

**SUPPORTING STATEMENT
NORTHWEST REGION TRAWL RATIONALIZATION
COST RECOVERY PROGRAM
OMB CONTROL NO. 0648-xxxx**

This is a resubmission with the Final Rule 0648-BB17. Changes were made based on comments on the proposed rule.

INTRODUCTION

Beginning in January 2011, the National Marine Fisheries Service (NMFS) implemented a trawl rationalization program, a type of a catch share program or limited access privilege program, for the Pacific coast groundfish fishery's trawl fleet. The program was adopted through Amendment 20 to the Pacific coast groundfish fishery management plan (FMP); interim final rule RIN 0648-AY68, published 10/1/2010 (75 FR 60868). It consists of an individual fishing quota (IFQ) program for the shorebased trawl fleet (including whiting and non-whiting fisheries); and cooperative (coop) programs for the at-sea mothership (MS) and catcher/processor (C/P) trawl fleets (whiting only).

As a type of limited access privilege program, the [Magnuson-Stevens Fishery Conservation and Management Act](#) (MSA) requires the agency to recover part of the costs of management, data collection, and enforcement for the trawl rationalization program, up to 3 percent of the ex-vessel value [16 USC §§ 1853a(e), 1854(d)(2)]. This is called a cost recovery program. The cost recovery program for the trawl rationalization program would cover all three sectors in the trawl rationalization program: the Shorebased IFQ Program, the MS Coop Program, and the C/P Coop Program.

This request is for a new information collection in conjunction with a rule, RIN 0648-BB17. In the Pacific coast groundfish fishery regulations, the trawl rationalization cost recovery program will be a new section in the Code of Federal Regulations (CFR) at 50 CFR 660.115.

A. JUSTIFICATION

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

The trawl rationalization cost recovery program is required by the MSA. As a type of limited access privilege program, the MSA requires the agency, annually, to recover part of the costs of management, data collection, and enforcement for the trawl rationalization program, up to 3 percent of the ex-vessel value. As part of the cost recovery program, NMFS may evaluate certain state activities that may be federal responsibilities and whether the costs of some of these state-performed federal activities could be recovered.

2. 1Explain how, by whom, how frequently, and for what purpose the information will be used. 1If 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.

The trawl rationalization cost recovery program requires the fish sellers to pay the fee and all parties making the first ex-vessel purchase of groundfish (i.e., the fish buyers) to collect the fee, account for and forward the fee revenue to NMFS. To reduce the burden on the fish sellers and fish buyers, NMFS has structured the trawl rationalization cost recovery program to be similar to and utilize certain elements of the Pacific coast groundfish buyback program (buyback program), specified at 50 CFR 600.1102. This buyback program information collection is included in the federal fishing capacity reduction program's collection (OMB Control Number 0648-0376). The cost recovery information collection has purposely been designed to coordinate with the buyback program information collection (see question 4). The buyback program was implemented in 2005 (70 FR 40225; July 13, 2005) and permanently removed 91 vessels and 239 fishing permits for \$45,662,471 from the groundfish trawl fishery and associated corollary fisheries of Dungeness crab and pink shrimp off the California, Oregon and Washington coast. Fees for repayment of the loan are to be paid on groundfish harvests using Federal trawl permits. Participants in the Shorebased IFQ Program and the MS Coop Program are subject to the repayment of the buyback loan, while the C/P Coop Program is not.

Due to similarities in the need to collect and document payment of a fee for both the buyback program (OMB control number 0648-0376) and the cost recovery program, the cost recovery program would utilize elements of the buyback program as much as possible. For example, for sectors subject to buyback, the cost recovery program would require the payment of fees to NMFS at the same time that buyback fees are paid (i.e., no later than the 14th of each month) making it easier to remember when payment to NMFS is due. Another example of structuring the cost recovery program to coordinate with the buyback program is that the fish buyer would be responsible for payment of the fees to NMFS. Also, NMFS would use the same online portal for payment as the buyback program, Pay.gov.

a. Fish sellers to fish buyers

The fish seller is required to pay the appropriate fee to the fish buyer (Note: In the C/P Coop Program, a cooperative of vessels that both harvest and process whiting at-sea, the fish seller and the fish buyer are the same entity). The fish seller is billed by the fish buyer at the time of landing or delivery and the full fee is due and payable to the fish buyer at the time of fish landing/delivery. Each fish buyer shall collect the fee at the time of fish landing/delivery by deducting the fee from the landing/delivery value before paying the net landing/delivery value.

NMFS does not need to collect any new information as part of that transaction. NMFS already receives information on the amount of groundfish subject to the cost recovery fee as follows:

- For the Shorebased IFQ Program, NMFS already receives landing information from the electronic fish ticket and from the catch monitor program.
- For the MS Coop Program, NMFS receives information on the catch delivered from the catcher vessel to the mothership from the observer data.
- For the C/P Coop Program, NMFS receives information on the harvest of groundfish from the observer data.

b. Fish buyers to NMFS

Each fish buyer collects the fees from fish sellers and must maintain a segregated account at a Federally-insured financial institution for the sole purpose of depositing fee collections and

disbursing them to NMFS through a U.S. Treasury Limited Access System Administrative Fund (LASAF) subaccount. The LASAF is established by section 305(h)(5)(B) of the MSA. Because the fish seller and fish buyer are the same entity in the C/P Coop Program and because they are only required to make one payment per year, the fish buyers in the C/P Coop Program are not required to maintain a segregated account at a Federally-insured financial institution.

For the Shorebased IFQ Program and the MS Coop Program, the process is similar to the requirements for the buyback program. Each month the fish buyer must disburse all collected cost recovery fees to NMFS. By the 14th calendar day of every month, the fish buyer will send the full deposit principle to NMFS via electronic payment on pay.gov. To support this system, the buyer must maintain certain records and submit a cost recovery form.

For the C/P Coop Program, which is not subject to the buyback program, the fish buyer must disburse all cost recovery fees to NMFS annually by December 31 each year. The fish buyer will send the full deposit principle to NMFS via electronic payment on Pay.gov. To support this system, the buyer must maintain certain records and submit a cost recovery form.

In addition, NMFS requires additional reporting, an annual report, for the MS Coop Program to verify information reported on the cost recovery form.

Cost Recovery Form

To make the form more clear and reduce error, each sector (IFQ, MS, and C/P) will have their own cost recovery form labeled with their sector. This aligns with Pay.gov which for this program is structured to only allow a fish buyer to make a payment for one sector at a time. This keeps cost recovery payments discreet and accounting clear for each sector. The form contains the following information: fish buyer's name, mailing address, city, state, zip, phone number, weight, ex-vessel value, fee due, and any fee adjustments. The IFQ cost recovery form also contains the first receiver site license number and month/year of landings. The MS cost recovery form also contains the permit number, vessel name, USCG documentation number, and month/year of deliveries. The C/P cost recovery form also contains the permit number, vessel name, USCG documentation number, and year of harvest.

The fish buyer's contact information and license/permit information is included in case NMFS needs to contact them and to match them with the appropriate landings or delivery information. The date of landings/deliveries/harvest is to verify what the submitted fees cover. The weight, ex-vessel value, and fee due are to document what the fish buyer is submitting the fees for and what they claim are the appropriate landings/deliveries/harvest. Fee adjustments are to document any changes to prices or fees.

Some of this information included in this form is available in other places, such as the weight and ex-vessel value. For the Shorebased IFQ Program, the ex-vessel value is available on the electronic fish ticket, and the economic data collection form. The weight is available on the electronic fish ticket and in NMFS online vessel account system. For the MS Coop Program and the C/P Coop Program, the ex-vessel value is not available on any other form and the weight is available from the observer program. For the MS Coop Program, the annual report described below can be used to verify ex-vessel value and weight. Requiring the weight and ex-vessel value to be reported on the cost recovery form provides fish buyers one place to document and

confirm the information on which they are basing the payment. It also provides NMFS all of the information in one place and verification that the appropriate fees have been paid.

Recordkeeping by the fish buyers

Each fish buyer must maintain accurate records of all transactions involving fees. Each fish buyer must maintain such records in a secure and orderly manner for a period of at least 3 years from the date of the transactions involved. The following information must be maintained by sector:

Shorebased IFQ Program-

For all deliveries of groundfish that the fish buyer buys from each fish seller:

- (1) The date of delivery,
- (2) The fish seller's identity,
- (3) The weight of each species of groundfish delivered,
- (4) Information sufficient to specifically identify the fishing vessel which delivered the groundfish,
- (5) The ex-vessel value of each species of groundfish,
- (6) The net ex-vessel value of each species of groundfish,
- (7) The identity of the payee to whom the net ex-vessel value is paid, if different than the fish seller,
- (8) The date the net ex-vessel value was paid,
- (9) The total fee amount collected as a result of all groundfish.

MS Coop Program-

For all deliveries of groundfish that the fish buyer buys from each fish seller:

- (1) The date of delivery,
- (2) The fish seller's identity,
- (3) The weight of each species of groundfish delivered,
- (4) Information sufficient to specifically identify the fishing vessel which delivered the groundfish,
- (5) The ex-vessel value of each species of groundfish,
- (6) The net ex-vessel value of each species of groundfish,
- (7) The identity of the payee to whom the net ex-vessel value is paid, if different than the fish seller,
- (8) The date the net ex-vessel value was paid,
- (9) The total fee amount collected as a result of all groundfish.

C/P Coop Program-

For all groundfish:

- (1) The date of harvest,
- (2) The weight of each species of groundfish harvested,
- (3) Information sufficient to specifically identify the fishing vessel which harvested the groundfish,
- (4) The ex-vessel value of each species of groundfish,
- (5) The net ex-vessel value of each species of groundfish,
- (6) The total fee amount collected as a result of all groundfish.

Much of this information (date, name, pounds delivered, vessel, price per pound) is collected as part of normal fish ticket procedures in many fisheries. The fee information is an additional burden.

In addition, the buyer collecting fees must maintain records on all fee collection deposits to, and disbursements to the deposit account and/or to NMFS. While the Shorebased IFQ Program and the MS Coop Program are required to have a deposit account, fish buyers in the C/P Coop Program would not be required to maintain segregated deposit accounts because the fish seller and the fish buyer is always the same entity and they only make one payment to NMFS per year. Below are the recordkeeping requirements by sector for the fee collection deposits and disbursements.

Shorebased IFQ Program-

For all fee collection deposits to and disbursements from the deposit account:

- (1) The date of each deposit in to the deposit account required at §660.115(d)(1)(ii)(A),
- (2) The total amount deposited in to the deposit account,
- (3) The date of each disbursement,
- (4) The total amount disbursed,
- (5) The dates and amounts of disbursements to the fish buyer, or other parties, of interest earned on deposits.

MS Coop Program-

For all fee collection deposits to and disbursements from the deposit account:

- (1) The date of each deposit in to the deposit account required at §660.115(d)(1)(ii)(A),
- (2) The total amount deposited in to the deposit account,
- (3) The date of each disbursement,
- (4) The total amount disbursed,
- (5) The dates and amounts of disbursements to the fish buyer, or other parties, of interest earned on deposits.

C/P Coop Program-

For all disbursements to NMFS:

- (1) The date of each disbursement,
- (2) The total amount disbursed.

The fish ticket and deposit/disbursement information is necessary to enforce the fee collection process to ensure that the Federal government is paid the required fees and that fishermen's fees are directed to that end.

Annual Report for MS Coop Program

All three sectors require 100 percent monitoring which can be used to verify weights of groundfish. The Shorebased IFQ Program also already requires reporting weight and ex-vessel value through electronic fish tickets. This information can be used by NMFS to verify that fish buyers are making accurate cost recovery payments and reporting accurate information on the cost recovery form. The at-sea sectors do not have a similar way to verify the ex-vessel value they've paid or reported. There are some distinctions between the at-sea sectors (MS and C/P). Because in the C/P Coop Program the fish buyer and fish seller are the same entity, because they would only pay at end of year, because they would not be required to have a deposit account, and because they are not paying the fee amount based on their own ex-vessel value (they pay based on MS ex-vessel value), NMFS determined an annual report from fish buyers in the C/P Coop Program would not be useful to verify information reported on the cost recovery form. However, in order to hold the MS Coop Program to similar standards as the Shorebased IFQ Program and to ensure fair and accurate fee payment among the sectors, NMFS requires an annual report from the MS Coop Program.

The annual report would be due by March 31 of the year following the fishing year (which is January 1 – December 31). This would align with the deadline for the coop report to NMFS, streamlining when NMFS receives sector information. However, the cost recovery annual report would be submitted by fish buyers rather than the coop managers. The cost recovery annual report submitted by fish buyers would be specified in regulation at §660.113(c)(5)(i)(B) for the MS Coop Program.

MS Coop Program-

The annual report submitted by fish buyers would include:

- (1) Total weight bought,
- (2) Total ex-vessel value paid,
- (3) Total fee amounts collected,
- (4) Total fee collection amounts deposited by month,
- (5) Dates and amounts of monthly disbursements to the Fund.

NMFS considered whether the mandatory economic data collection (EDC) report, required at §660.114, could be used to verify information reported by the at-sea sectors. However, it would be nearly two years before EDC information would be available for comparison to ex-vessel values reported for cost recovery. If NMFS used that information to pursue any payment discrepancies, it could cause problems for the fish buyers and fish sellers whose business arrangements may have changed over time. Therefore, NMFS will require the annual report as a more timely method to verify payment and values reported on the cost recovery form.

This information is needed to track, verify, and enforce the fee collection system.

c. Failure to pay – reporting requirements

These reporting requirements would apply in situations where one of the parties in a sale refuses to either pay or collect the required fees.

If a fish buyer refuses to collect the fee, the fish seller is supposed to advise the fish buyer of the fish seller's fee payment obligation and of the fish buyer's fee collection obligation. If the fish buyer still refuses to collect the fee, the fish seller must, within the next 7 calendar days, forward the fee to NMFS and advise NMFS in writing of the full particulars, including: the fish buyer's and fish seller's name, address, and telephone number; the name of the fishing vessel from which the fish seller made fish delivery and the date of doing so; the weight and ex-vessel value of each species of fish that the fish seller delivered; and the fish buyer's reason, if known, for refusing to collect the fee.

These reports are necessary to correct any problems that develop in the fee collection process.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. NOAA Fisheries 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. 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.

This information collection will require submission of cost recovery forms and payment of fees from fish buyers to NMFS via electronic payment only through the Pay.gov website. Collecting information and payment online benefits both the fish buyer and NMFS by providing a more efficient and accurate method and by allowing NMFS to have the information entered directly into the database. Fish buyers in all three sectors of the trawl rationalization program (Shorebased IFQ Program, MS Coop Program, and C/P Coop Program) are familiar with electronic technology. Fish buyers in the Shorebased IFQ Program have been required to submit electronic fish tickets since implementation of the trawl rationalization program. They are required to have a specific technology, as specified at §660.15(d), to participate in the program, including a computer, internet connection, and a printer. Fish buyers in the MS Coop Program and the C/P Coop Program are larger business entities that generally have business managers and accountants. While they do not have the same electronic fish ticket reporting requirements as the Shorebased IFQ Program, they are expected to be familiar with electronic technologies, including paying and reporting information online.

The MS Coop Program annual report form will be available on the NMFS website. The form may be completed online or printed out. The completed form must be submitted to NMFS via mail or email.

4. Describe efforts to identify duplication.

No duplication exists with other information collections. This information collection has purposely been designed to coordinate with the Pacific coast groundfish buyback program that is part of the federal fishing capacity reduction program (OMB Control Number 0648-0376). This

information collection has been designed to collect fees in a similar manner and using similar forms to those used by fish buyers in the Shorebased IFQ Program and the MS Coop Program for the buyback program.

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

1These requirements are not expected to have a significant impact on small businesses or entities. The fish buyers that are small entities are in the Shorebased IFQ Program and in the MS Coop Program and are already required to comply with the groundfish buyback program and the reporting requirements of the trawl rationalization program. This information collection is similar to other reporting requirements for this sector and utilizes existing reporting requirements, such as the buyback program, as much as possible.

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

This information collection is required as part of the MSA.

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

The requirements are consistent with OMB guidelines except for the following: Reporting will take place more often than quarterly in the case of submission of the fee collections for the Shorebased IFQ Program and MS Coop Program, which are required for any month with fishing activity. This requirement/process was established to parallel the groundfish buyback program requirements (OMB Control Number 0648-0376) at the request of the Pacific Fishery Management Council and the industry participating in that process.

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.

This is a new information collection. A proposed rule, RIN 0648-BB17, published coincident with the submission of this request, and solicited public comment (78 FR 7371; February, 1, 2013). NMFS received eleven letters of comments on the proposed rule submitted by individuals or organizations, three of which addressed the information collection.

In the “Comments and Responses” section of the final rule preamble, comments 12 through 16 address aspects of the information collection. The comments were generally on reducing the burden on fish buyers as collection agents, keeping online reporting simple, using separate forms for cost recovery and buyback, not requiring a segregated bank account, not requiring an annual report for the C/P Coop Program, and clarifying the ex-vessel value and fee due on the cost recovery form for the C/P Coop Program. Comment 12 supported requirements in the proposed rule. In response to Comment 13, about not requiring separate account, NMFS responded that they would maintain separate accounts, for clarity of accounting and also based on buyback regulations.

Based on these comments on the information collection, NMFS made several changes between the proposed and final rule as noted in the final rule preamble section “Changes from the Proposed Rule.” NMFS clarified the prohibition at § 660.112(a)(6)(iii) on deposit accounts and fee collection to only apply to the Shorebased IFQ and MS Coop Programs, and not to C/P Coop Program-- see response to Comment 14. NMFS removed the requirement for an annual report from fish buyers in the C/P Coop Program at § 660.113(d)(5)(i) and at § 660.115(d)(4)(ii) – see response to Comment 15. NMFS revised the term “fee collected” to “fee due” on the cost recovery form and in regulations at § 660.113(b)(5)(i), (c)(5)(i), and (d)(5)(i) – see response to Comment 16.

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 information collected is confidential under section 402(b) of the MSA as amended in 2006 (16 U.S.C. 1801 *et seq.*) It is also confidential under [NOAA Administrative Order 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics.

A Privacy Act System of Records Notice, COMMERCE/NOAA System-19, Permits and Registrations for United States Federally Regulated Fisheries, was published for comment on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065). An

updated version is currently under review at the Department of Commerce (submitted to the Department on May 30, 2013).

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.

Not applicable.

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

For the Shorebased IFQ Program and the MS Coop Program, both with monthly fee collection reporting, we have estimated that there will be an average of 100 and 6 fish buyers for each program, respectively. Many buyers in the Shorebased IFQ Program purchase groundfish year round, resulting in an estimate of 12 monthly forms per buyer per year (100 x 12 reports). The MS Coop Program season is 8 months long (6 x 8 reports). For the C/P Coop Program, with annual fee collection reporting, we have estimated that 10 buyers will provide 1 report per year (10 x 1 report).

Based on the experience in the groundfish buyback program, we estimate an average of 10 sellers or buyers per year with issues that require a report about failure to pay, which requires 4 hours to document (10 x 1 reports).

An annual report is required of the each fish buyer in the MS Coop Program (6 x 1 report).

	No. of Respondents	Frequency of Responses per year per respondent	Total Annual Responses	Average Time	Total Hours
Trawl rationalization cost recovery form					
<i>IFQ</i>	100	12	1,200	1 hour	1,200
<i>MS</i>	6	8	48	1 hour	48
<i>C/P</i>	10	1	10	1 hour	10
Failure to pay report	10	1	10	4 hours	40
Annual report					
<i>MS</i>	6	1	6	1 hour	6
TOTAL	132 (116 unduplicated)		1,274		1,304

The labor cost per respondent is based on the minimum wage of Washington (the highest of Washington, Oregon, and California), which is \$9.04 per hour. Total annualized labor cost= 1,304 burden hours x \$9.04 = \$11,788.16.

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).

The costs to respondents would be those for copying and mailing submissions for the failure to pay report and the annual report (cost recovery forms are completed and submitted online with disbursement of the collected fees to NMFS). The failure to pay reports are estimated to average a total of \$9.50 (\$10) per year (10 reports x (0.45 postage + 0.50 copying fee)). The annual report submitted by fish buyers in the MS Coop Program are estimated to average \$5.70 (\$6) per year (6 reports x (0.45 postage + 0.50 copying fee)).

COST ESTIMATE TOTAL (in \$)	
	Annual Costs
Buyer cost recovery forms	0
Failure to pay reports	10
Annual report	6
TOTAL	16

Although recordkeeping will take place, most of the records involved would already be kept as part of normal business operations and to support tax submissions. No additional costs have been estimated for recordkeeping.

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

The estimate of annualized cost to the Federal government of the trawl rationalization cost recovery program is approximately \$125,000. This includes 1 full time staff tasked with duties including, but not limited to: calculate fee percentage rate, announce fees, maintain database to track fees collected, send letters for respondents who fail to pay or who pay an incorrect amount, QA/QC on fees collected, and provide an annual report on the cost recovery program. The annualized cost value also includes part of the time of existing full time employees in the West Coast Region's Sustainable Fisheries Division, Fisheries Permits Office and Groundfish Branch. The Fisheries Permits Office would follow up with appropriate permit actions for any affected public that have not paid the required cost recovery fees. The Groundfish Branch may provide input, as needed, such as public notices and annual reports to the Council.

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

Not applicable.

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

NMFS publishes the fee percentage rate for each sector and any other necessary information for the upcoming year's cost recovery program during the last quarter of each calendar year for use in the calculation of fees. The fee percentage rate is also reported on the cost recovery form and would be updated by January 1 each year. NMFS calculates the fee percentage rate annually based on the methodology specified in regulation at 50 CFR 660.115.

Some of the information collected is tabulated and published in an annual report on trawl rationalization cost recovery program. Information tabulated may contain, but is not limited to the following: Total amount of fees, ex-vessel values and landings, number of fish buyers and fish sellers, and number and description of unpaid fees and payment disputes.

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.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

1This collection does not employ statistical methods.