

**SUPPORTING STATEMENT
PACIFIC WHITING VESSEL LICENSE
OMB CONTROL NO. 0648-xxxx**

INTRODUCTION

This statement is a request from National Marine Fisheries Service (NMFS), Sustainable Fisheries Division (SFD) and Northwest Regional Office (NWR) to the Office of Management and Budget (OMB) for a new information collection to determine vessel eligibility to participate in the Pacific Coast Whiting Fishery off Washington, Oregon and California. In the future, the NWR may merge this collection with the existing collection OMB Control Number 0648-0203.

The groundfish fishery in the Exclusive Economic Zone (EEZ), offshore waters between 3 and 200 nautical miles (nm), off the coasts of Washington, Oregon, and California (WOC) is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Pacific Coast Groundfish FMP was prepared by the Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (subsequently amended and renamed the [Magnuson-Stevens Fishery Conservation and Management Act](#) and also amended in 2006). The FMP has been in effect since 1982.

Under current regulations, catcher vessels participating in the shore-based and Mothership sectors, or vessels participating in the catcher/processor sectors, must be registered to a groundfish limited entry permit. The limited entry permit program has been in place since 1994 and allows appropriately registered vessels to participate in groundfish fisheries targeting any of the 90+ species in the Pacific Coast Groundfish FMP. The proposed regulations would require vessels that wish to participate in the non-tribal Whiting fishery to qualify for an additional Whiting entry limitation program within the overall groundfish limited entry program.

The [American Fisheries Act](#) (AFA) of 1998 was designed to strengthen United States (U.S.) ownership standards that had been exploited under the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law No. 100-239), and to rationalize the Bering Sea and Aleutian Islands (BSAI) walleye Pollock fishery (Pollock) while protecting non-AFA participants in other fisheries. Management measures required by the AFA include: (1) regulations that limit access into the fishing and processing sectors of the BSAI Pollock fishery and that allocate Pollock to such sectors, (2) regulations governing catch measurement and monitoring in the BSAI Pollock fishery, (3) governing the formation and operation of fishery cooperatives in the BSAI Pollock fishery, and (4) regulations to protect other fisheries from spillover effects from the AFA.

The AFA requires the Council to develop conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by the AFA, or by any fishery cooperatives in the directed Pollock fishery. Protection measures can be divided into two basic categories: (1) the protection of persons/companies that harvest fish and are not part of the BSAI Pollock fleet as defined by the AFA; and (2) the protection of non-AFA fish processors. To address the concern of AFA impacts on the Pacific coast groundfish fishery, the Council voted to establish a control date of September 16, 1999. They also voted to initiate the development of recommendations to restrict AFA-qualified vessels from

participating in the fishery if, during a qualifying period between January 1, 1994, and September 16, 1999, the vessel: (1) did not harvest at least 50 metric tons (mt) of Pacific Whiting in the Mothership sector; (2) did not land at least 50 mt of Pacific Whiting in the shorebased sector; or (3) did not land groundfish shore-based in the Pacific Coast groundfish fishery (not including fish landed in the Pacific Whiting fishery) (64 FR 66158). The control date provided notice to AFA-permitted vessels that might seek to participate in the Pacific Coast groundfish fisheries that current requirements for accessing the fisheries may change.

In 2006, changes in the Pacific Whiting fishery occurred which led to Council concerns about increased participation by both AFA-permitted and non-AFA permitted vessels in the Pacific Whiting fishery. A significant increase in the Whiting ex-vessel price attracted several new vessels to the fishery, including some AFA-permitted vessels. Since the Alaska Pollock fishery was rationalized, some vessels found they could engage in fishing for Pacific Whiting off the West Coast in the spring and early summer and then travel to Alaska to take their shares of Pollock later in the summer when Alaskan fishing conditions were more favorable.

In September 2006, the Council recommended that NMFS take emergency action to prevent new entry into the Pacific Whiting fishery in 2007. The basis for the Council's recommendation was conservation concerns that could arise from an accelerated race for fish due to new entry of AFA-permitted vessels to the fishery. Members of the Council expressed concern that a race for fish could result in excessive harvest of Whiting early in the season, greater bycatch of overfished rockfish and higher levels of incidental catch of endangered and threatened salmon in the early season. The Council also noted its concern that new entry of AFA-permitted vessels could result in early achievement of the U.S. directed harvest Whiting quotas, leaving West Coast-based vessels facing no fishing or very limited fishing while the AFA-permitted vessels could return to the rationalized Alaska Pollock fisheries, in which they also had an interest. The Council's proposal would only have prohibited AFA-permitted vessels from entry into the Pacific Whiting fishery in 2007, and only if they did not have a history of involvement in the fishery prior to 2006. Other non-AFA vessels could still have entered the fishery.

In a letter dated January 11, 2007, the Northwest Regional Administrator denied the Council's request for an emergency rule. The letter noted that the Council action was intended to address actual or potential harm to West Coast fisheries from the AFA; however, the earlier closure of the Whiting shore-based fishery in 2006 (compared to 2005) was due to new participation by both AFA-permitted vessels and non-AFA vessels.

The Regional Administrator noted that the guidelines for the use of emergency rules call for use of notice-and-comment procedures when there are controversial actions with serious economic effects, except under extraordinary circumstances.

At its March 2007 meeting, the Council voted to request that NMFS enact an emergency rule for the 2007 non-tribal season to prohibit participation in the 2007 non-tribal Pacific Whiting fishery by all vessels without sector specific history in the fishery prior to January 1, 2007 (72 FR 27759). New information was presented that supported the potential for a race for fish, including: 1) the price for Whiting continued to increase to unprecedented levels; 2) U.S. optimum yield (OY) of Whiting was reduced by 10% for the 2007 season compared to 2006; 3) higher than projected canary rockfish bycatch rates in the non-Whiting fishery, required that the Council place more severe constraints on the limited entry non-Whiting trawl fishery which

provide incentive for these vessels to move to the Whiting sector; 4) Alaska Pollock quota was reduced.

The NMFS implemented the Council's request for emergency action on May 14, 2007, prohibiting participation in the 2007 Whiting fishery by any vessel that had no history of participation within a specific sector of the non-tribal Whiting fishery during the period between December 31, 1996 and January 1, 2007 (72 FR 27759, May 17, 2007). This action remains in effect until May 13, 2008. Emergency actions may be in place for as long as 180 days, and may be extended for a subsequent 180 days, but not longer.

A. JUSTIFICATION

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

In September 2007, the Pacific Fishery Management Council (PFMC) approved Amendment 15 to the Pacific Groundfish Fishery Management Plan which provided that only vessels with a history of significant participation in the various sectors of the Whiting fishery would be eligible to continue to participate in the fishery. Consistent with Council's decision, NMFS will publish proposed regulations, to be codified at 50 C.F.R. 660, which would establish the following criteria to qualify vessels for future participation in the non-tribal Whiting fishery. NMFS anticipates publishing the final rule in 2008 and vessel owners will be requested to submit an application for a Pacific Whiting vessel license before January 1, 2009. The Pacific Whiting vessel license will be effective in 2009.

Specifically, the regulations would limit participation in the non-tribal Pacific Whiting fishery to those vessels that met the following qualification criteria: (A) for catcher/processor vessels, the qualifying criteria for a Pacific Whiting vessel license is evidence of having caught and processed any amount of Whiting during the primary catcher/processor season in any one calendar year during the period January 1, 1997 through January 1, 2007; (B) for Mothership at-sea processing vessels, the qualifying criteria for a Pacific Whiting vessel license is evidence of having received and processed any amount of Whiting during the primary Mothership season in any one calendar year during the period January 1, 1997 through January 1, 2007; (C) for catcher vessels delivering Whiting to at-sea Mothership processing vessels, the qualifying criteria for a Pacific Whiting vessel license is evidence of having delivered any amount of Whiting to a Mothership processor during the primary Mothership season in any one calendar year during the period January 1, 1997 through January 1, 2007; and (D) for catcher vessels delivering Whiting to shore-based processing plants, the qualifying criteria for a Pacific Whiting vessel license is evidence of having made at least one Whiting landing with midwater gear and that the weight of Whiting exceeded 50 percent of the total weight of the landing during the primary shore-based season in any one calendar year during the period January 1, 1994 through January 1, 2007.

2. Explain how, by whom, how frequently, and for what purpose the information would be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

NMFS would request owners of any vessel (catcher vessel, Mothership, catcher processor) that has significantly participated in any of the sectors of the non-tribal Pacific Whiting during the

qualifying years to submit an application to qualify for a Pacific Whiting vessel license. Application notices would be mailed to vessel owners after the final rule is approved. The deadline for submitting an application would be December 31, 2008. The vessel license would be required to participate in the 2009 Whiting fishery. A valid Pacific Coast groundfish limited entry permit and Pacific Whiting vessel license would be required for any catcher vessel delivering to a shoreside processor or Motherships and for catcher processor vessels to continue to participate in the Whiting fishery. For Motherships, only the sector license would be required to continue to participate in the Pacific Whiting fishery. The privilege would be permanently assigned to the vessel and issued to the vessel owner(s). The license would not be transferable to another vessel. There would be no requirement that the vessel owner renew the license on a periodic basis. The Sustainable Fisheries Division (SFD) estimates about 120 vessels may apply to participate in the various sectors of the Pacific Whiting fishery. The application for the license would be a one-time collection.

In Section A of the application, the applicant would indicate which sector or sectors the vessel may have met the qualifying criteria. NMFS will use this information to batch applications by sectors. In Section B, the respondent would be required to provide the following information: (1) vessel name and United States Coast Guard (USCG) documentation number; (2) Pacific Coast Groundfish limited entry permit number; (3) vessel owner name, business address, telephone number, fax number and email address; (4) the sector(s) that the vessel may qualify for as having significant participation; (5) the year and number of pounds in which the vessel landed or processed Whiting and met the minimum landing requirement and (6) documentation (i.e., state fish tickets) that substantiates the date and the amounts of Whiting landed/received/processed by the applicant vessel.

In Section B, the vessel information indicates which vessel may be qualified for the license and, if qualified, would appear on the license. The permit number identifies whether the vessel is currently registered in the groundfish limited entry fishery and would assist NMFS in generating permit histories. The vessel owner name, business address, telephone number, fax number and email address would identify the individual or entity that is making the application and the entity or individual that would be issued the license and incur the legal responsibilities given in regulation. Further, the license holder information would provide current contact information for NMFS if they must contact them about their application. The signature of the authorized representative would certify that the application information is correct and true. An authorized representative of the vessel owner must sign, date and obtain notarization of the application. Notarization would verify the identity of the authorized representative signing the application. The date of the signature is required because the regulations provide a deadline for submitting the application.

In Section C, the applicant would be required to indicate one year among the qualifying years specified for the various vessel sectors (1994-2006 and 1997-2006) in which the vessel met the harvesting and/or processing qualification criteria (see Question 1, paragraph 2, above). The applicant would provide the total amount of Whiting actually caught or processed by the vessel for that year. This information is necessary to determine whether the vessel is qualified for the license. Although NMFS has access to state fisheries landing data for vessels delivering to shoreside facilities, other documentation will be needed to substantiate processing or deliveries of Whiting for at-sea vessels. The landing data is required, as there may be errors in state landing data and moreover, it is necessary that the applicant make a formal representation to

NMFS asserting that the vessel qualifies for this privilege. NMFS would need to determine whether the Whiting were harvested or processed illegally or if the claimed landed or processed Whiting was associated with an applicant vessel. Also, NMFS would require documentation to verify the pounds landed or processed for the one year indicated for a sector given in their application. The documentation may include state fish tickets or vessel processing records and would be reviewed for: (1) authenticity; (2) a listing of the vessel either landing or processing Whiting; (3) indication that Whiting was either landed or received on a date during the year indicated in the application and (4) the cumulative amounts of Whiting caught or processed in a given year.

NMFS would review the application and documentation to determine if the vessel meets the minimum landing requirement for a particular sector in one of the qualifying years. In Section A of the application form, the applicant is asked to check those vessel sectors it feels the vessel may qualify for and if they qualify for a sector, the sector would be identified on the license. NMFS would use this information to batch applications by sectors. If the application is approved, NMFS would issue a vessel license including the name and documentation number of the vessel, vessel owner name and address, an effective date of the privilege, and provide which sector(s) the vessel is qualified for. The qualifying vessel is permanently registered to the license and NMFS would not require periodic renewals of the license.

After a vessel license is issued, a registered vessel may be sold to other owners or the ownership group may change over time (i.e., death of an owner). NMFS would require vessel owners to provide notification in writing of such changes in ownership so it can maintain current license records on vessels/vessel owners possessing this privilege and reissue an updated license. In addition, NMFS must be able to accurately associate the legal responsibility for the privilege with a particular individual and/or entity. Specifically, the changes to a license that must be reported to NMFS are: change in owners of the registered vessel; the vessel owner business address/phone information; or a change in the vessel name. As appropriate, NMFS would require: the new vessel owner name, address, phone, and fax, or new vessel name. NMFS may require the USCG vessel documentation or abstract of title or other documentation to verify the change in ownership.

The frequency of requests to change of vessel owner and change in vessel name would be dependent on the number of times these actions occur. We estimate that the number of requests to change vessel name and/or owner name and address information would be about 4 per year. We have not prepared a form for revisions to the license because of the anticipated numbers of such changes are few. SFD would require the vessel owner to submit a letter to NMFS notifying it of this change.

A list of vessels which are qualified to participate in the Pacific Whiting fishery would be available to the public on the NWR web site: <http://www.nwr.noaa.gov>.

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 application to qualify for the license would be made available on the Northwest Region permits website (<http://www.nwr.noaa.gov/Permits/Index.cfm>); however, the applicant would be

required to submit the original copy of the application with the authorized representative's signature and the signature and stamp of a notary. The vessel owner would be required to submit a request for changes to the vessel license in a written letter.

4. Describe efforts to identify duplication.

There are no alternate sources for this information or duplicative requirements. The Pacific Coast Groundfish Limited Entry Permit program identifies trawl vessels which may participate in the limited entry Whiting and/or groundfish fisheries. However, the groundfish limited entry program does not currently collect information that specifically identifies which sector a Whiting vessel is registered or is qualified to participate in.

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

Most of the respondents would be small businesses. Only the minimum amount of information would be required to meet the objectives of identifying qualified Whiting vessels are requested of the applicants. The overall number of individuals and/or business entities involved in this collection is relatively small and therefore, separate methods have not been developed. The request for information to support the qualification of a particular vessel is one-time in nature. Subsequent modifications are dependent on changes in the vessel name, vessel owner, vessel owner address/telephone number. These changes are anticipated to be relatively few in a given year.

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

If the collection is not conducted, NMFS would not be able to determine which vessel owners want this privilege and to effectively determine which vessels meet the qualification requirements. If NMFS does not collect the information, it would be unable to limit the number of vessels participating in various sectors of the Whiting fishery. Under the current management regime, it is possible that other vessels which have not historically participated in the fishery would seek to participate in the fishery which would accelerate the race for fish and increase bycatch of overfished species and incidental catch of threatened and endangered salmon. Because this is a one-time collection, the collection could not be collected less frequently.

If NMFS does not require owners of licensed vessels to update information including changes to the name of the vessel, vessel owner name and address/phone, NMFS would be unable to effectively track which vessel and vessel owner are currently assigned to the vessel license.

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

There are no special circumstances that would require the collection to be conducted in a manner inconsistent 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 proposed rule, RIN 0648-AW08, will be published, soliciting public comments on the required information collection.

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

Not applicable.

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

The applicants for a vessel license are expected to provide fish tickets or other records that substantiate their participation in the Whiting fishery during qualifying years. These records are considered confidential under National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-100, Confidentiality of Fishery Statistics, and are subject to confidentiality protection of Section 402 of the Magnuson-Stevens Act.

Further, SFD would handle such records as consistent with COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries, published in the Federal Register on April 17, 2008 (73 FR 20914), and effective on June 11, 2008 (73 FR 33065).

A Privacy Act Statement is included on the application form.

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.

There are no questions of a sensitive nature included in the information collection.

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

An estimated annualized number of respondents (120 total/3 years = 40), will submit an initial application each with a burden of one hour. An estimated four requests for revision of the license, each with a burden of 30 minutes will be submitted: (40 x 1 hr.) + (4 x 0.5 hr.) = 42 hours (see Table 1).

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Each application and request for revision will cost \$0.42 to mail: $44 \times \$0.42 = \18.48 (\$19). Each application will require the application to be notarized and will cost \$10 per application: $40 \times \$10 = \400 . Revisions will not require notarization. The processing fee per application is estimated to be \$650: $40 \times \$650 = \$26,000$. $\$26,000 + \$400 + \$19 = \$26,419$ (see Table 2).

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

The cost to NMFS, SFD is incurred through the planning, preparation of regulations and review, data base programming, review, processing and issuance of the applications for the Whiting vessel qualification license and to review, process and any subsequent request to revise/update license information and the subsequent reissuance of the license.

The administrative costs incurred for the review, processing and license issuance for the initial applications would be covered by a one time application fee. The fee for the issuance of vessel license is estimated to be approximately \$650 per license. Subsequent requests to change the vessel name, vessel owner name and/or address are considered to be nominal.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

This is a new collection implemented by regulation. The regulations will require a new license for Whiting vessels.

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

The names of vessels that qualify on historical participation in the fishery may be published in a Federal Register Notice and/or would be posted on the NMFS NWR website.

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.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Table 1- Annual Burden Hours (Annualized over 3 yrs)	No. of Respondents	Frequency of Response	Total Annual Responses	Average Time per Response	Total Hours	Labor Cost @ \$17.02/hr**
Pacific Whiting Vessel License (one time, annualized)	40	1	40	1 hour	40	\$681.00
Request to Revise Pacific Whiting License (estimated yearly)	4	1	4	30 minutes	2 hours	\$34.00
Totals	44		44		42 hours*	\$715.00

Note*: The above estimate is based on annualization over 3 years. The application for vessel qualification is a one-time application. It is estimated that 120 applicants would submit an application.

**** Source:** Estimate is from U.S. Census Bureau Non employer statistics, 2001, as a proxy for respondent annual income).

Table 2 – Estimated Annual Cost Burden to Respondents	Cost Item	Cost
	Mailing: \$0.42 per application/revision x 44	\$ 19.00
	Notary: \$10 per application x 40	\$ 400.00
	Initial Application Processing Fee: 40 x \$650	\$26,000.00
Total		\$26,419.00