

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Pacific Coast Groundfish Salmon Bycatch Minimization
OMB Control No. 0648-XXXX

Abstract

This request is for a new information collection pursuant to proposed rule 0648-BJ50 to minimize Endangered Species Act (ESA)-listed salmon bycatch in the Pacific Coast groundfish fishery. The collection relates to the voluntary submission of Salmon Mitigation Plans (SMP) and associated postseason reports by groups of Pacific whiting fishery vessels.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.*, authorizes Fishery Management Councils to prepare and amend fishery management plans (FMP) for any fishery in waters under its jurisdiction. The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) manages the groundfish fishery in the Exclusive Economic Zone (EEZ), the area 3-200 miles off of the coasts of Washington, Oregon, and California.

To comply with terms and conditions in a National Marine Fisheries Service (NMFS) December 2017 biological opinion on ESA-listed salmon interactions in the continued operation of the Pacific coast groundfish fishery, the Pacific Fishery Management Council (Council) began developing salmon bycatch minimization measures for the Pacific coast groundfish fishery in 2018. NMFS and the Council addressed a number of terms and conditions through the 2019-20 harvest specifications and management measures action (83 FR 63970; December 12, 2018). In that action NMFS established Chinook salmon bycatch guidelines of 11,000 fish for the whiting sector, and 5,500 fish for the non-whiting sector. In that action NMFS also established a 3,500 Chinook salmon bycatch “reserve” that fishery sectors may access upon reaching their Chinook bycatch guideline.

Proposed rule 0648-BJ50 establishes rules to allow industry to access the Chinook salmon bycatch reserve. As one way to access the reserve, the proposed rule would allow a group of Pacific whiting fishery vessels to develop a Salmon Mitigation Plan (SMP). The SMP is a voluntary agreement by a Pacific whiting fishery Mothership (MS), Catcher/processor (C/P), or Pacific whiting individual fishing quota (IFQ) fishery group to manage Chinook salmon bycatch. The SMP would be approved by NMFS. Those groups with an approved SMP would be required to provide an annual postseason report to the Council and NMFS no later than March 31. The report would describe the group’s use of Chinook salmon bycatch avoidance measures and an

evaluation of the effectiveness of those measures. It would also describe any amendments to the terms of the SMP that were approved by NMFS during the fishing year in which the SMP was approved and the reasons that the amendments to the SMP were made.

Sector Descriptions

The Pacific whiting fishery is composed of three sectors, as follows: 1) MS Coop Program, and 2) C/P Coop Program, and 3) the Pacific whiting IFQ fishery.

The at-sea trawl fleets catch and process Pacific whiting (whiting) with midwater trawl gear. In the **MS Coop Program**, mothership catcher vessels (MS/CVs) harvest the whiting and deliver the catch to large MS vessels, where it's sorted and processed at-sea. One or more MS cooperatives may form and/or vessels may choose to fish in a non-cooperative fishery. For both the cooperative and non-cooperative fishery, vessels pool their harvest together. In the **C/P Coop Program**, C/P vessels catch and process whiting at-sea under a single C/P cooperative. The **Pacific whiting IFQ fishery** consists of quota share (QS) permit owners, catcher vessels that are registered to limited entry trawl permits, have vessel accounts, and fish for quota pounds (QP). Unlike an MS or C/P cooperative, a shorebased whiting cooperative in the Pacific whiting IFQ fishery is not approved by NMFS. However, for the purposes of salmon bycatch minimization, cooperatives or groups of at least three vessels in the MS Coop Program, C/P Coop Program, or Pacific whiting IFQ fishery would be eligible to submit SMP to NMFS for approval. The Pacific whiting IFQ fishery currently has one cooperative, but it is possible additional groups could form around managing salmon bycatch.

Rulemakings that have Affected the Collection of Information

At its November 2019 meeting, the Council took final action to recommend the rules or circumstances under which fishery sectors would be allowed to access the Chinook salmon bycatch reserve. The proposed rule (0648-BJ50) would require NMFS or the Council to take an action to minimize Chinook salmon bycatch before fishery participants can access the reserve. Taking action could include NMFS approval of a Salmon Mitigation Plan (SMP). An SMP outlines how a group of Pacific whiting vessels will minimize its salmon bycatch and the propose rule establishes requirements for SMP contents and approval, as well as an associated postseason report. Information in the SMP or post season report is not currently collected as this is a new option available to groups of vessels in the Pacific whiting fishery. The recommended action would create a collection of information allowing NMFS to approve an SMP and then allow the Council and NMFS to assess the effectiveness of the SMP in avoiding or reducing Chinook salmon bycatch.

At its November 2019 meeting, the Council recommended a process by which NMFS would approve an SMP submitted by a cooperative or group of Pacific whiting vessels. In order to implement the SMP proposal and approval process this collection of information is necessary.

The Council also recommended an SMP postseason report as a necessary component of the SMP measures. The postseason report allows the Council to monitor and assess Chinook salmon bycatch minimization efforts by the SMP participants as it relates to access to the Chinook salmon bycatch reserve. This postseason report, and specifically information on the effectiveness

of the bycatch avoidance measures, would also help NMFS comply with term and condition 6.a.iii of the Biological Opinion. This term and condition requires NMFS produce an annual report summarizing bycatch reduction measures used and an evaluation of their effectiveness.

This information collection describes the application requirements for submitting an SMP to NMFS for approval, as well as an associated postseason report focused specifically on efforts to minimize Chinook salmon bycatch in the Pacific whiting fishery.

There are no forms associated with this information collection. Regulations requiring information collection are expected to be added at 50 CFR 660.113. These regulatory changes will be outlined in a proposed rule (RIN 0648-BJ50).

2. 1 Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Each collection item below is numbered, and the number corresponds to the burden estimate table under Question 12.

1. Salmon Mitigation Plan (SMP) proposal

An SMP is a voluntary agreement by a group of at least three vessels in the Mothership Coop Program, Catcher/processor Coop Program, or Pacific whiting IFQ fishery to manage Chinook salmon bycatch. This agreement is approved by NMFS. An approved SMP provides vessels party to the SMP with access to the Chinook salmon bycatch reserve. Participation in an SMP is voluntary; however, any vessel that chooses not to participate in an SMP would be subject to additional salmon bycatch minimization measures prior to being allowed access to the reserve.

The designated SMP representative annually submits the proposed SMP to NMFS either electronically or by mail between February 1 and March 31 of the year in which it intends to be in effect. NMFS will use the information to evaluate the submission and approve or deny the plan based on the SMP requirements described below. Once approved, an SMP is effective until December 31 of that year. We estimate that we may receive up to six SMP proposals per year over the next three years.

An SMP must include the following information:

- Name of the SMP
- Designated SMP representative name, telephone number, and email address
- Compliance agreement (i.e., written statement that all SMP parties agree to comply with all provisions of SMP)
- The names and signatures of the owner or representative for each vessel that is party to the SMP.
- A description of:
 - How participants will adequately monitor and account for the catch of Chinook salmon.
 - How participants will avoid and minimize Chinook salmon bycatch, including a

description of tools participants will employ. Tools may include, but would not be limited to, information sharing, area closures, movement rules, salmon excluder use, and internal bycatch guidelines.

- o How the SMP is expected to promote reductions in Chinook salmon bycatch relative to what would have occurred in absence of the SMP.

2. *SMP amendment*

The designated SMP representative (e.g., Cooperative Manager) may submit an amendment to an approved SMP at any time. The designated SMP representative submits the proposed amendment to NMFS either electronically or by mail. NMFS will use the information to evaluate the amendment and approve or deny the amendment based on the SMP requirements described above. Amendments to an SMP must include a description of the proposed change as well as the identification number that was assigned by NMFS when it approved the SMP. An amendment to an approved SMP is effective upon written notification of approval by NMFS to the SMP representative. We estimate that we may receive one amended SMP per year over the next three years.

3. *Administrative Appeals to Disapproved SMP*

The designated SMP representative who receives an Initial Administrative Determination (IAD) disapproving a proposed SMP or SMP amendment may appeal. Appeals will be governed by the regulations and policy of the National Appeals Office. The National Appeals Office regulations can be found at 15 CFR part 906. The designated SMP representative submits their appeal by mail or electronically. We expect to receive one appeal over the next three years. NMFS will use the information collected to make a final agency determination on the proposed SMP or amendment.

4. *SMP Postseason Report*

The SMP postseason report is the primary tool through which the Council and NMFS evaluate the effectiveness of SMPs in reducing Chinook salmon bycatch in the Pacific whiting fishery. Information gathered through the postseason reports is necessary for the Council and NMFS to evaluate the salmon bycatch management measures, provide the public with information about how the program operates, and obtain information about bycatch reduction under this program.

The designated SMP representative must submit an SMP postseason report to the Council and NMFS by mail or electronically. The SMP postseason report must be received by the Council and NMFS no later than March 31 of the year following that in which the SMP was approved.

The SMP postseason report must contain the following information:

- Name of the SMP and SMP identification number.
- A comprehensive description of Chinook salmon bycatch avoidance measures used in the fishing year in which the SMP was approved, including but not limited to, information sharing, area closures, movement rules, salmon excluder use, and internal bycatch guidelines.
- An evaluation of the effectiveness of these avoidance measures in minimizing Chinook

salmon bycatch.

- A description of any amendments to the terms of the SMP that were approved by NMFS during the fishing year in which the SMP was approved and the reasons the amendments to the SMP were made.

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 (the Information Quality Act), which requires NMFS to ensure the quality, objectivity, utility, and integrity of information it publicly disseminates. Public dissemination of data collected by this information collection is governed by NOAA's information quality guidelines, which were issued on October 30, 2014 (http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html).

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. The SMP postseason report may be posted on the Council website (<https://www.pcouncil.org/>). Personally identifiable information and confidential business information submitted in an administrative appeal is not released to the public. Final administrative appeal decisions with redactions are posted on the NMFS National Appeals Office website (<https://www.fisheries.noaa.gov/about/office-management-budget>). NMFS and the National Appeals Office 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 Question 10 of this Supporting Statement for more information on confidentiality and privacy.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

The designated SMP representative will have the option of submitting a proposed SMP and/or postseason SMP report to NMFS electronically.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2

This is a unique information collection and does not duplicate other collections, including those collections for MS and C/P cooperative permit application under OMB control# 0648-0620. The SMP program was developed by the Pacific Fishery Management Council and is unique to the commercial Pacific whiting fisheries on the West Coast. The information collected is required to implement and administer the program.

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

NMFS matched information collection dates associated with proposed SMP and postseason reports with the dates for submitting C/P and MS cooperative permit applications and annual

reports. This will minimize the burden on effected entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

This information collection is required to manage commercial fishing efforts under the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) and under 50 CFR part 660. This collection provides the Council and NMFS with information about Chinook salmon bycatch management measures and the effectiveness of those plans in the Pacific whiting fishery. This information is necessary to ensure long-term conservation and abundance of Chinook salmon, maintain a healthy marine ecosystem, and provide maximum benefit to fishermen and communities that depend on Chinook salmon and whiting. It would not be possible to carry out the SMP program if the collection is not conducted or were conducted less frequently.

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

This collection will be conducted in a manner consistent with OMB guidelines.

8. If applicable, provide a copy and identify the date and page number of publications in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

A proposed rule (RIN: 0648-BJ50) will be published coincident with this request.

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

No payments or gifts are provided under this program at this time.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

All information collections by NMFS West Coast Region are protected under confidentiality provisions of section 402(b) of the Magnuson-Stevens Act and under [NOAA Administrative Order 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics. 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. None of the information submitted under this information collection contains confidential business information. The SMP and SMP postseason report may be posted on the NMFS West Coast Region website or made available to the public upon request.

Personally identifiable information and confidential business information submitted in an administrative appeal is not released to the public. Final administrative appeal decisions with redactions are posted on the NMFS National Appeals Office website (<https://www.fisheries.noaa.gov/about/office-management-budget>).

The information collected is part of a Privacy Act System of Records (SORN), COMMERCE/NOAA #19, Permits and Registrations for United States Federally Regulated Fisheries. A notice was published in the Federal Register on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065). An amended SORN was published on August 7, 2015 (80 FR 47457) and became effective on September 15, 2015 (80 FR 55327).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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

12. Provide an estimate of the hour burden of the collection of information.

We estimate a total of up to six respondents for the SMP proposal. This estimate assumes 1 SMP proposal from the Mothership Coop Program, 1 from the Catcher/processor Coop Program, and up to 4 from the Pacific whiting IFQ fishery. We estimate 1 response from the shoreside cooperative in the Pacific whiting IFQ fishery. Historically, approximately 15 to 17 vessels have been in the shoreside cooperative with the remaining approximately 8 to 10 vessels in the Pacific whiting IFQ fishery not fishing in the shoreside cooperative. Therefore, we expect up to 3 responses from other groups in the Pacific whiting IFQ fishery because each SMP would be required to have at least 3 vessels.

We estimate the first year of preparing an SMP proposal to take 20 hours. We estimate 5 hours for SMP proposal preparation in any subsequent year. Therefore, over the next three years we expect an annual burden of 10 hours per respondent.

Those respondents with an approval SMP would be required to submit an SMP postseason report. Therefore, assuming the 6 SMP proposals from above are approved, we estimate collection of up to 6 SMP postseason reports.

| Information Collection | Type of Respondent (e.g., Occupational Title) | # of Respondents (a) | Annual # of Responses / Respondent (b) | Total # of Annual Responses (c) = (a) x (b) | Burden Hrs / Response (d) | Total Annual Burden Hrs (e) = (c) x (d) | Hourly Wage Rate (for Type of Respondent) (f) | Total Annual Wage Burden Costs (g) = (e) x (f) |
|---------------------------------|---|----------------------|--|---|---------------------------|---|---|--|
| 1. SMP proposal | SMP Representative | 6 | 1 | 6 | 10 | 60 | \$40/hr | \$2,400 |
| 2. SMP amendment ⁽¹⁾ | SMP Representative | 1 | 1 | 1 | 3 | 3 | \$40/hr | \$120 |

| | | | | | | | | |
|--|--------------------|-----------------------|------|--------------|---|------------|---------|----------------|
| 3. Administrative appeals for disapproved SMP ⁽²⁾ | SMP Representative | 1 | 0.33 | 0.33 | 6 | 2 | \$40/hr | \$80 |
| 4. SMP postseason report | SMP Representative | 6 | 1 | 6 | 8 | 48 | \$40/hr | \$1,920 |
| Totals | | 14 unique respondents | | 13.33 | | 113 | | \$4,520 |

(1) We estimate that we may receive one amended SMP per year over the next three years; therefore, one respondent was used for this analysis.

(2) We expect to receive one appeal over three years, therefore, the frequency of responses is 0.33 per year.

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

The total estimated annual cost burden to the respondents or record-keepers resulting from this collection is \$49.66. This estimate assumes responses are mailed, but we expected most responses would be submitted electronically.

| Information Collection | # of Respondents (a) | Annual # of Responses / Respondent (b) | Total # of Annual Responses (c) = (a) x (b) | Cost Burden / Respondent (h) | Total Annual Cost Burden (i) = (c) x (h) |
|---|----------------------|--|---|------------------------------|--|
| 1. SMP proposal | 6 | 1 | 6 | \$2.60 | \$15.6 |
| 2. SMP amendment | 1 | 1 | 1 | \$2.60 | \$2.60 |
| 3. Administrative appeals for disapproved SMP | 1 | 0.33 | 0.33 | \$0.80 | \$0.26 |
| 4. SMP postseason report ⁽¹⁾ | 6 | 1 | 6 | \$5.20 | \$31.20 |
| TOTALS | | | 13 | | \$ 49.66 |

(1) Estimate includes mailing and copy costs for submission to both NMFS and the Council

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The Federal government would incur labor costs associated with the approval or denial of SMP proposal and amendments, as well as SMP appeals. The Federal government would not incur cost from the SMP postseason report.

We anticipate review of the SMP proposal would require 4 hours of review by a NMFS Fishery Manager(s) for each SMP proposal or amendment (six proposals and one amendment at

\$35/hour). An additional 1 hour would be needed for an administrative specialist to copy and file the SMP proposals and amendments, and prepare and mail responses (\$25/hour). We estimate the annualized cost to the Federal government to approve or deny SMP proposals and amendments to be \$1,005.00.

Appeals for denial of an SMP proposal or amendment would require 4 hours by the NMFS National Appeals Office staff (\$35/hour) to review and prepare a response. An administrative specialist would copy, mail, and file the decision (0.5 hours at \$25/hour). As NMFS expects to receive 1 appeal over 3 years, the total annualized cost to the government for processing appeals would be \$50.83.

The estimated net annualized cost to the Federal government is approximately \$1,055.83.

| Cost Descriptions | Grade/Step | Loaded Salary /Cost | % of Effort | Fringe (if Applicable) | Total Cost to Government |
|--------------------------|--|---------------------|-------------|------------------------|--------------------------|
| Federal Oversight | Fishery Manager (ZP-03/01) | \$35/hr | 91% | | \$ 980 |
| Other Federal Positions | Admin Specialist (ZA- 02/01) | \$25/hr | 5% | | \$ 29 |
| | National Appeals Office Staff (ZP-03/01) | \$35/hr | 4% | | \$ 47 |
| Contractor Cost | | | | | |
| | | | | | |
| Travel | | | | | |
| Other Costs: | | | | | |
| TOTAL | | | | | \$ 1,055.83 |

15. Explain the reasons for any program changes or adjustments reported in ROCIS.

This is a new collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The SMP postseason report may be posted on the Council website (<https://www.pcouncil.org/>). Final administrative appeal decisions with redactions are posted on the NMFS National Appeals Office website (<https://www.fisheries.noaa.gov/about/office-management-budget>).

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.

The expiration date will be displayed on this information collection.

18. Explain each exception to the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

The agency certifies compliance with [5 CFR 1320.9](#) and the related provisions of [5 CFR 1320.8\(b\)\(3\)](#).

COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.