting and Endangered Species Act Section 7 consultations.

Applicants are not required to answer every question in this questionnaire. Applicants are only required to answer the questions indicated in the Announcement of Federal Funding Opportunity. Applicants should answer the questions to the best of their ability with as much detail as possible. If the applicant does not answer all of the questions indicated in the Announcement of Federal Funding Opportunity the application may be considered incomplete.

Some of the questions may overlap with material provided in other parts of the application. This overlap occurs because the answers to the questionnaire are provided to NOAA staff who do not review the other parts of the application. If appropriate, the applicant may copy the information from other parts of the application and paste it into the answers to the questionnaire.

Many questions have a "yes" or "no" response. If the response is "no" the applicant does not need to elaborate on their answer. If the response is "yes" the question will have a second part asking the applicant to provide more information. Applicants should use the space provided to answer the questions. If the applicant needs additional space, additional pages may be attached to the questionnaire, indicating which question is being continued.

**A. Project Information**

**A1. Provide a brief description of the proposed activity.**

**A2. Describe the purpose and need of the proposed activity. If the proposal is a continuation of an on-going project, fully explain any changes in the purpose and need in relation to information gathered in previous years.**

**A3. Provide a description of potential alternatives to the proposed activity (e.g., alternative times, locations, methods, etc.).**

**A4. Has any National Environmental Policy Act (NEPA) or other environmental compliance documentation (e.g., Endangered Species Act Biological Opinion; Letter of Concurrence or Biological Assessment/Evaluation; Clean Water Act permit; State Historic Preservation Officer consultation; state environmental compliance documentation (mini-NEPA), etc.) been completed? If yes, list the environmental compliance documentation that has been completed and provide copies of the documentation as appropriate.**

**A5. Is a state environmental policy act compliance document (mini-NEPA) required? If yes, state when this document was completed or will be completed and identify who is preparing the document.**

**A6. Would the proposed activity or environmental impacts of the activity be subject to public controversy? For example, landowners, whose land may be affected by the project, are not in support of the project. If yes, describe the potential controversy.**

**A7. Would the proposed activity have potential environmental impacts that are highly uncertain or involve unique or unknown risks? If yes, describe the impacts that are uncertain or involve unique or unknown risks.**

**A8. Is the proposed activity related to other activities (both NOAA and non-NOAA) that together may cumulatively adversely impact the environment? For example, the proposed activity is one of a series of projects that together may cause a change in the pattern of pollutant discharge, traffic generation, economic change, flood plain change, or land use. If yes, briefly describe the other activities and discuss how the related projects would have cumulative impacts on the environment.**

**A9. Would the proposed activity involve construction and/or restoration? If yes, provide a description and plan diagram of the proposed impacted area.**

**A10. Would the proposed activity involve dredging, excavation, or placement of fill? If yes, describe the activity and how it will be conducted.**

**A11. Would the proposed activity involve a non-native species? If yes, describe how the non-native species is involved.**

**A12. Does the proposed activity involve the temporary or permanent placement of equipment (e.g., scientific monitoring equipment) or other structures in the environment? If yes, provide a detailed description of the equipment or structures and schedule for the deployment and recovery (if applicable) for the equipment or structures.**

**B. Funding Information**

**B1. Under what grant or federal financial assistance authority is the request/application for funding being made?**

**B2. Is the proposed activity being considered under an existing federal financial assistance program? If yes, identify the program.**

**B3. Is the proposed activity being conducted under a federal program or through an independent authority? If yes, name the federal program or independent authority.**

**B4. If the applicant does not receive funding from NOAA, will the applicant conduct the activity anyway?**

**B5. Do federal funds from other sources/agencies provide support for the proposed activity or projects related to the proposed activity? If yes, name the sources/agencies, the amount of funding, and the percentage of total funding each agency is providing.**

**B6. What percentage of total funding does the federal financial portion of NOAA's assistance represent?**

### **C. Federal Involvement**

**C1. Is the proposed activity going to be conducted in partnership with NOAA or would the proposed activity require NOAA's direct involvement, activity, or oversight? If yes, describe NOAA's involvement, activity, or oversight, including the name of the office or program that is involved.**

**C2. Would the proposed activity involve any other federal agency(ies) partnership, direct involvement, activity, or oversight? If yes, provide the name(s) of the agency(ies) and describe its involvement, activity, or oversight.**

## **D. Project Location**

**D1. Provide a brief description of the location of the proposed activity.**

**D2. Would the proposed activity occur within a unique geographic area of notable recreational, ecological, scientific, cultural, historical, scenic, or aesthetic importance (e.g., coral reefs; marine protected areas; national marine sanctuaries; essential fish habitat; habitat area of particular concern; critical habitat designated under the Endangered Species Act; park or refuge lands; wild or scenic rivers; wetlands; prime or unique farmland; sites listed on the National Register of Natural Landmarks; sites listed or eligible for the National Register of Historic Places; sites that are ecologically significant or critical areas including areas that are normally inundated by water or areas within the 100-year flood plain)? If yes, describe the area, including the name or designation if known.**

**D3. Would any portion of the proposed activity occur in a national marine sanctuary or in a manner that would affect a national marine sanctuary resource? If yes, name the national marine sanctuary that the activity is occurring in and/or describe how the national marine sanctuary resources may be impacted.**

**D4. Would the proposed activity affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historical resources? If yes, describe the impact. Also explain whether and how it was determined if any of those properties had the potential to occur within the affected area.**

## **E. Permits**

**E1. List any federal, state, or local permits, authorizations, or waivers that would be required to complete the proposed activity. Provide the date the permit, authorization, or waiver was obtained or will be obtained. Provide copies of the permit, authorization, or waiver as appropriate. Was a NEPA analysis prepared for the permit, authorization, or waiver? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.**

**E2. Would the proposed activity involve the issuance or modification of an incidental take permit pursuant to section 10(a)(1)(A) of the Endangered Species Act? If yes, provide the date the permit was obtained or will be obtained. Provide copies of the permit as appropriate. Was a NEPA analysis prepared for the permit, authorization, or waiver? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.**

**E3. Would the proposed activity involve the issuance or modification of a permit for scientific purposes or to enhance the propagation or survival pursuant to section 10(a)(1)(A) of the Endangered Species Act? If yes, provide the date the permit was obtained or will be obtained. Provide copies of the permit as appropriate. Was a NEPA analysis prepared for the permit? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.**

**E4. Would the proposed activity require a permit (or an amendment to an existing permit) to conduct the proposed activity in a national marine sanctuary? Provide the date the permit was obtained or will be obtained. Provide copies of the permit as appropriate. Was a NEPA analysis prepared for the permit? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.**

## **F. Potential Impacts of the Proposed Activity**

**F1. Is there the potential for the proposed activity to cause changes that would be different from normal ambient conditions (e.g., temperature, light, turbidity, noise, other human activity levels, etc.)? If yes, describe the changes and the circumstances that would cause these changes.**

**F2. Is there potential for any foreign substance (e.g., chemicals, antibiotics, pathogens, etc.) to be introduced into the environment? If yes, describe the foreign substance; how the foreign substance is being used; why the substance is being used; and measures that will be taken to prevent or limit its introduction into the environment.**

**F3. Would the proposed activity involve the risk of human or environmental exposure to toxic or hazardous substances? If yes, describe the substance; how the substance is being used; why the substance is being used; the risk of human or environmental exposure; and measures that will be taken to prevent or limit human or environmental exposure.**

**F4. Are there historic uses of the proposed activity's site, or other known issues, that make it likely that contaminants may be uncovered and/or disturbed by carrying out the activity? If yes, describe the historic uses or other known issues of the site; the potential contaminants; and the circumstances that may uncover and/or disturb the contaminants.**

**F5. Would the proposed activity affect public health or safety (e.g., change to water supply, change to water table, wastewater disposal, etc.)? The effects may be adverse or beneficial and temporary, long-term, or permanent. If yes, describe the effects and the circumstances that would cause these impacts.**

**F6. Would the proposed activity change stormwater flow, air quality, noise levels, or traffic patterns? The changes may be adverse or beneficial and temporary, long-term, or permanent. If yes, describe the changes and the circumstances that would cause these changes.**

**F7. Would the proposed activity result in changing the use of park lands, prime farmland, and/or floodplains? The changes may be adverse or beneficial and temporary, long-term, or permanent. If yes, describe the changes and the circumstances that would cause these changes.**

**F8. Would the proposed activity have adverse effects on minority or low-income populations? If yes, describe the effects and the circumstances that may cause the impacts.**

**F9. Would the proposed activity have social or economic impacts? The impacts may be adverse or beneficial and temporary, long-term, or permanent. If yes, describe the impacts and the circumstances that would cause these changes.**

**F10. Would the proposed activity affect directly or indirectly, in an adverse or beneficial manner, any listed endangered, threatened, or otherwise protected species or their critical habitat under federal and state laws including the Endangered Species Act and the Marine Mammal Protection Act? If yes, name the species and/or habitat that will be impacted and describe the circumstances that would impact the species and/or habitat.**

**F11. Would the proposed activity involve sonar transmissions at a combination of frequency, power level, duration, and insonified area known or expected to harm marine mammals? If yes, describe the sonar transmissions; the location; and list the marine mammals known to occur in the area.**

**F12. Would the proposed activity cause an existing habitat (terrestrial or ocean) to be altered (e.g., tidal flow, sediments, water depth, water quality, turbidity, current, temperature, etc.)? The changes may be adverse or beneficial and temporary, long-term, or permanent. If yes, describe the potential changes and the circumstances that would cause these changes. Also discuss if these changes extend beyond the immediate project area.**

**F13. Would the proposed activity alter biodiversity and ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)? The changes may be adverse or beneficial and temporary, long-term, or permanent. If yes, describe the changes and the circumstances that would cause these impacts.**

**F14. Would the proposed activity be considered to be something other than a low effect habitat conservation plan? If yes, describe.**

**G. Potential Impacts of the Proposed Activities Related to Damage Assessment and Restoration**

**G1. Is the proposed activity intended to do something other than restore an ecosystem, habitat, biotic community, or population of living resources to a determinable pre-impact condition? If yes, describe the additional purposes of the activity.**

**G2. Would the proposed activity transplant organisms not currently or formerly present at the site or in its immediate vicinity? If yes, describe the organisms that will be transplanted and why they were chosen.**

## **H. Potential Impacts of the Proposed Activities Related to Fisheries Sampling and Research**

**H1. Would the proposed action jeopardize the sustainability of a target or non-target species under the Magnuson-Stevens Fishery Conservation and Management Act? If yes, name the species and describe the possible jeopardy that the action would place on the species.**

**H2. Would the proposed action cause damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act and identified in fishery management plans? If yes, describe the possible damages and the circumstances that would cause these impacts.**

**H3. If the proposed activity is a continuation of an on-going project, please provide information/reports for previous years including the number of fish and other species that were collected for the research and the number of fish and other species that were incidentally caught over time for each non-target species.**

**H4. If the proposed action is a continuation of an on-going project, please provide information/reports including any impacts to habitat or protected species for previous years.**

**H5. If the proposal is a continuation of an on-going project, please provide information/reports for previous years in order to evaluate whether there are potential cumulative impacts to habitat.**

**H6. What amount (total numbers and/or weight) of fish or invertebrates are proposed to be caught? What is the size (weight, length, and age class) of each species?**

**H7. Would targeted fish be under the minimum size limit or is the applicant applying for an exemption to the minimum size limit? If yes, explain why an exemption is necessary to conduct the proposed research.**

**H8. If any organisms are released alive, how many would be tagged, measured, or sampled? What is the probability of their survival after being handled (e.g., tagged, measured) and released (e.g., percent of live or dead fish)?**

**H9. If fish are retained for sale or personal consumption, quantify the amount of each species to be sold or used for personal consumption.**

**H10. What is the type and size of gear to be used? Please highlight any differences between proposed research gear and currently regulated gear.**

**H11. How many pots, gill nets, or other fixed gear would be used during the course of the study? How many extra vertical lines will be associated with these pots or gillnets? What lengths of gillnet will be used?**

**H12. Would the fishing gear being utilized conform to whale safe regulations (e.g., Atlantic Large Whale Take Reduction Plan) and other appropriate regulations? If not, explain the differences and the reason for the discrepancy.**

**H13. How long would the fishing gear be deployed? List average soak time for each gear type.**

**H14. What is the proposed number of gear hauls for each gear type (e.g., trawl gear)?**

**H15. What is the duration and speed of each tow for mobile gear, such as trawl gear?**

**H16. Are trawls being used? If yes, will a turtle exclusion device (TED) be used?**

**H17. Is the applicant applying for an exemption to fishing gear restrictions? If yes, please explain why the exemption is necessary for the proposed activity.**

**H18. Would the proposed activity increase fishing effort? If yes, describe the extent of the increase.**

**H19. How many proposed fishing days are there within the year for each gear type?**

**H20. Are exemptions from other regulatory requirements such as Days At Sea (DAS), Total Allowable Catch (TAC), and/or possession limits requested? If yes, explain what the exemptions will be (how many DAS exempted, etc.) and why they are required.**

**H21. Describe the proposed research and sampling area (e.g., Gulf of Maine, Georges Bank, etc.) and provide Loran coordinates or Statistical areas (be as specific as possible).**

**H22. Would the sampling occur within areas normally closed to such activity by regulation? If yes, is the applicant applying for exemptions to use the closed areas (e.g., fishery management closed area, habitat closed area, etc.)? Please explain why the exemptions are necessary to the proposed research.**

**H23. When would the sampling occur? Provide information specifying all dates of sampling within the project's timeframe.**

**H24. Is the applicant applying for exemptions to any closed or otherwise restricted fishing seasons? If so, explain why the exemptions are necessary to the proposed research.**

**H25. Is the target species listed as endangered, threatened, or otherwise protected species (under Federal and/or state law; e.g., ESA and/or MMPA, etc.)?**

**H26. Does the applicant have a current ESA-permit (Section 10), MMPA permit (Section 104 (c), MMPA Letter of Agreement for stranding response (Section 112 (c)), or other permit or letter agreement for the proposed or related activity? Is the proposed research covered by the permit or letter agreement? Was a NEPA analysis prepared for the permit? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.**

**H27. Would the proposed activity use sampling gear that may result in any noise that is potentially harmful to any endangered, threatened, or otherwise protected species? If yes, describe the noise and name the species that may be impacted.**

**H28. If the proposed sampling involves the use of sonic tags, acoustic surveys, or specialized gear that may emanate sound, provide a description of the noise(s), including frequency (Hz), amplitude (dB), and what angle (or degrees) radius the noise may travel.**

**H29. Is there a potential for incidental catch of non-target species? If yes, describe how many of each identified non-target species are expected to be caught (percentage of catch)?**

**H30. Would the sampling gear cause impacts to habitat or the physical environment? If yes, describe the potential impacts and the circumstances that would cause these impacts.**

**H31. Is the basic gear type proposed for use currently used in the area or are there restrictions on gear use due to current regulations, lack of target stock, abundance of bycatch, etc.? If yes, describe the restrictions.**

**Paperwork Reduction Act Statement**

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Ms. Cristi Reid, NOAA Office of Program Planning and Integration, SSMC 3, Room 15700, 1315 East West Highway, Silver Spring, MD 20910. The information collection does not request any proprietary or confidential information. No confidentiality is provided.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

**The National Environmental Policy Act (42 U.S.C. 4321-4347)**

**Sec. 102**

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

**Council on Environmental Quality's Regulations for Implementing NEPA (40 CFR 15001508)**

**Sec. 1500.1 Purpose**

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.

**Sec 1508.18 Major Federal Action**

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (Sec. 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (Secs. 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

1. 1. Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.
2. 2. Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.
3. 3. Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.
4. 4. Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

## **NOAA Administrative Order Series 216-6**

### **Section 4. Definitions**

4.01b. Applicant. Any party who may apply to NOAA for a Federal permit, funding, or other approval of a proposal or action and whose application should be accompanied by an environmental analysis. Depending on the program, the applicant could be an individual, a private organization, or a Federal, state, tribal, territorial, or foreign governmental body. RFMCs are not considered applicants because of their unique status under Federal law.

4.01m. Major Federal Action. An activity, such as a plan, project or program, which may be fully or partially funded, regulated, conducted, or approved by a Federal agency. “Major” reinforces, but does not have a meaning independent of “significantly” as defined in Section 4.01.x. and

6.01. of this Order. Major actions require preparation of an EA or EIS unless covered by a CE (40 CFR 1508.18). CEQ’s definition of “scope” regarding the type of actions, the alternatives considered, and the impacts of the action should be used to assist determinations of the type of document (EA or EIS) needed for NEPA compliance (40 CFR 1508.25).

### **SECTION 5. IMPLEMENTING PROCEDURES**

5.01a. General. Environmental review is the process undertaken by the RPM to identify the scope of environmental issues related to the proposed action, to make decisions that are based on understanding the environmental consequences of the proposed action, and to determine the necessary steps for NEPA compliance (40 CFR 1500.2). Such an analysis must be undertaken for any major Federal action that is subject to NEPA. A similar analysis must be undertaken under

E.O. 12114 for certain proposed major Federal actions not otherwise subject to NEPA with environmental effects outside US jurisdiction. See Section 7.01 of this Order for guidance on NEPA compliance for international treaties, commissions, and compacts. The procedures for NEPA compliance with domestic laws, regulations, executive orders, and administrative orders may differ depending on whether the proposed action is a management plan or amendment, a research project, a construction project, regulation, or an emergency action. Section 6. of this Order addresses these differences in detail.

5.01b.3. In those cases where programs or actions are planned by Federal or non-Federal agency applicants as defined in Section 4.01b. of this Order, the RPM will, upon request, supply potential applicants with guidance on the scope, timing, and content of any required environmental review prior to NOAA involvement (see Section 5.08 of this Order for more information).

5.08 Actions Proposed by Applicants. Any applicant to NOAA regarding a proposed action (e.g., permit, funding, license, or approval of a proposal or action) must consult with NOAA as early as possible to obtain guidance with respect to the level and scope of information needed by NOAA to comply with NEPA.

Dated: January 16, 2009.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E9-1720 Filed 1-27-09; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; NOAA Community-based Restoration Program Progress Reports

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before March 30, 2009.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Robin Bruckner, 301-713-0174 or via the Internet at [Robin.Bruckner@noaa.gov](mailto:Robin.Bruckner@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The NOAA Community-based Restoration Program (CRP) provides financial assistance on a competitive basis to implement grass-roots, community-based habitat restoration, debris prevention and removal, and dam and other barrier removal activities through individual projects or restoration partnerships. The NOAA Restoration Center (RC) within the NOAA Fisheries Service Office of Habitat Conservation intends to continue requiring specific information on projects funded under various grants initiatives managed by the RC as part of routine progress reporting. Recipients of NOAA funds under these initiatives will be required to submit information including project location, restoration

techniques used, species benefited, acres restored, stream miles opened to access for diadromous fish, volunteer participation, and other parameters. This information collection is necessary to track and report on the large number of community-based projects being implemented with RC support around the country. This information will be used to continue populating a database of NOAA-funded habitat restoration, debris prevention and removal, and barrier removal projects. The database, with its robust querying capabilities, is instrumental to accurate and timely responses to NOAA, Department of Commerce, Congressional, and constituent inquiries. It also ensures accountability for federal funds expended for community-based activities, reported by NOAA through the Government Performance and Reporting Act "acres restored" performance measure. The grant recipients are required by the NOAA Grants Management Division to submit periodic performance reports and a final report for each award. This collection will stipulate the information to be provided in these reports until the Performance Progress Report standard forms family (SF-PPR) comes into use government-wide, at which time this information collection will be discontinued.

##### II. Method of Collection

The reporting form and format outline will be provided to funding recipients and will also be available on the Restoration Center's home page. Electronic submission of forms and progress report narratives will be encouraged but is not required.

##### III. Data

*OMB Number:* 0648-0472.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Not-for-profit institutions; State, Local and Tribal Governments, business or other for-profit organizations.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Response:* Interim reports: 9 hours and 45 minutes; final reports: 11 hours and 45 minutes. Three semi-annual reports and one final report over a 24-month period are required for each award; however, information collected and submitted for any single report need not be collected again for subsequent reports.

*Estimated Total Annual Burden Hours:* 8,240.

*Estimated Total Annual Cost to Public:* \$2,940.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 22, 2009.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E9-1743 Filed 1-27-09; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Continued Information Collection; Comment Request; Questionnaire To Support Review of Federal Assistance Applications

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before March 30, 2009.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be

directed to Cristi Reid, (301) 713-1622 x206 or [Cristi.Reid@noaa.gov](mailto:Cristi.Reid@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 through 4327) and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies only to the actions of Federal agencies. While those Federal actions may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements, NEPA requires agencies to assess the environmental impacts of actions proposed to be taken by these recipients only when the Federal agency has sufficient discretion or control over the recipient's activities to deem those actions as Federal actions. To determine whether the activities of the recipient of a Federal financial assistance award (*i.e.*, grant or cooperative agreement) involve sufficient Federal discretion or control, and to undertake the appropriate environmental analysis when NEPA is required, NOAA must assess information which can only be provided by the Federal financial assistance applicant. Thus, NOAA has developed an environmental information questionnaire to provide grantees and Federal grant managers with a simple tool to ensure that project and environmental information is obtained. The questionnaire applies only to those programs where actions are considered major Federal actions or to those where NOAA must determine if the action is a major Federal action. The questionnaire includes a list of questions that encompasses a broad range of subject areas. The applicants are not required to answer every question in the questionnaire. Each program draws from the comprehensive list of questions to create a relevant subset of questions for applicants to answer. The information provided in answers to the questionnaire is used by NOAA staff to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. The information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as permitting.

**II. Method of Collection**

Methods of submittal include paper forms via the mail, Internet, and facsimile transmission.

**III. Data**

*OMB Control Number:* 0648-0538.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; and Federal government.

*Estimated Number of Respondents:* 1,000.

*Estimated Time per Response:* 3 hours.

*Estimated Total Annual Burden Hours:* 3,000.

*Estimated Total Annual Cost to Public:* \$1,000 in miscellaneous costs.

**IV. Request for Comments**

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 22, 2009.

**Gwelnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E9-1746 Filed 1-27-09; 8:45 am]

**BILLING CODE 3510-NW-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XM69**

**Fisheries in the Western Pacific; American Samoa Pelagic Longline Limited Entry Program**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; availability of permits.

**SUMMARY:** NMFS is soliciting applications for American Samoa

pelagic longline limited entry permits. At least 22 permits of various class sizes will be available for 2009. Longline fishermen with the earliest documented participation on a Class A vessel (less than or equal to 40 feet (12.2 m) in length) have the highest priority to qualify for a permit. Fishermen with the earliest documented participation in larger size class vessels (in order of size) receive the next priority to qualify for permits. This notice is intended to announce the availability of permits and to solicit applications for the permits.

**DATES:** Completed permit applications must be received by NMFS by May 28, 2009.

**ADDRESSES:** Request blank application forms from NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4733, or the PIR website [www.fpir.noaa.gov](http://www.fpir.noaa.gov).

Mail completed applications and payment to NMFS PIR, ATTN: ASLE Permits, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4733.

**FOR FURTHER INFORMATION CONTACT:** Walter Ikehara, Sustainable Fisheries, NMFS PIR, tel 808-944-2275, fax 808-973-2940, or e-mail [PIRO-permits@noaa.gov](mailto:PIRO-permits@noaa.gov).

**SUPPLEMENTARY INFORMATION:** On May 25, 2005, NMFS published a final rule that established a limited entry program for the pelagic longline fishery based in American Samoa (70 FR 29646).

American Samoa longline limited entry permits were established for four vessel size classes, based on length:

- a. Class A – less than or equal to 40 ft (12.2 m);
- b. Class B (and B-1) – over 40 ft (12.2 m) to 50 ft (15.2 m) inclusive;
- c. Class C (and C-1) – over 50 ft (15.2 m) to 70 ft (21.3 m) inclusive; and
- d. Class D (and D-1) – over 70 ft (21.3 m).

A total of 60 initial American Samoa longline limited entry permits were issued: 22 in Class A, five in Class B, 12 in Class C, and 21 in Class D. These numbers represent the maximum number of vessels allowed in each size class, pursuant to the regulations implementing the limited entry program at title 50 of the Code of Federal Regulations, part 665.36 (*i.e.*, 50 CFR 665.36). The limited entry program allows for new permits to be issued if the numbers of permits in each size class fall below the maximum. To date, not all permit holders have renewed their permits, invalidating those permits, and making 22 permits available for issuance (note that the number of available permits may change before the application period closes). Of the 22 available permits, thirteen are for