

**SUPPORTING STATEMENT  
FISHERIES CERTIFICATE OF ORIGIN  
OMB CONTROL NO. 0648-0335**

**A. JUSTIFICATION**

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

The request is for an extension of this information collection.

The purpose of this collection of information is to comply with the requirements of the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361, and the Dolphin Protection Consumer Information Act (DPCIA), 16 U.S.C. 1385, as amended by the International Dolphin Conservation Program Act (IDCPA), 16 U.S.C. 1414. The MMPA and the DPCIA required the Secretary of Commerce to promulgate regulations that restricted the fishing, sale, importation, and transportation of tuna that is not dolphin-safe and of certain other fish and fish products when they have been harvested by high seas driftnets. The IDCPA primarily amends provisions in the MMPA and the DPCIA governing marine mammal mortality in the United States (U.S.) Eastern Tropical Pacific Ocean (ETP) tuna purse seine fishery and the importation of yellowfin tuna and yellowfin tuna products from other nations with vessels engaged in the ETP tuna purse seine fishery.

A final rule, affecting 50 CFR Part 216, published in the Federal Register on September 13, 2004 (amended by final rules affecting 50 CFR Parts 216 and 300 published on April 12, 2005 and January 13, 2009). The rule implemented provisions of the IDCPA which allows the entry of ETP-caught yellowfin tuna into the U.S. under certain conditions and establishes a tuna tracking program to ensure adequate tracking and verification of dolphin-safe labeled tuna. This information collection documents the dolphin-safe status of tuna import shipments; verifies that import shipments of fish were not harvested by large scale, highseas driftnets; and verifies that tuna was not harvested by a nation under embargo or otherwise prohibited from exporting tuna to the U.S.

**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.**

The Fisheries Certificate of Origin (FCO) provides the National Marine Fisheries Service (NMFS) with information concerning the origin, type, and quantity of the imported tuna. The FCO provides a mechanism for foreign exporters and government officials to document and certify the fishing method and dolphin-safe status of the accompanying shipment. It requires U.S. importers to provide this information to the U.S. Customs and Border Protection (CBP) at the time of importation, thus, assisting the CBP in preventing tuna that is not properly documented from entering the U.S. In addition, the CBP importer of record is required to send a copy of the FCO to NMFS within 10 days of the shipment. All parties that submit FCOs are required to retain a copy of the FCO for a period of two years and to provide such copies to the

NMFS within thirty days of receiving a written request from the NMFS Regional Administrator, Southwest Region.

If the importer of record is not the final destination of the entire shipment, additional importers or processors who take custody of the shipment are asked to endorse and date the form to certify that the form and attached documentation accurately describes the accompanying shipment. The additional endorsers are required to file the form but need not submit it unless it is requested at a later time during a tuna tracking audit.

If an importation includes tuna and/or tuna products harvested by a purse seine net outside of the ETP (where there is no requirement for an onboard observer), then a statement signed by the vessel captain certifying that no purse seine net was intentionally deployed on, or to encircle, dolphins during the fishing trip must be attached to the FCO.

If the importation includes tuna and/or tuna products harvested in the ETP by a purse seine vessel of more than 400 short tons carrying capacity, then valid documentation signed by a representative of the appropriate IDCP-member nation must be attached to the FCO certifying that: 1) there was an IDCP-approved observer on board the vessel during the entire trip; 2) no purse seine net was intentionally deployed on or to encircle dolphins during the fishing trip and no dolphins were killed or seriously injured in the sets in which the tuna were caught. The member nation must also provide a listing of the numbers for the associated Tuna Tracking Forms which contain the captain's and observer's certifications.

The National Oceanic Atmospheric Administration (NOAA) has made use of the FCO in documenting the entry of tuna and certain other fish products into the U.S. for a number of years. NOAA has also used the information collected on the FCO in litigation, fisheries management decisions, and international negotiation decisions.

The information collected will not be disseminated to the public since the individual forms contain no information useful to anyone outside of the involved federal agencies. The main purpose of the form is to satisfy the legal mandates of Congress.

In the event summarized information is used to support publicly disseminated information, then, as explained in the preceding paragraphs, the information gathered can be shown to have utility. NOAA Fisheries will retain control over the information and safeguard it from improper use, 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.**

The FCO form is available for online completion or downloading from the NMFS Southwest Region web site and the Dolphinsafe.gov web site for use on the respondent's own computer

system. Respondents are encouraged to provide electronic copies to NMFS via a secure FTP server. Currently, approximately 20% of the responses are received in this manner.

**4. Describe efforts to identify duplication.**

The FCO was one of the first forms developed by NMFS to document information regarding the importation of tuna products, to certify that certain fishery products were not harvested using high seas driftnets, and to declare the dolphin-safe status of the tuna import. The same or similar information is not available through any other known information collection.

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

This collection does not have a significant impact on small entities.

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

The Secretary of Commerce would not be able to meet the mandates of the applicable laws if the information collection was not conducted. Litigation against the Federal Government would likely ensue.

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

This information collection is consistent with OMB guidelines (5 CFR 1320.6), except that submission is required for each shipment of tuna and covered fish products that enters the US. This may be more frequent than quarterly for some importers.

**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 Federal Register Notice published on January 15, 2010 (75 FR 2482) solicited public comment on this collection. No comments applicable to the information collection requirements were received.

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

No payments or gifts are provided.

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

The information collection is considered confidential as per the Dolphin Protection Consumer Information Act and is treated as such in accordance with NOAA Administrative Order 216-100. Information collected is handled in compliance with agency filing and retention policy.

**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.**

No questions of a sensitive nature are included in this information collection.

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

Preliminary 2009 program data shows that approximately 440 different respondents submitted approximately 12,500 responses. It is estimated that each response averages 20 minutes. Therefore, the estimated responses and burden hours for the collection of information are:

12,500 responses (including submission of forms (2,500), and signed statements and other supporting documentation (10,000) as described in Question 2.  $12,500 \times 18 \text{ minutes}/60 \text{ minutes} = 3,750 \text{ hours}$ .

For each of the 12,500 responses, a copying and filing burden of 2 minutes:  $12,500 \times 2 \text{ minutes}/60 \text{ minutes} = 417 \text{ hours}$ .

**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).**

Approximately 20% of responses are submitted electronically, so for those respondents, there would be only the cost of one copy for Customs and Border Protection submission with the entry package. Also, respondents average 3 responses per mailing. Therefore, if 12,500 responses per year are received, then the cost might be:

Copying of statements and supporting documentation:  $2,500 \times \$0.10/\text{copy} = \$250/\text{yr}$   
Copying of forms  $10,000 \times 2 \times \$0.10/\text{copy} = \$2,000/\text{yr}$   
Envelopes:  $10,000 \text{ divided by } 3 \times \$0.10/\text{envelope} = \$334/\text{yr}$   
Postage:  $10,000 \times \text{divided by } 3 \times \$0.44 \text{ (stamp)} = \$1,470/\text{yr}$   
**Total annual cost burden estimate:  $\$250 + \$2,000 + \$334 + \$1,470 = \$4,054$ .**

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

Staff hours to collect, analyze, input, & file 12,500 collections per year:

$12,500 \text{ forms} \times 8 \text{ minutes/form} = 1,667 \text{ staff hours/year}$

4 minutes analysis per collection @  $\$39.19/\text{hr}$  (GS-11/12)

4 minutes x \$39.19/hr = \$2.61  
3 minutes data entry per collection @ \$12.00/hr (Student Intern)  
3 minutes x \$12.00/hr = \$0.60  
1 minute for filing per collection @ \$12.00/hr (Student Intern)  
1 minute = 0.0166 hrs x \$12.00/hr = \$0.20

12,500 responses/yr x (\$2.61 + \$0.60 + \$0.20) = \$42,625.

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

The adjustments to responses and hours are due to an increase in the total number of responses received each year since the last estimation was made, resulting in an estimated annual 1,500 additional responses, 500 hours and \$657 in reporting/recordkeeping costs.

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

Not applicable.

**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.