

SUPPORTING STATEMENT
NMFS Implementation of International Trade Data System
OMB CONTROL NO. 0648-XXXX

A. JUSTIFICATION

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

As part of a proposed rule, RIN 0648-AX63, the National Marine Fisheries Service (NMFS) is revising procedures for United States (U.S.) importers and exporters to file documentation for certain fishery products to meet requirements of the SAFE Port Act of 2006, the Magnuson-Stevens Fishery Conservation and Management Act, other applicable statutes, and obligations that arise from U.S. participation in regional fishery management organizations (RFMOs). Specifically, through its implementation of the International Trade Data System (ITDS), NMFS intends to establish a new electronic International Fisheries Trade Permit (IFTP) that would integrate the collection of fisheries trade documentation under three existing monitoring programs with approved information collections: Antarctic Marine Living Resources (AMLR) (50 CFR 300 Subpart G, OMB Control No. 0648-0194), Highly Migratory Species (50 CFR 300 Subpart M, OMB Control No. 0648-0040 and OMB Control No. 0648-0327), and the Tuna Tracking and Verification Program (50 CFR Part 216, OMB Control No. 0648-0335). The proposed rule would consolidate existing NMFS international trade permits for regulated seafood products subject to these three programs, expand the scope of the permit requirement to additional seafood products covered under the Tuna Tracking and Verification Program, stipulate data and documentation which must be provided electronically to U.S. Customs and Border Protection (CBP) to determine admissibility, and address recordkeeping requirements in light of the proposed changes.

Under this integration, NMFS will require annually renewable permits for the import, export and/or re-export of certain regulated seafood commodities. The permit pertains to fishery products that are subject to trade monitoring programs of RFMOs and/or subject to documentation requirements under domestic laws. These trade monitoring programs enable the U.S. to identify and/or exclude certain fisheries products that do not meet the criteria for admissibility to U.S. markets, including products resulting from illegal, unregulated, and unreported (IUU) fishing activities.

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.

As a result of domestic authorities and/or multilateral agreements, NMFS has implemented a number of monitoring programs that collect information from industry regarding the origin of certain fishery products. The purpose of these programs is to determine the admissibility of the products in accordance with the specific criteria of the trade measure or documentation requirement in effect. NMFS trade monitoring programs cover tunas, swordfish, billfish, shark fins, Patagonian and Antarctic toothfish, Antarctic krill and certain other fishery products under the authority of the High Seas Driftnet Fisheries Enforcement Act. Generally, these trade monitoring programs require anyone who intends to import, export, and/or re-export covered species to: obtain a permit from NMFS, obtain documentation on the flag-nation authorization

for the harvest from foreign exporter, and submit this information to NMFS. Depending on the commodity, specific information may also be required, for example, the flag state of the harvesting vessel, the ocean area of catch, the fishing gear used, the harvesting vessel name, and details and authorizations related to harvest, landing, transshipment and export.

In most cases, these monitoring programs require the importer to submit documentation that provides catch and/or other statistical information to NMFS, while other relevant information on the inbound shipments is provided by the dealer, importer, shipper, carrier, or customs broker to CBP by electronic means. NMFS reviews and reconciles the information reported by importers with the information obtained from CBP and, where applicable, from the relevant RFMO or harvesting or exporting/re-importing nation to determine if the admissibility requirements have been satisfied. If the documentation is incomplete, fraudulent or missing, or if the shipment is not admissible given its ocean area of harvest, flag country of the harvesting vessel, harvesting vessel or the circumstances under which it was harvested, entry into U.S. commerce may be prohibited for that shipment and the shipment may be subject to forfeiture. In addition, the importer or other responsible party may be subject to enforcement action. Likewise, U.S. exporters must provide similar documentation for use by other importing nations.

As an ITDS partner government agency, access to the Automated Customs Environment (ACE) portal maintained by CBP and ITDS data has improved NMFS' ability to evaluate trends and potential problems with seafood imports, including potential cases of seafood fraud (e.g., tariff code misspecification), or imports lacking proper documentation. ACE has helped NMFS communicate with the seafood industry to educate importers and brokers on documentation requirements. It has also helped NMFS target enforcement resources using a risk management approach and has improved the Agency's ability to intercept illegal shipments by providing access to real time information on shipments coming into U.S. ports of entry. NMFS anticipates that ITDS integration will overall result in reduced reporting burden for the seafood industry, reduced data processing time for government, increased compliance with product admissibility requirements, and faster admissibility decisions, and more effective enforcement.

With the establishment under this proposed rule of a consolidated IFTP, NMFS would collect information required for an IFTP electronically via a portal website. After receiving an IFTP, the importer or exporter (in most cases working through a customs broker) would provide CBP with a required data set and electronically attach any required additional documents so that CBP and NOAA authorities would be able to determine whether said shipment is eligible for entry into, or exit from, the United States.

Although the information collected is not expected to be disseminated directly to the public, it may be used in the development or review of fishery management plans and associated regulatory documents, and summarized and provided to RFMOs to fulfill the requirements of international trade monitoring requirements. The information is subject to NOAA's Information Quality Guidelines. 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. Should NMFS decide to disseminate the information, it will be subject to quality control measures and 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.

Under the proposed rule, NMFS intends to require that information necessary to obtain and annually renew the newly established IFTP be submitted electronically via a NMFS website. IFTP holders would then be required to submit a data set electronically to CBP in conjunction with the filing of the CBP entry summary (CBP Form 7501, OMB Control No. 1651-0022). The NMFS data set information is currently collected via paper documents; this proposed rule would amend existing regulations to require that trade documentation be submitted electronically to CBP via the ACE portal.

4. Describe efforts to identify duplication.

As it will consolidate information currently provided under three separate programs (Tuna Tracking and Verification Program, AMLR Trade Program, and the HMS International Trade Program), the newly established IFTP should reduce overall information collection burdens on industry, particularly for applicants who currently apply for international trade permits in multiple programs.

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

Since most of the respondents are considered small businesses, separate requirements based on size of business will not be developed. Only the minimum data required to determine admissibility and satisfy RFMO reporting requirements will be requested.

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

If the collection is not conducted, the Secretary of Commerce will not be able to meet the mandates of the laws described above in Question 1. The United States would not be able to implement RFMO trade monitoring program requirements, which could result in U.S. fishermen and fish dealers being excluded from business opportunities.

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

Collection of information will be made in a manner consistent with OMB guidelines.

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-AX63, will be published coincident with this submission, soliciting public comment.

An Advanced Notice of Proposed Rulemaking was published on May 8, 2009 (74 FR 21615)

which solicited public comments. Consultations were also held during 2009 with industry groups including the Customs Electronic Systems Action Committee (CESAC), National Fisheries Institute, and the Trade Support Network. CESAC, Fedex Trade Networks, and Boston Sword and Tuna provided comments and we have taken these comments into account when drafting the proposed rule.

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

No payments or gifts are made.

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

As stated on relevant forms, the information collection will be considered confidential as required by section 402(b) of the Magnuson-Stevens Act, 16 U.S.C. 1881a(b), and NOAA Administrative Order 216-100. Where other information collection authorities apply (e.g. Atlantic Tunas Convention Act, Antarctic Marine Living Resources Convention Act), Information collected will be 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.

There are no questions of a sensitive nature.

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

Using information from the most recent PRA submissions for the three programs, the number of permit holders and respondents associated with this information collection can be summarized as follows:

HMS ITP holders = 241 (OMB Control No. 0648-0327)

AMLR dealer permit holders = 80 (OMB Control No. 0648-0194)

TTVP respondents = 430 for Fisheries Certificate of Origin (OMB Control No. 0648-0335)

Adding the above number of permit holders results in an estimate of 751 applicants for the new International Fisheries Trade Permit (IFTP). The actual number of IFTP holders may be smaller since some importers participate in more than one of the above programs.

1. Permits (current requirement for HMS and AMLR, new for TTVP):

Current Burden Estimates:

HMS ITP (OMB Control No.0648-0327): 241 respondents, 5 minutes per response, total annual burden of 20 hours at cost of \$300@\$15/hour labor cost.

AMLR dealer import or re-export permit applications (OMB Control No.0648-0194): 80 respondents, 15 minutes per response, total annual burden of 20 hours at cost of \$700@\$35/hour.

TTVP (OMB Control No.0648-0335) is N/A as a permit is not currently required.

Total current burden for issuing permits under the three programs is 40 hours at cost of \$1,000.

New Burden Estimate:

HMS ITP: 241 respondents, 5 minutes per response, total annual burden of 20 hours at cost of \$300@\$15/hour (Unchanged).

AMLR: 80 respondents, 5 minutes per response, total annual burden of 7 hours at a cost of \$105@\$15/hour. (Hours reduced by 13, cost decrease of \$595)

TTVP: With the introduction of a permit requirement for this program, there would be 430 respondents, 5 minutes per response, annual burden of 36 hours at a cost of \$540@15/hour (Increase of 36 hours and \$540).

Overall burden estimate for new permit would be 751 respondents x 5 minutes per response, annual burden of 63 hours at cost of \$939@\$15/hour.

Since the current permit burden is 40 hours at a cost of \$1,000, the overall net change in burden would be an increase of 23 hours with a small decrease in overall costs of \$61 as uniform hourly rates are used to calculate prospective rates for all three programs (the AMLR current rate is \$35/hr whereas the hourly rate of \$15/hr is used for all three programs for the prospective IFTP burden).

2. Data Set Submission (new requirement for all 3 programs)

For the proposed requirement to submit an electronic data set to CBP to determine admissibility (done in conjunction with the submission of the CBP Form 7501 entry summary), estimates for the data set submissions can be summarized as follows: the number of affected fisheries transactions per year (approximately 15,460 across the three programs—TTVP=13,000, AMLR=640, HMS=2,000 (figure taken from OMB Control No. 0648-0040)) should be multiplied by the estimated one minute required per electronic entry. The time required is estimated at only one minute since the number of elements to be entered electronically in the data set is few (between 5-10 items) and the information needed for the data set should be readily available from the importer of record. The total number of response hours would be 335 hours at a cost of \$3,915@\$15/hour.

3. Admissibility Documents Submission (current requirement for all 3 programs):

Current Burden Estimates:

HMS ITP (OMB Control No. 0648-0040): 708 responses, response time varying, annual burden of 234 hours at a labor cost of \$3,510@15/hour.

AMLR (OMB Control No. 0648-0194): No burden hours/cost associated with the use of Electronic-Dissostichus Catch Document for U.S. toothfish importers.

TTVP (OMB Control No. 0648-0335): 13,000 responses x 25 minutes per response, annual burden of 5,417 hours at a labor cost of \$81,255@15/hour.

The current total burden for the three programs is 5,651 hours at a cost of \$84,765,@15/hour.

New Burden Estimates:

The burden estimate for the electronic submission of admissibility documents for the three programs under the new information collection for the international fisheries trade permit would be as follows:

For HMS ITP: 708 responses, 5 minutes per response, annual burden of 59 hours at cost of \$885@15/hour.

For AMLR: No burden associated with the use of E-DCD for toothfish importers (No change).

For TTVP: 13,000 responses X 5 minutes per response, annual burden of 1,083 hours at a cost of \$16,245@15/hour (Decrease of 4,334 hours and \$65,010 due to change from paper-based to electronic submissions).

Overall burden estimate for the electronic submission of documents to determine admissibility would be 13,708 responses x 5 minutes per response, annual burden of 1,142 hours at cost of \$17,130@15/hour (overall decrease of 4,509 hours and \$67,626 in labor costs).

The burden estimate for all three requirements under this rule would be as follows:

1. For IFTP issuance: Net increase of 23 hours and net decrease in cost of \$61@15/hour.
2. For electronic data set submission: Increase of 261 hours at a cost of \$3,915@15/hour.
3. For submission of admissibility documents: Net decrease of 4,509 hours and \$67,626@15/hour.

Thus, when overall total new burdens under the three requirements proposed under this rule are compared to current burdens, the new burdens would result in an overall net burden decrease of 4,225 hours and \$63,650 in labor costs.

The current burdens will be removed from the three collections with the next actions for those OMB Control Nos., and the new burden will be the total for this collection:

Permits: 751 responses and 63 hours

Dataset submission: 15,640 responses and 261 hours

Admissibility documents: 13,708 responses and 1,142 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).

Current HMS ITP Fee=\$25 per permit X 241=\$6,275

Current AMLR Dealer Permit Fee=0

Current TTVP Permit Fee=N/A

Since we have calculated a fee of \$30 per permit to cover administrative expenses associated with issuing the annual IFTP permits, the total annual cost burden to respondents would be 751 importers X \$30 = \$22,530. This would result in a net annual cost burden increase of \$16,255.

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

The cost for issuing the IFTP will be covered by an administrative cost recovery fee of \$30 per permit, and thus there will be no cost to the Federal government. Customs and Border Protection has allocated funds for its Automated Commercial Environment portal that will be used to handle the submission of data sets and admissibility documents.

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

This is a new information collection.

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.

There are no exceptions. Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.