

**SUPPORTING STATEMENT
WEST COAST REGION
OWN/HOLD CONTROL LIMIT EXEMPTION
OMB CONTROL NO.: 0648-0737**

INTRODUCTION

This is a resubmission of a request, with the final rule (RIN 0648-BE42), for a temporary new information collection needed to provide vessels who fish for sablefish in Alaska and on the West Coast additional flexibility in maintaining permits. Once approved, it will be merged into OMB Control No. 0648-0203. NMFS received seven unique comments on the proposed rule, of which, none was related to this information collection. No change was made in response to any comments (see Question 8).

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the U.S. Secretary of Commerce (Secretary) on January 4, 1982, and implemented on October 5, 1982. Throughout the next two decades, there were several amendments to the FMP. Amendment 9 modified the limited entry (LE) program by establishing a sablefish endorsement for longline and pot permits. Amendment 14, implemented in 2002, built on Amendment 9 to further refine the LE permit system for the economically important fixed gear sablefish fishery. It allowed a vessel owner to “stack” up to three LE permits on one vessel along with associated sablefish catch limits. This, in combinations with a concurrent action to extend the season length, in effect established a limited tradable quota system for participants in the primary (tier) sablefish fishery.

Since implementation of the permit stacking program in 2002 (66 FR 41152, August 7, 2001), there have been several provisions related to the number of permits that can be registered to a vessel. These provisions were known as own/hold¹ control limits. The Pacific Fishery Management Council (Council) approved an own/hold limit which would allow the “stacking” of permits on a vessel. The provision allows participants in the LE fixed gear (longline and fish pots) primary sablefish fishery to register multiple fixed gear sablefish-endorsed permits to a single vessel. The vessel was then allowed to take up to the full primary (tier) season fixed gear sablefish cumulative limit associated with each permit registered to the vessel. At the same time, the Council limited the number of permits allowed to be “stacked” on a single vessel to three permits.² This was known as the three-permit rule. This limit was intended to prevent concentration of harvest privileges in a few persons, partnerships, or corporations. However, unforeseen complications have arisen as many persons, partnerships or corporations have harvest privileges in both Alaska sablefish and West Coast sablefish fisheries.

In September 2013, the Council initiated the sablefish permit stacking program review, which included consideration of the current three-permit ownership limitation (also referred to as an own/hold rule), exploring a regulatory amendment to provide relief to industry members who were limited because of their participation in the Alaska sablefish fishery. At its June 2014

¹ Hold is defined in regulation to mean “to own or have ownership interest in, a vessel that is registered to a sablefish-endorsed permit owned by another person.

² For the purposes of Amendment 14 all permits registered to the vessel, even those which are only partially owned, would count towards the three-permit limit.

meeting, the Council recommended a process by which vessel owners, whom meet certain qualifying criteria, may petition NMFS for a limited exemption to the ownership limitation. NMFS is proposing regulations that describe that ownership limitation exemption process in Proposed Rule 0648-BE42.

Regulations in Alaska sablefish fisheries require that a sablefish quota owner must have part ownership in the vessel that will fish their quota. If that particular vessel also fishes in the limited entry fixed gear sablefish fishery off the West Coast and is registered to sablefish-endorsed permits, then each sablefish permit registered to that vessel would count toward their three-permit ownership limit and could put them over that limit.

The intent of this exemption is to allow owners of a vessel registered to limited entry fixed gear sablefish permit(s) that are also part-owners of a vessel fishing sablefish in Alaska, to seek an ownership limitation exemption. The exemption, if granted, would mean that limited entry sablefish permit(s) registered to a vessel (of which they have an ownership interest in) would not count toward their ownership limit of three permits. This new process for application and issuance of an exemption to the ownership limitation would be described at §660.25(b)(3)(iv) (D). Regulations would include qualifying criteria, application process that includes submission of a new form that will give NMFS the information it needs to make an initial administrative determination (IAD), and a description of the circumstances under which the exemption would become null and void. Applicants would follow existing regulations at §660.25(g) regarding appeal of the IAD, if needed. To acquire the necessary information in order to make an IAD, NMFS developed a new form that will collect the ownership interest information in order to confirm that the vessel owner meets the exemption criteria. This form would collect ownership interest information, broken down into percentages, similar to the form used in the Shorebased IFQ Program.

JUSTIFICATION

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

This action will create a limited exemption from the control limit on the number of limited entry fixed gear permits owned or held by a single person or entity. Currently, entities fishing in the West Coast sablefish fishery may not have any ownership interest in or hold more than three sablefish endorsed permits³. However, in Alaska, these same entities are allowed to have 20 percent ownership interest in up to five vessels. The need for this measure is to accommodate fishing entities that have found it difficult to participate in both the Alaskan fixed gear sablefish and halibut Individual Fishing Quota (IFQ) Program and the West Coast primary sablefish fishery due to discrepancies in the way permits are counted onboard.

There may be also be an opportunity for larger operations, who are constrained by the three-permit limit, to consolidate more harvest privileges by either acquiring West Coast LEFG permits or by hiring out to west coast and Alaska participants to harvest Alaska IFQ. The degree

³ § 660.25 (b)(3)(iv)(C)(2) specifically states, “No individual person, partnership, or corporation in combination may have ownership interest in or hold more than 3 permits with sablefish endorsements either simultaneously or cumulatively over the primary season, except for an individual person, or partnerships or corporations that had ownership interest in more than 3 permits with sablefish endorsements as of November 1, 2000.”

of the current constraint and consequently the opportunity provided by the action alternative is modest for the fleet as a whole but may be important to some individuals.

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.

A vessel owner who meets the qualifying criteria can voluntarily apply for the exemption at any time by mailing in a complete application. An application for the exemption would include proof that the vessel owner meets the qualifying criteria, along with the new *Sablefish Permit Ownership Limitation Exemption - Identification of Ownership Interest Form* (Appendix 1). The new form will be available from the Groundfish Permits Website at: http://www.westcoast.fisheries.noaa.gov/fisheries/management/groundfish_permits/groundfish_fisheries_permits.html

NMFS would issue an initial administrative determination within 60 days of receipt of the complete application for an exemption. Under this proposed process, NMFS suggests that the application for an ownership limitation exemption be made by February 1, such that an IAD may be reached before the start of the primary sablefish season on April 1. The reason for this is because the ownership limitation exemption would not waive the cumulative own and hold limit. If a vessel owner were to start the primary sablefish season on April 1 at or above the three-permit limit, an exemption would not waive the prior history of owning or holding sablefish permits. Therefore, if an exemption is granted after April 1, the start of the primary sablefish season, the ownership limitation exemption only affects that season's cumulative ownership limitation. NMFS is asking the public for comment on this process through the proposed rule.

NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response #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.

Complete applications for the exemption to the own/hold control limit will not be submitted to NMFS electronically. Applicants may obtain a copy of the new *Sablefish Permit Ownership Limitation Exemption - Identification of Ownership Interest Form* is from the Groundfish Permits website (See question #2 for website address). Complete applications should be sent to the address on the front of the new sablefish ownership interest form.

4. Describe efforts to identify duplication.

This is a unique collection of information and does not duplicate other collections. The own/hold control rules were developed by NMFS and the Pacific Fishery Management Council and is unique to the Pacific West Coast primary sablefish fishery. This new collection of information is targeted at specific vessel owners and will provide a needed exemption to the current own/hold permit limit.

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

Many of the respondents are small business. NMFS made an effort to reduce the amount of information necessary for vessel owners to qualify for the exemption, and is only collecting the minimal information necessary to make a determination. This is a voluntary collection and is designed to provide greater flexibility to vessel owners and alleviate the restrictions for certain vessels that have been hamstrung by the current own/hold rules.

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

Without this new collection, vessel owners that fish in the Alaska IFQ program and the West Coast sablefish fishery would continue to be constrained by the three permit own/hold control rule. This prevents vessels from being able to fully participate in the Alaska IFQ program without exceeding the three-permit own/hold control rule.

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

No special circumstances exist that would require information collection to be conducted in a manner inconsistent with OMB Guidelines.

8. Provide a copy of 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-BE42, was published in the Federal Register on June 1, 2016 (81 FR 34947) coincident with this submission, and solicited public comments on this new collection. NMFS received seven unique comment letters during the comment period. None of the comments submitted pertained to any part of this new collection.

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 assurance in statute, regulation, or agency policy.

Information submitted by vessel owners applying for the exemption would be kept by NMFS Permits. The data is considered confidential under NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. The PSMFC currently receives and stores fish ticket data from the states. These data are maintained on the PacFin data base.

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.

	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Time per Response (minutes)	Total Time for exemptions ⁴ (hours)
TOTAL	13 ⁵	1	13	10	2

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

The information needed to request the voluntary exemption should already be information that the vessel owner has on hand (vessel permit number, vessel name, ownership percentages) and the respondents are not required to provide any additional data or do any additional data gathering. Additionally, the paper forms will be available on the West Coast Groundfish website. The only cost to respondents would be the time (see Question #11) it takes them to fill out the form.

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

As there would be a minimal number of vessel owners applying for an exemption, the cost to the agency to review the applications would be minimal. The analyst would need time to check off

⁴ Vessel owners are not required to submit an exemption request annually. Vessel owners only need to submit an exemption request once unless the information on the request (i.e. ownership percentages change) in which case the vessel owner would need to submit a request for a new exemption with the new information.

⁵ It is difficult to determine how many vessels would qualify for the exemption and would want to apply. This is the upper limit of vessels owners who might qualify for the exemption.

that all information is included with the exemption request and that the information is current. Therefore, the estimated cost is as follows:

13 Own/Hold Exemption Requests x 1 hour per request x \$25/hr (average pay for a GS-9) = \$325 or \$25/exemption request

Because the exemptions are lifelong unless the information changes, the actual annual cost of the exemptions may fluctuate substantially from year to year with \$325 being the maximum estimate for all vessels that meet the qualifying criteria for an exemption.

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

This is a new collection. This is a small program change to accommodate certain vessels.

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

There are no plans for publishing.

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

This collection does not employ statistical methods.