

**SUPPORTING STATEMENT
DATA COLLECTION FOR PACIFIC COAST TRAWL
RATIONALIZATION PROGRAM
OMB CONTROL NO. 0648-xxxx**

INTRODUCTION

This is a request for a new data collection in support of the Pacific Coast Trawl Rationalization Program and accompanies a proposed rulemaking, RIN 0648-AX98, by National Marine Fisheries Service, (NMFS), Northwest Region (NWR), Sustainable Fisheries Division (SFD).

A. JUSTIFICATION

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

This statement addresses a data collection authorized under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, U.S.C. 1801 *et seq* (MSA). Specifically, the MSA authorizes the Secretary of Commerce to implement by regulation an information collection necessary for developing, implementing, revising, or monitoring a fishery management plan (see Section 402).

The MSA established Fishery Management Councils to develop fishery management plans to conserve and manage fishery resources in 3-200 nautical mile zone off the coastline of the United States. The Pacific Coast Groundfish Fishery Management Plan (FMP) developed by the Pacific Fishery Management Council (PFMC) governs the groundfish fishery off Washington, Oregon, and California (WOC). In 1992, the PFMC approved Amendment 6 to establish the Pacific Coast groundfish limited entry program. Amendment 6 to the FMP addressed the issue of increasing amounts of excess fleet harvesting capacity by instituting a limited entry program based on the issuance of federal permits to control the overall fleet harvest capacity of the three major gear types (trawl, longline, and fish pot) that account for the majority of the Pacific Coast groundfish harvest. Amendment 6 is intended to control the capacity of the groundfish fishing fleet in three main ways: (1) limiting the overall number of vessels; (2) limiting the number of vessels using each of the three major gear types; and, (3) limiting increases in vessel harvest capacity by limiting vessel length. In 1993, NMFS implemented the groundfish limited entry program by regulation (50 CFR 660 Subpart G) which limits the number of vessels participating in the limited entry groundfish fishery. Currently, there are a 177 trawl endorsed permits.

In 2003, the PFMC began development of a trawl rationalization program for the Pacific Coast groundfish fishery, which would affect the limited entry trawl fishery. The trawl rationalization program is intended to increase net economic benefits, create individual economic stability, provide full utilization of the trawl sector allocation, consider environmental impacts, and achieve individual accountability of catch and bycatch. The PFMC developed the trawl rationalization program through two amendments to the groundfish FMP: (1) Amendment 20, the trawl rationalization program, and (2) Amendment 21, intersector allocation. Amendment 20 would create the structure and management details of the trawl rationalization program while Amendment 21 would allocate the groundfish stocks between trawl and non-trawl fisheries. The

PFMC took final action on Amendment 20 at its November 2008 meeting, with trailing actions at its March 2009, April 2009, and June 2009 meetings. The tentative date for NMFS to implement the trawl rationalization program is January 1, 2011. The proposed regulations are expected to be published in 2010.

The PFMC took final action on Amendment 21 at its April 2009 meeting. When the PFMC formally transmits those amendments to NMFS, the agency will publish a notice of availability (NOA) of an FMP amendment and a proposed rule in the Federal Register to announce a public comment period. Following the public comment period on the NOA and proposed rule, NMFS will announce its decision on whether or not to approve the amendments in a final rule published in the Federal Register. The FMP approval process is expected to occur in 2010.

The trawl rationalization program will be a limited access privilege program (LAPP) under the MSA. A LAPP is considered a grant of permission to the holder of the limited access privilege or quota share to participate in the program and may be revoked, limited, or modified at any time. This is a conditional privilege, conveyed through quota shares or catch shares, to harvest a specified amount of fish. The MSA requires the PFMC or the Secretary of Commerce to ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by establishing limits expressed as a percentage that each limited access privilege holders may hold, acquire, or use. For the trawl rationalization program, the PFMC has adopted limits on the amount of pounds a vessel can hold, acquire, or use (i.e., vessel limits) and limits on the amount of quota share that can be held, acquired, or used (i.e., control limits).

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

Amendment 20 will require NMFS to make initial allocations of quota share (QS) based on historical catch levels associated with a particular trawl endorsed permit. Also, shore-based processing plants will be allocated whiting quota share based on past participation in the fishery. Vessels participating in the at-sea cooperative portion of the program will be assigned catch history based on their past participation in the fishery. These provisions will be detailed in a separate rulemaking in 2010.

As part of the initial allocation of QS and catch history, NMFS must determine if the QS holder is in compliance with the accumulation limits at the individual level. Accumulation limits apply to the aggregate amount of QS owned by an entity and by individuals, including those who are shareholders in an entity. The latter will require that NMFS know who the shareholders in the entity or partnership are and what percentage each individual owns in that permit, vessel or plant. In cases where individuals or corporations own multiple trawl-endorsed permits or own vessels that are registered to multiple trawl permits, separate ownership interest forms will be required for each qualifying permit, vessel or plant. Similarly, for motherships and processors, a shareholder's interest in a particular vessel or plant will be the basis of attributing control over QS.

For purposes of this rulemaking, ownership information would be collected on a one time basis in 2010 from potential participants in the trawl rationalization program, including the at-sea fleet (whiting motherships, whiting mothership catcher vessels, and whiting catcher/processors), the shore-based fleet (whiting and non-whiting permit owners and holders) and the whiting shore-based processors. This includes all current (as of the effective date of the rule) permit owners of a trawl endorsed limited entry permit for each permit owned and any owner of a vessel registered to trawl endorsed limited entry permit, any vessel not registered to a limited entry permit but currently registered to a Pacific Whiting Vessel License, and shore-based processors of Pacific whiting. We estimate that the total number of respondents will be about 250.

This information collection serves a number of purposes in the development of the proposed regulations to implement the potential future trawl rationalization program in a timely manner. Similar to current requirements to collect ownership information from the limited entry fixed gear sablefish fleet, the primary purpose of collecting ownership interest information from the trawl fleet is to allow NMFS to monitor control of the groundfish resource in the trawl fishery to ensure participants remain within the accumulation limits, or control caps on quota share, recommended by the PFMC in Amendment 20 to the FMP. Initially, NMFS would use the ownership information collected as the first step in the application process to determine which potential quota share holders might be over their accumulation limits as an individual or as a member of a business entity. By collecting ownership information from potential participants in advance of the FMP amendment approval process, NMFS would expedite the quota share initial issuance process which is expected to take place in the fall of 2010. After ownership interest forms from this rulemaking are completed early in 2010, NMFS intends to provide pre-completed ownership interest forms with the initial issuance application package in the fall of 2010, reducing the burden on potential participants and shortening the application process. *If the collection of the ownership information requested as part of this rulemaking is not completed at the time NMFS provides these forms, it may delay implementation of the trawl rationalization program or issuance of an eligible participant's quota share due to the additional time needed to gather the ownership information and to determine if an eligible participant is within the accumulation limits.*

In addition, the ownership information collected would create a baseline of ownership information to evaluate the trawl rationalization program during periodic reviews of the program, as required by the MSA. It would allow NMFS to better understand the relationship between processors, permit owners, and the entities owning the vessel registered to the permit (i.e., permit holders). In other words, it would allow NMFS to better understand who will control QS and which individuals will potentially use QP. Finally, it would allow NMFS to better understand the ownership of vessels that crossover between different sectors in the trawl fishery. For example, some vessels that participate in the whiting shoreside fishery are also owned by the same individuals who own a processing plant. Similarly, some individuals may own vessels that participate in both the shore-based and at-sea sectors of the fishery. Again, it is important to have this information to develop an effective program.

After the trawl rationalization program is implemented in a future rulemaking, NMFS would likely require all applicants to submit a similar ownership interest form as part of renewal of QS permits each year and at time of transfer of QS.

NMFS will send an ownership interest form to all potential participants in the trawl rationalization program, requiring the following information: type of entity; qualifying permit number; name of company or name of individuals owning the limited entry permit, vessel or processing plant; tax identification number (TIN) for each entity; date of birth (DOB) for each individual; state registered in for each business entity; business mailing address; physical address for processing plants, business phone number, fax number and email; authorized representative's name; name of each individual having ownership interest in the limited entry permit, vessel or processing plant; the individual's business addresses; percentage of ownership by each entity (if there are multiple entities given as an owner of the permit, vessel, or processing plant) and each individual shareholder in each entity; printed name of authorized representative, signature, and date. The total ownership interest of all shareholders in an entity or partnership must equal 100 percent, except for cases where some shareholders/partners in the business entity own less than 2% and are, therefore, not required to be reported. Only shareholders with greater than or equal to 2% ownership interest in the business entity are required to report their ownership interest. The form would require all owners to certify whether or not they are a small business according to Small Business Administration (SBA) and the Regulatory Flexibility Act standards. Typically, NMFS has assumed that shoreside harvest vessels are small entities while assuming that catch processors, mothership processors and several shoreside processors are large entities. However, NMFS does not currently have information to confirm this is true. This information requested in Section C of the form would assist NMFS in better understanding the nature of these entities. The individual signing the form would certify under penalty of perjury that the information provided is true and correct and the form would be required to be notarized by a notary public.

In addition to completing the mandatory ownership interest form, potential trawl rationalization program participants may be required to submit additional documentation. If the ownership interest in the permit, vessel, or potential quota share involves a business entity, then additional documentation will be required. If an authorized representative signs this form for a business entity, then a corporate resolution would be required authorizing the person signing to do so on behalf of the entity. Business entities established under the laws of the United States or any State would be required to provide proof that they had done so and to verify that they are an active corporation. If an entity was (is) not established under the laws of the United States or any other State, they would not be required to do so by this associated rulemaking. However, this will be a requirement to qualify for an initial allocation of quota share, pursuant to section 304(c)(1)(D) of the MSA. Providing the information at this stage will expedite the initial issuance process.

Additional documentation that NMFS may request after review of the completed Trawl Ownership Interest Form include articles of incorporation, a contract, or any other credible documentation that substantiates those with ownership interest in the entity and their percent ownership. NMFS may require a certified copy of the current vessel document (USCG or state) as evidence of vessel ownership. NMFS may also request or consider any other relevant, credible evidence.

The ownership interest form will be mailed to respondents in early 2010 and respondents would have at least 60 days from the effective date of the Federal Register final rule to return the completed form. This form does NOT prequalify these persons for QS nor guarantee that they will qualify for QS under the future trawl rationalization program.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See the response to Question 10 in this section for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

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 NMFS NWR website (<http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm>) will provide the ownership interest form in a fillable format. Because this form requires a certification of the data provided to be true and correct and we do not have full confidence that an online form could be authenticated, we have elected not to collect this information using a web based system at this time. However, we continue to explore potential online techniques for this collection and as part of the implementing regulations for the trawl rationalization program (future rulemaking) to provide both QS holders and owners of vessels with assigned QPs an opportunity to submit information via a web based system.

4. Describe efforts to identify duplication.

This is a unique information collection and does not duplicate other collections. In the PFMC consideration of the trawl rationalization program, there were a number of opportunities for the public to comment on various aspects of the program. The proposed program included provisions that would require NMFS to collect ownership interest information. To our knowledge, there were no comments received indicating that this ownership interest collection duplicated another existing collection. NMFS currently collects similar ownership information for its sablefish endorsed limited entry permit owners and holders that are business entities. Almost all of the owners of sablefish permits and owners of vessels registered to sablefish permits do not also own trawl endorsed permits, or have vessels that fish both sectors.

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

The majority of permit owners and vessel owners are independent fishermen who are owner/operators of their vessel or members of family owned businesses or members of small partnerships. As such, they are considered to be small businesses. However, whiting processors are a mixture of small and large businesses. During 2006, 23 different processors/companies paid \$17 million to fishermen who delivered a combined 280 million lbs of Pacific whiting. A major processor is one that has purchased more than 1,000,000 lbs of Pacific whiting. There were 13 major Pacific whiting processors in 2006, with the remaining 10 processors, all being minor processors, as their production levels ranged from 2 lbs to 7,000 lbs. There were no processors in the 7,000 lb to 1,000,000 lb range. None of these minor processors were associated with a trawl landing that was greater than 4,000 lbs. Note that not all minor entities are “processors” in the

traditional sense—some of these entities may be fishermen who directly sell their fish to a restaurant.

The SBA has established size criteria for all major industry sectors in the U.S. including fish harvesting entities, for-hire entities, fish processing businesses, and fish dealers. A business involved in fish harvesting is a small business if it is independently owned and operated and not major in the field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$4.0 million for all its affiliated operations worldwide. For-hire vessels are considered small entities, if they have annual receipts not in excess of \$7 million. A seafood process is a small business if it is independently owned and operated, not major in its field of operation, and employs 500 or few persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. Finally, a wholesale business servicing the fishing industry (fish dealer) is a small business if it employs 100 or few persons on a full time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

Based on the SBA criteria and a review of company websites, state employment websites, newspaper articles, personal communications, and The Research Group (2006), it appears that the 13 major Pacific whiting processors can be grouped into nine SBA businesses based on analysis of affiliates. Within these nine SBA businesses, there are three businesses, each of which generated at least \$500 million in sales in 2003 (Seafood Business, May 2004, “Big Brands Head List of Top Suppliers.”). One of these companies reports employing 4,000 people so it is presumed that the other two companies have employment levels much higher than 500 employees. Four of these businesses have employment estimates that range from 100-250 employees, while the other plants appear to be in the 50-100 range (Because of missing data, one of these relatively small businesses may have less than 50 employees). Therefore, in terms of the SBA size standard of 500 employees, there are six “small” businesses that participated in the shorebased Pacific whiting processing sector in 2006. Annual sales information for these “small” businesses is unavailable, but total ex-vessel revenues—the value of the fish purchased from fisherman is available. In 2006, these six businesses purchased approximately \$40 million in hake and other fish and shellfish from west coast fishermen. This compares to the \$60 million in hake and other fish and shellfish purchased by the three large businesses.

The burden estimate of 30 minutes per response is assumed to be the same for all businesses, regardless of size, and NMFS will collect information that is essential in determining potential participants in trawl rationalization program and the level of ownership interests they have in qualifying permits, vessels and processing plants. There is incentive to respond as this is the initial step by any business to gain ownership rights in the fishery that can at a future time be harvested, sold, leased, or combined with other businesses in fishing operations. In an effort to minimize the burden on all persons completing the form, NMFS will pre-fill the form with certain information from NMFS database where possible.

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

If the information collection is not conducted, NMFS may not be able to implement the trawl rationalization program in a timely manner by January 1, 2011. NMFS may not be able to effectively determine the potential QS amounts allocated to various individuals and entities in relationship to the accumulation caps. Although this collection occurs in advance of the

implementation of the program, it allows NMFS to understand the number of individuals that may be required to divest quota share after the start of the program. More generally, if this information is not collected, NMFS will not have key information needed to understand the relationship of individuals currently participating in various sectors within the trawl fishery. This information will aid NMFS as it designs the trawl rationalization program and implementing regulations. More broadly, the information collection will provide NMFS with baseline data in advance of the initial implementation of the program which can be used for analytical purposes when the program is reviewed within five years of the implementation of the program.

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

NA.

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-AX98 will solicit public comments.

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

NA.

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

Some of the information collection described above is confidential under section 402(b) of the Magnuson-Stevens Act and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. The names of individuals who have an ownership interest in an entity that owns a permit, vessel or processing plant and the actual percentage of ownership are considered business confidential and not releasable to the public. The phone number, fax, email, TIN, and date of birth are confidential.

A Privacy Act system of records notice (SORN), COMMERCE/NOAA #19, Permits and Registrations for United States Federally Regulated Fisheries was published in the Federal Register on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065). This information collection is covered by this notice.

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.

This information collection does not require the submission of information of a sensitive nature.

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

TOTAL ANNUAL TIME BURDEN

	No. of Respondents	Total No. of Responses	Average Time per Response	Total Time
Trawl Identification of Ownership Interest Form	250	250	30 minutes	125 hours
Totals	250	250		125 hours

250 responses x 30 minutes = 125 hours.

125 hours x \$17.02 per hour = \$2128 in labor costs.

[\$17.02 is an estimate from the U.S. Census Bureau’s Non-employer Statistics, 2001, as a proxy for respondent annual income.]

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 Question 12 above).

Cost Item	Amount
Mailing - 250 x \$.44 per mailing	\$110
Application Fee	-0-
Copy of Form 250 x 4 pages x \$.05 per page	\$50
Notarize Form (250 x \$10 = \$2,500)	\$2,500
Total	\$2,660

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

NMFS will not charge an “application” (i.e., form) processing fee. The costs to NMFS will include staff time to review information and enter the data received into its database. NMFS already has a database module for collecting ownership information for sablefish endorsed permits. As a result, expanding this data input form to include trawl information will be minimal. We estimate that staff time to enter the data into the data base and to store the original submissions will be about 15 minutes per submission. It is anticipated NMFS will need to respond to questions from respondents about the form and may notify respondents who fail to submit the information by the deadline date.

120 hours x \$44 per hour (IT programmer) = \$5,280

300 letter/forms x \$5.20 per certified mail = \$1,560

250 responses x 15 minutes per responses = 63 hours

63 hours x \$25 hour (GS-7 equivalent) = \$1,575 (annualized cost to the Federal government)

Total annualized costs: \$8,415.

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

This is a new program.

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

NA.

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.

NA.

18. Explain each exception to the certification statement

NA.