

**SUPPORTING STATEMENT
INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
OMB CONTROL NO. 0648-0387**

A. JUSTIFICATION

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

This is a request for emergency revision of a currently approved collection, in conjunction with Interim Final Rule 0648-BF73.

The purpose of this collection of information is to comply with the requirements of the [International Dolphin Conservation Program Act](#) (IDCPA), 16 U.S.C. 1414. The IDCPA amended the [Dolphin Protection Consumer Information Act](#) (DPCIA), 16 U.S.C. 1385. The IDCPA and the DPCIA authorize the Secretary of Commerce to promulgate regulations that implement the dolphin-safe labeling standard in the United States by the collection of documents on the dolphin-safe status of tuna import shipments and domestic tuna product processing; by allowing documentary requests to allow for an effective tracking and verification program; and by verifying that tuna was not harvested by a nation under embargo or otherwise prohibited from exporting tuna to the United States.

The purpose of this collection of information is also to comply with the requirements of the Tuna Conventions Act (TCA), 16 U.S.C. 951 et seq., which was amended by the “Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015” (Public Law No. 114-81). The TCA gives the Secretary of Commerce the authority to enact regulations to fulfill the requirement that all member States maintain and provide to the Inter American Tropical Tuna Commission (IATTC) a list of vessels flagged by the member State and (1) authorized by the member State to be used for fishing for tuna and tuna-like species in the IATTC Convention Area, or (2) authorized by other States to be used for fishing for tuna and tuna-like species in their areas of jurisdiction in the IATTC Area, and to maintain and provide for each vessel on that list certain information on its characteristics and its owner and operator. The TCA also gives the Secretary of Commerce authority to implement fishery management resolutions of the IATTC.

This information collection pertains to U.S. tuna purse seine vessel and operator permit holders fishing under the International Dolphin Conservation Program (IDCP) and the tracking and verification program for tuna that is (1) harvested and processed by U.S. companies or (2) offered for sale in the United States. Currently collected information under the IDCP with Paperwork Reduction Act (PRA) approval includes:

- 1) Permits
 - a) vessel permit applications (including vessel photograph), and
 - b) operator permit applications
- 2) Waiver requests to transit the ETP without an observer on board,
- 3) Vessel departure notification five days prior to departure,
- 4) Vessel arrival notification,
- 5) Change in operator permit notification,
- 6) Modified net notification,
- 7) Experimental fishing gear waiver applications,
- 8) Dolphin Mortality Limit requests,
- 9) Vessel register annual notification,

- 10) Written notification of the intent to transfer a tuna purse seine vessel to foreign registry and flag,
- 11) Request for a force majeure exemption: in the event of force majeure (vessels disabled by mechanical and/or structural failure, fire, or explosion) rendering a purse seine vessel unable to proceed to sea outside of a closure period for at least 62 days (the prescribed closure period), the vessel owner may request an exemption from the closure period and if the request is accepted by the IATTC, the purse seine vessel owner may observe a reduced closure period of 30 consecutive days.
- 12) Notification of purse seine closure period
- 13) Domestic tracking and verification program:
 - a) tuna tracking form submission,
 - b) monthly tuna receiving reports,
 - c) monthly tuna storage removal reports, and
 - d) documentary evidence requests.
- 14) Application for IMO number and exemption application
- 15) *New requirement: "chain of custody" recordkeeping requirements (see below)*

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.

Separate from this rulemaking, NMFS published a proposed rule (RIN 0648-BF09), also known as the Traceability Proposed Rule, to establish filing and recordkeeping procedures relating to the importation of certain fish and fish products, in order to implement the MSA's prohibition on the import and trade, in interstate or foreign commerce, of fish taken, possessed, transported or sold in violation of any foreign law or regulation. The information to be collected and retained will help authorities verify that the fish or fish products were lawfully acquired by providing information that traces each import shipment from point of harvest to entry-into commerce.

The revision of OMB Control No. 0648-0387 is an incorporation of the "chain of custody" recordkeeping requirements from the Traceability Proposed Rule and implemented via the interim final rule (RIN 0648-BF73). The interim final rule requires U.S. processors and importers of record to collect and retain for 2 years, information on each point in the chain of custody regarding the shipment of the tuna or tuna product to the point of entry into U.S. commerce as a recordkeeping requirement on the part of that U.S. processor or importer of record. The information must be maintained at the place of business, or be accessible from that place of business through, for example, an Internet connection to an off site server where the information is held. This is to ensure that information is readily available to NMFS to allow it to trace the tuna or tuna product back to the point of harvest. As is the case for the Traceability Proposed Rule (discussed above), such information would include records regarding each custodian of the tuna or tuna product, including, as applicable, transshippers, processors, storage facilities, and wholesalers/distributors. The retained information must be provided to NMFS upon request and be sufficient for NMFS to conduct a trace back to verify that the tuna product certified as dolphin-safe to NMFS, in fact, meets the dolphin-safe labeling requirements for such certification. NMFS expects that typical supply chain records that are kept in the normal course of business, including declarations by harvesting and carrier vessels, bills of lading and forms voluntarily used or required under foreign government or international monitoring programs, which include such information as the identity of the custodian, the type of processing, and the weight of the product, would provide sufficient information for NMFS to conduct a trace back.

In addition, the information maintained must be sufficient in order to trace any non-dolphin-safe tuna loaded onto the vessel back to one or more storage wells or other storage locations for a particular fishing trip to prove that such non-dolphin-safe tuna was kept physically separate from dolphin-safe tuna through unloading. These chain-of custody requirements augment existing U.S. dolphin-safe requirements that dolphin-safe tuna shall, from the time of capture, during unloading, storage, transfer, and processing, be kept separate from non-dolphin safe tuna.

These new requirements also address a finding by the World Trade Organization (WTO) Compliance Panel that the tracking and verification requirements discriminated against Mexican tuna produced from large purse seine vessels in the ETP because it was more burdensome for Mexican producers to comply with the AIDCP tracking and verification requirements than the tracking and verification requirements applicable for fisheries other than the ETP large purse seine fishery and that this burden could not be justified.

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](#).

There are no changes to the other already-approved information collection requirements listed below under OMB Control No. 0648-0387:

Owners or operators of vessels are required to provide the information specified in an application for a the High Seas Fishing Permit issued under the HSFCA (OMB Control No. 0648-0304), or the Pacific HMS Permit issued under the HMS FMP (OMB Control No. 0648-0204), or the ETP Vessel Permit (OMB Control No. 0648-0387).

Owners and operators of vessels 100 GRT/GT or greater are required to provide information specified by the administrator of the IMO ship identification number scheme. The current administrator is IHS Maritime. Instructions on how to apply for an IMO number are available at: <http://www.imonumbers.lrfairplay.com/default.aspx>. The required information includes but is not limited to:

- a) Current ship name/shipyard ID
- b) Original name
- c) Flag
- d) Fishing number
- e) Gross and net tonnage
- f) Overall length
- g) Shipbuilder
- h) Place of build
- i) Hull number
- j) Registered owner and owner address
- k) Manager and manager address
- l) Company name

- m) Contact name
- n) Sender's email

For those elements of this information collection that are collected by NMFS, up to the point of submitting the information to the IATTC, sharing it with other U.S. agencies such as the USCG, or disseminating it to the public, NMFS retains control and safeguards it from improper access, modification, and destruction consistent with NOAA policies. None of the collected information is considered to be confidential or protected by NMFS as such. Once submitted to the IATTC, the IATTC will maintain and control access to the information in accordance with its internal rules and procedures for dissemination of data. According to those rules and procedures, the information will be treated as public domain data; that is, it will not be treated as confidential or protected as such. Most or all of the information will be disseminated by the IATTC to the public via its public website. It will be disseminated in close to its original form.

The information provided in applications for IMO numbers is used by the administrator of the IMO ship identification number scheme to generate an IMO number for the vessel that is unique and stays with the vessel. The administrator makes the IMO number publicly available and also uses the data in its commercial products, such as directories of vessels.

A valid permit protects the fisherman and vessel owner from prosecution under the [Marine Mammal Protection Act](#) (MMPA) for violation of the Moratorium on taking marine mammals. Information supplied by the applicant is used by the National Marine Fisheries Service (NMFS) and the general public to review the appropriateness of waiving the moratorium to authorize the incidental take of marine mammals by U.S. tuna purse seine vessels fishing in the ETP. Each year, vessel owners and operators must apply for a permit under the MMPA and comply with the terms and conditions associated with its issuance. In addition, by signing the application for a vessel permit, the vessel owner agrees to release to NMFS all records made by Inter-American Tropical Tuna Commission (IATTC) observers during fishing trips aboard the vessel and furnish the international observer program with all release forms required to authorize the observer data to be provided to NMFS [50 CFR 216.24(b)(8)(v)].

a) Permit applications

i) ETP vessel permit applications must be submitted to the Regional Administrator, NMFS, West Coast Region, by fax. The information needed for a vessel permit under [50 CFR 216.24(b)(4)] is as follows:

(1) Identifying information for the vessel: Name and official number of fishing vessel to appear on permit [self-explanatory and required by 16 U.S.C. 1416 § 306(a)(1)(A)]. A photograph of the vessel with the registration number showing and legible [this information assists the agency with identification of vessels and enforcement]. The tonnage, carrying capacity, maximum vessel speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required. [This information assists the agency with tracking processed and unprocessed tuna, monitoring compliance with gear requirements under the MMPA, and evaluating the ability of a vessel to capture tuna. A vessel's characteristics are important when determining the performance of a vessel which can be used to determine the fishing power of the vessel. This information is required by 16 U.S.C. 1416 § 306(a)(1)(B)];

- (2) A statement whether the vessel intends to make sets involving the intentional taking of marine mammals. [This information is used to determine the type of permit that needs to be issued];
- (3) The identity of Federal, State and local commercial fishing licenses, if applicable, under which vessel operations are conducted, and dates of expiration. [This information is collected to assess whether other permits may be combined in the future with the issuance of a vessel permit. In addition, this information may assist the agency with some of the tuna tracking requirements as well as determine whether a vessel is in compliance with other applicable federal regulations];
- (4) The name(s) of the operator anticipated to be used. [This information is collected to assess whether the operator has a valid operator permit to fish for tuna in the ETP];
and
- (5) The applicant's signature or the signature of the applicant's representative, if any, including the address, telephone and fax numbers, and if applicable, the name, address, telephone, and fax numbers of the agent or organization acting on behalf of the vessel. [Signature certifies the information is true and correct and authorizes observer data collected to be provided to NMFS and the International Review Panel. The contact information is required by 16 U.S.C. 1416 § 306(a)(1) (A).]

ii) The information needed for an operator permit under [50 CFR 216.24(b)(5)] is as follows:

- (1) The name, address, optional E-mail address, telephone and fax numbers of the applicant [Self-explanatory];
- (2) The type and identification number(s) of any Federal, State, and local fishing licenses held by the applicant. [This information is collected to assess whether other permits may be combined in the future with the issuance of an operator permit];
- (3) The name of the vessel(s) on which the applicant anticipates serving as an operator. [The historical performance of an operator is as critical as the historical characteristics and fishing power of a vessel. The operator information may then be linked to the vessel of record to establish an operator catch history for that fishery or gear].
- (4) The date, location, and provider of any training for the operator permit. Training includes a demonstration of familiarity with the techniques used to release entrapped dolphin(s) from a large purse seine net. Upon completion of training, a certificate of completion is issued [50 CFR 216.24(c)(5)]. Operator permits are issued annually. Additional training is not required unless regulations are modified substantially, the operator no longer demonstrates proficiency, or the operator does not obtain a previous calendar year permit. [Operator training is required to insure fishing captains understand the principles of dolphin-safe fishing techniques and are kept informed of new technology, changing regulations, and new international agreements.]; and
- (5) The applicant's printed name and signature or the printed name and signature of the applicant's representative, if any. [Signature certifies the information is true and correct.]

b) The rules and regulations allow tuna purse seine vessels without a permit and more than two speedboats to transit the ETP without an observer on board if the vessel owner requests a waiver [50 CFR 216.24(a)(3)]. This provision allows vessel owners the ability to off-load, complete repairs, or transit the permit area in an emergency without delay and without having to obtain a vessel and operator permit and carry an authorized NMFS or IATTC observer. As part of the waiver, the vessel owner must notify the Administrator, Southwest Region, with the name of the vessel and the date the vessel exits or subsequently enters the permit area.

i) To request a waiver, the following information must be provided to the Regional Administrator, West Coast Region, in writing and in advance of entering the ETP:

- (1) The name of the vessel and operator [Self-explanatory];
- (2) The ports of departure and arrival;
- (3) The number of expected days to complete the transit [Information needed to coordinate vessel transit with appropriate authorities, especially the IATTC];
- (4) Reason for transiting the ETP;
- (5) The measure(s) taken to ensure that the vessel is unable to fish while in travel through the ETP (e.g., no net aboard, reduced crew); and
- (6) A statement that the vessel will not fish while in transit through the ETP [Self-explanatory].

c) Vessel permit holders are required to notify the Regional Administrator, NMFS, West Coast Region, or the Inter-American Tropical Tuna Commission contact designated by the Regional Administrator, NMFS, West Coast Region, at least five days in advance of the vessel's departure on a fishing voyage to allow for observer placement on every voyage [50 CFR 216.24(b)(8)(iv)]. The information may be provided either verbally or in writing and must include the following information:

- i) The name of the vessel and operator [Self-explanatory];
- ii) Location of the vessel; and
- iii) Date and time of departure. [Information needed to coordinate and facilitate observer travel with the vessel departure.]

d) The Captain, managing owner, vessel permit holder, or vessel agent of a U.S. tuna purse seine vessel returning to port from a trip, any part of which included fishing in the ETP, as required to notify the Regional Administrator, NMFS, West Coast Region, or the Inter-American Tropical Tuna Commission contact designated by the Regional Administrator, NMFS, West Coast Region, at least 48 hours in advance of a vessel's arrival in port at the conclusion of a fishing voyage [50 CFR 216.93(c)(3)] to allow enough time for a NMFS representative to meet the vessel at the unloading location to monitor the handling of dolphin-safe and non-dolphin-safe tuna. Fish may be unloaded directly to a cannery facility or transshipped to another location by a freezer ship. The information may be provided either verbally or in writing and must include the following information:

- i) The name of the vessel and operator [Self-explanatory];
- ii) Port of arrival where fish will be unloaded;
- iii) Date and time of unloading; and
- iv) Schedule of unloading [Information needed to coordinate and facilitate NMFS representative travel to meet the arriving vessel.]

e) Vessel permit holders must notify the Regional Administrator, NMFS, West Coast Region, at least 48 hours prior to departing on a trip if there is a change of the vessel operator or within 72 hours after a change of the vessel operator if the change was made because of an emergency [50 CFR 216.24(b)(8)(iv)(B)]. This information is used to facilitate observer placements and make arrangements to conduct an observer placement meeting with the captain, managing owner, and program personnel prior to departure. Also, at this time the agency may notify the vessel owner if the operator must attend a skipper workshop. If necessary, arrangements may be made to schedule a workshop. This information may be provided verbally or in writing and must include:

- i) Vessel name; and
- ii) New operator permit holder name.

f) Vessel Permit holders intending to make intentional sets on marine mammals must notify the Regional Administrator, NMFS, West Coast Region, of any net modification at least 5 days prior to departure of the vessel in order to determine whether a reinspection or trial set (net alignment) is required [50 CFR 216.24(c)(4)(ii)]. If no net modifications are made during a calendar year, inspections shall be conducted by the authorized NMFS inspector (observer). This information may be provided verbally or in writing, and must include the following information:

- i) Vessel name; and
- ii) Type of gear modification completed.

g) The Regional Administrator, NMFS, West Coast Region, may authorize experimental fishing operations, consistent with the provisions of the International Dolphin Conservation Program for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or serious injury, or do not require the encirclement of dolphins in the course of fishing operations [16 USC 1413 Section 303(A)(2)(B)(x)]. Vessel Permit holders may apply for an experimental fishing operation waiver by submitting the following information to the Regional Administrator, NMFS, West Coast Region, no less than 90 days before the intended date the proposed operation is intended to begin [50 CFR 216.24(c)(7)]. This information is necessary to assess the potential benefit of the experimental gear and the merits of the experimental design. If the experimental fishing permit is authorized, the applicant will need to submit a report at the conclusion of the experiment as part of the terms and conditions of the permit.

- i) The name(s) of the vessel(s) and the vessel permit holder(s) to participate [Self-explanatory];
- ii) A statement of the specific vessel gear and equipment or procedural requirement to be exempted and why such an exemption is necessary to conduct the experiment;
- iii) A description of how the proposed modification to the gear and equipment or procedures is expected to reduce incidental mortality or serious injury of marine mammals;
- iv) A description of the applicability of this modification to other purse seine vessels;
- v) The planned design, time, duration, and general area of the experimental operation;
- vi) The name(s) of the permitted operator(s) of the vessel(s) during the experiment;
- vii) A statement of the qualifications of the individual or company doing the analysis of the research;
- viii) The signature of the permitted operator or of the operator's representative; and
- ix) A report summarizing the results of the experiment.

h) A vessel permit holder desiring to encircle dolphins in an effort to capture tuna must obtain a dolphin mortality limit (DML) under the International Agreement prior to conducting fishing operations [16 USC 1413 Section 303(A)(2)(B)(ix)]. Under the IDCPA, vessel permit holders may apply for either a six month DML (July through December), a one year DML (January through December), or a per-trip DML depending on vessel eligibility. Vessel permit holders may request a DML either by April 1 or by September 1, depending on whether the vessel permit holder is requesting a six month or one year DML allocation. Vessel permit holders may apply for a per-trip DML at any time, allowing at least 60 days for processing. To assess the eligibility of the vessel, six month and one year DML requests must be made in writing to the Regional Administrator, NMFS, West Coast Region, allowing at least 60 days for processing, and must include the following information [50 CFR 216.24(c)(9)]:

- i) The name of the purse seine vessel(s) of carrying capacity greater than 400 short tons that the owner intends to use to intentionally deploy purse seine fishing nets in the ETP [Self-explanatory]; and
- ii) The name of the vessel permit holder. In addition, a vessel possessing a valid vessel permit, but that does not normally fish for tuna in the ETP and desires to participate in the fishery on a limited basis, may apply for a per-trip DML from the Regional Administrator, NMFS, West Coast Region. To assess the eligibility of the vessel, per-trip DML requests must be in writing, allowing 60 days for processing, and state:
- iii) The number of anticipated trips involving sets on dolphin; and
- iv) The anticipated dates of the trip(s).

i) Vessel owners or managing owners must submit written notification to the Regional Administrator, NMFS, West Coast Region, to request that a vessel of 400 short tons (st) carrying capacity or less be categorized as active or inactive on the IATTC Vessel Register (Vessel Register), the list of vessels authorized to fish for tuna and tuna-like species in the ETP. Active or inactive status on the IATTC Vessel Register expires on December 31 of each year. Vessel owners or managing owners of vessels greater than 400 st carrying capacity are required to submit permit applications and fees each year to be listed on the Vessel Register, whereas vessel owners or managing owners of vessels of 400 st carrying capacity or less are not. Annual written notification would ensure that: 1) the request for active or inactive status is processed; 2) the vessel's capacity is accounted for in the total fleet capacity; and 3) the required information for the Vessel Register is collected. The

notification must be submitted by November 30 of the year prior to the year for which inclusion on the register is requested.

To request a tuna purse seine vessel of 400 st carrying capacity or less be listed as active on the Vessel Register, the vessel owner or managing owner must submit by fax the following information in writing:

- i) Name and official number of fishing vessel [Self-explanatory]. A photograph of the vessel with the registration number showing and legible [This information assists the agency with identification of vessels and enforcement]. The port of registry; previous name(s) and flag; International Radio Call Sign; where and when built; length, beam, and molded depth; tonnage, fish hold capacity, and carrying capacity; type of fishing method(s); engine horsepower; and the name and address of the vessel owner(s) and managing owner(s). [This information assists the agency with tracking processed and unprocessed tuna and evaluating the ability of a vessel to capture tuna. A vessel's characteristics are important when determining the performance of a vessel which can be used to determine the fishing power of the vessel. This information is required by the IATTC.];
- ii) The vessel owner or managing owner's signature and business telephone and fax numbers. [Signature certifies the information is true and correct. The contact information is required by the IATTC.]

j) To request a tuna purse seine vessel of 400 st carrying capacity or less be listed as inactive on the Vessel Register, the vessel owner or managing owner must submit by mail the following information in writing:

- i) Name and official number of fishing vessel [Self-explanatory];
- ii) The vessel owner or managing owner's name, signature, business address, and business telephone and fax numbers. [Self-explanatory. Signature certifies the information is true and correct.]

k) The vessel owner or managing owner of a tuna purse seine vessel listed on the Vessel Register must notify the Regional Administrator, NMFS, West Coast Region, of the intent to transfer the vessel to foreign registry and flag. Written notification must be received at least 10 business days prior to the submission of an application for transfer of the vessel to foreign registry and flag. The notification requirement would not apply to owners or managing owners of vessels that have received approval from the U.S. Maritime Administration (MARAD) for transfer of the vessel to foreign registry and flag, because MARAD already provides notification to NMFS prior to the transfer of these vessels. The notification will be used to manage the tuna purse seine portion of the Vessel Register. Vessels that have their documentation removed and are transferred to foreign registry and flag would no longer be authorized by the U.S. to purse seine for tuna in the ETP. Vessel owners or managing owners must submit by mail the following information in writing:

- i) Name and official number of fishing vessel [Self-explanatory and required by 16 U.S.C. 1416 § 306(a)(1)(A)];
- ii) The expected date the application will be submitted for transfer of the vessel to foreign registry and flag; and
- iii) The vessel owner or managing owner's name and signature. [Signature certifies the information is true and correct.]

l) In some years, the tuna conservation Resolution adopted by the IATTC may provide for two (or more) possible closure periods. The U.S. Government may determine which closure period will be observed by all members of the tuna purse seine fleet and inform vessel owners of the closure date. Alternately, vessel owners may be allowed to choose between the options. If the vessel owner does not respond by a specified date (July 1) for each applicable year, they are required to adhere to the later closure period by default. Under this circumstance, vessel owners or managing owners must submit in writing (via fax) the following information:

- i. Name and official number of fishing vessel;
- ii. The closure period the vessel will adhere to that year; and
- iii. The vessel owner or managing owner's name and signature [Self-explanatory].

m) Force majeure exemption: Per Final Rule 0648-BD52, in the event of force majeure (vessels disabled by mechanical and/or structural failure, fire, or explosion) rendering a purse seine vessel unable to proceed to sea outside of a closure period for at least 62 days (the prescribed closure period), the vessel owner may request an exemption from the closure period and if the request is accepted by the IATTC, the purse seine vessel owner may observe a reduced closure period of 30 consecutive days.

The addition of the force majeure provision: purse seine vessel owners or managers interested in requesting a force majeure exemption will be required to submit the information listed below to NMFS via fax or e-mail, such that their request can be considered for approval by IATTC Members:

- i. The name and official number of the vessel,
- ii. Vessel owner or manager's name and signature, and
- iii. Evidence to support the request, which may include but is not limited to photographs, repair bills, certificates of departure from port, United States Coast Guard form CG-2692A (Ref. 46 CFR 4.05-10).

n) Domestic tracking and verification program

The DPCIA requires the Secretary of Commerce to establish and conduct a domestic tracking and verification program to effectively track and document the movement of all tuna products in the U.S. market channels from its capture to final sale. The Secretary has delegated the authority to the Regional Administer, NMFS, West Coast Region. The tracking program documents the dolphin-safe or non-dolphin-safe condition of tuna through catch and processing for use in verifying the dolphin-safe or non-dolphin-safe condition of tuna products entering the U.S. market.

The U.S. canned tuna industry produces nearly \$1 billion worth of canned tuna every year, and canned tuna is the second most popular fish product marketed and consumed in this country. Because of this, the statistics which describe the tuna fishery, its products, and its markets have been of interest to NMFS for some time.

The tracking program includes procedures and reports for use when importing tuna into the U.S. and during domestic fishing, processing, and marketing in the U.S. Verification of tracking system operations is attained through the establishment of audit and document review

requirements which include the following information collections:

1) Tuna tracking form submission: The tuna tracking forms record the amounts and location of dolphin-safe and non-dolphin-safe tuna as it is loaded into fish wells aboard the vessel. The forms are completed and initialed by the observer and the captain or engineer after each set. During the duration of the vessel assignment, the observer retains the tuna tracking forms until the vessel arrives in port. Upon arrival in a U.S. port, the captain signs the tuna tracking forms and the observer submits the completed tuna tracking forms to the NMFS representative in person. In the event the observer does not submit the tuna tracking forms to the NMFS representative, the captain submits the forms in person or by mail to the Regional Administrator, NMFS, West Coast Region, within 5 working days at the end of the trip. The tuna tracking forms include the following information:

- i) Well numbers containing dolphin-safe and non-dolphin-safe tuna [Self-explanatory. Information needed to monitor and track dolphin-safe and non-dolphin-safe tuna from time of capture];
- ii) Weights by species composition and estimated tons loaded into each fish well [Self-explanatory. Information used to track weights of tuna at time of capture];
- iii) Set number and date of loading [Information used to track weights and location of tuna at time of capture. Set numbers are important since more than one set may be completed in a single day];
- iv) Trip number and Trip dates [Information used to correlate the fish to observer and vessel records to verify whether marine mammals were encircled, killed, or seriously injured during fishing operations];
- v) Observer name and signature [Information used to certify and verify the report is accurate and correct]; and
- vi) Captain name and signature and vessel name. [Information used to correlate the fish to observer and vessel records to verify whether marine mammals were encircled, killed, or seriously injured during fishing operations.]

2) Monthly tuna receiving reports: Canned tuna processors must submit a report to the Regional Administrator, NMFS, West Coast Region of all tuna received at their processing facilities in each calendar month whether or not the tuna is actually canned or stored during that month. Monthly tuna receiving reports are already compiled by the cannery to monitor and track tuna received at the facility. These reports may be submitted by fax, email or mail before the last day of the month following the month being reported. The information is used to monitor and track dolphin-safe and non-dolphin-safe tuna processed at the cannery. Monthly reports must contain information for both domestic and imported tuna receipts. In addition, imported tuna receipts must have a Fisheries Certificate of Origin (NOAA Form 370) approved by the Office of Management and Budget under Control Number 0648-0335. The following information must be provided in the report:

- i) Species [Self-explanatory. Information used to determine the type of tuna species processed since yellowfin tuna may be subject to an embargo];
- ii) Tuna condition (round, loin, dressed, gilled and gutted, other) [Self-explanatory. Information used to track tuna products throughout the processing];
- iii) Whether the tuna is eligible to be labeled dolphin-safe under §216.91;

- iv) Weight in short tons to the fourth decimal, as specified in 50 CFR 216.93(d) (2)(i). [Self-explanatory. Information used to track the quantity of tuna being processed];
- v) Ocean area of capture (eastern tropical Pacific, western Pacific, Indian, eastern and western Atlantic, other) [This information is used to determine whether the tuna may be subject to an embargo since yellowfin tuna caught using a purse seine in the ETP or tuna caught using a high seas drift net may be subject to an embargo];
- vi) Catcher vessel [Information used to track tuna back to the vessel of capture];
- vii) Trip dates [Information used to correlate tuna fish to observer and vessel records];
- viii) Carrier name [Information used to monitor and track origin of tuna];
- ix) Unloading dates [Correlates tuna to unloading records to facilitate monitoring and tracking of tuna];
- x) Location of unloading [Correlates tuna to unloading records to facilitate monitoring and tracking of tuna.]; and
- xi) Fisheries Certificate of Origin for each imported receipt of tuna [Required to track and monitor imported tuna].

3) Monthly tuna storage removal reports: Canned tuna processors must provide on a monthly basis a report of the amounts of ETP-caught tuna that is removed from cold storage to the Regional Administrator, NMFS, West Coast Region These reports may be submitted by fax, email or mail before the last day of the month following the month being reported. The information provided in the reports is already generated by the canneries to internally track tuna throughout the entire canning process. This information is used to monitor and track dolphin-safe tuna and non-dolphin-safe tuna. The following information must be provided in the report:

- i) Date of removal [Information used to track and monitor tuna];
- ii) Storage container numbers [Information needed by cannery to track tuna throughout the process];
- iii) Dolphin-safe or non-dolphin-safe designation [Information needed to track the classification of tuna being processed]; and
- iv) Disposition of fish (canning, sale, rejection, etc) [Information needed to track the disposition of tuna. Records already kept by cannery to account for tuna disposition].

4) Any exporter, transshipper, importer, processor, or wholesaler/distributor of any tuna or tuna products labeled as dolphin-safe must produce documentary evidence concerning the origin of the tuna or products within 30 days of receiving a written request from the Regional Administrator, NMFS, West Coast Region. Documentary evidence may include, but is not limited to, such documents as invoices, packing lists, cannery production logs, and U.S. Customs and Border Protection forms filed at the time of importation.

NOAA is unaware of any domestic tuna processor, other than canning operators, that labels tuna product as dolphin-safe. Therefore, no monthly tuna receiving reports or monthly tuna storage reports are expected to be submitted by tuna processors, other than tuna canners.

There is no standardized form for the submission of the above reports. Respondents usually

submit the information in an electronic spreadsheet format.

The information collected will not be disseminated to the public since the individual reports contain no information useful to anyone outside of the Federal Government. The main purpose of the reports is to satisfy the legal mandates of Congress.

NMFS 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.

Separate from this rulemaking, NMFS published a proposed rule (RIN 0648-AX63) (80 FR 81251, December 29, 2015) to establish a government-wide International Trade Data System (ITDS) as an electronic means of collecting NMFS-required catch and trade data at the point of entry for imports subject to existing trade monitoring programs. The SAFE Port Act (Public Law 109-347) requires all Federal agencies with a role in import admissibility decisions to collect information electronically through ITDS (single window). The Department of the Treasury has the U.S. Government lead on ITDS development and partner government agency integration. Customs and Border Protection (CBP) developed Automated Commercial Environment (ACE) as an internet-based single window for the collection and dissemination of information to support ITDS.

NMFS is a partner government agency in the ITDS project due to the agency's role in monitoring trade of certain fishery products. Electronic collection of seafood trade data through a single portal will result in an overall reduction of the public reporting burden and the agency's data collection costs, improve the timeliness and accuracy of admissibility decisions, increase the effectiveness of applicable measures to exclude products of illegal fishing, have the beneficial effect of decreasing the incidence of seafood fraud, and helps to verify the dolphin-safe tuna label.

NMFS believes that the vast majority of chain-of-custody documentation is already maintained by respondents in electronic format as part of the normal course of business.

4. Describe efforts to identify duplication.

The data to be collected for dolphin-safe tuna product would be in addition to the information required by CBP as part of normal entry processing via the ACE portal. To avoid duplication, NMFS will accept existing documentation used in the normal course of business such as declarations by harvesting and carrier vessels, bills of lading and forms voluntarily used or required under foreign government or international monitoring programs to help satisfy chain-of-custody requirements.

5. If the collection of information involves small businesses or other small entities, describe

the methods used to minimize burden.

Chain-of-custody recordkeeping requirements will apply to both small and large entities. Separate requirements based on size of business will not be developed since the documentation that satisfy chain-of-custody recordkeeping requirements will rely on existing documentation from the normal course of business.

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

If this requirement were not put in place, the United States would not meet its obligations as a Member of the WTO and trade retaliation will ensue.

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.

Public comment has been sought via an emergency Federal Register Notice for RIN 0648-BF73. However, public comment has also been sought for proposed rule RIN 0648-BF09 which proposes chain-of-custody recordkeeping. As of March 11, 2016, only three comments have been submitted for RIN 0648-BF09. All three were of a general nature with no comments specifically referencing chain-of-custody recordkeeping.

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.

Information collected under the DPCIA is considered confidential and is treated as such in accordance with NOAA Administrative Order 216-100 as stated in [50 CFR 216 subpart H](#). 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.

The **current** total number of respondents is 149, the total number of annual responses is 324, and the recordkeeping and reporting burden to the general public for the vessel and operator permit requirements, Vessel Register requirements, and the tuna tracking and verification program is estimated to be 183 hours per year.

Under the new chain-of-custody recordkeeping requirements, verification due to a NMFS request: If any tuna product entry or shipment is selected for audit (at random or as a result of screening/targeting), there may be a burden on the importer of record or U.S. processor to locate and provide copies of supporting documentation. In some instances, NMFS may be able to complete an audit (verify the information about the harvest event and chain-of-custody) based on the information submitted via the ACE portal. In other instances, NMFS may contact the importer of record or U.S. processor to provide supporting documentation to corroborate the information submitted via the ACE portal. If 10% of the entries are selected for audit, and 10% of the audited entries require submission (scan/fax) of supporting documentation, **approximately 130 entries would be affected annually. Because respondents to these audits may not all be from the group of current respondents, we are adding 130 respondents, one per response. At 30 minutes per response to locate and scan/fax records, the increase in response hours for the audit submission requirement would total 65 hours** and an increase in labor costs of \$975@ \$15/hour.

Current Respondents

Owners/managers of large purse seine vessels (applicants for ETP vessel permits): 18

Vessel operators (individuals; applicants for operator permits): 44

Owners/managing owners of purse seine vessels requesting a transit waiver (that do not have an ETP vessel permit): 2

Owners/managing owners of small purse seine vessels (requesting active status): 23

Owners/managing owners of small purse seine vessels (requesting inactive status): 1

Owners/managing owners of large purse seine vessels (requesting inactive status): 1

Canned tuna processors (includes those that submit monthly tuna storage removal reports and monthly tuna receiving reports): 20

Exporters, transshippers, importers, processors, and wholesaler/distributors (who must submit documentary evidence at the request of the NMFS Assistant Administrator; may or may not include any of the 20 processors who submit monthly reports): 170

For the entire collection including the IMO requirement:

The total respondents are **279**.

The total responses are **454 (324 + 130)**.

The total hours are **248 (183 + 65)**.

The total labor costs are **\$5,550 (\$25 x 183) + (\$15 x 65)**.

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).

Some investments in information technology and recordkeeping software may be necessary for some businesses, with regard to maintaining chain-of-custody information. However, most tuna importers and processors already have systems in place for supply chain records to meet food safety and business management requirements as part of the normal course of business.

There are no changes to the current recordkeeping/reporting costs to the public, of \$4,578.

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

Due to the Traceability Proposed Rule (RIN 0648-BF09), the work that CBP has performed to integrate existing NMFS trade monitoring programs into ACE/ITDS will accommodate the new chain-of-custody requirements. NMFS has confirmed that the message set construct and Document Imaging System capabilities developed for ITDS integration can be adapted for chain-of-custody related documentation with only minor changes to reference files and business rules in the ACE environment. Because the NMFS ITDS integration requirements have already been factored by CBP into the ACE/ITDS development and deployment budget, it is anticipated that changes necessary to accommodate the new requirements of the chain-of-custody will be minimal.

For the staff hours to collect, analyze, input, and file 130 collections per year where audited entries require submission (scan/fax) of supporting documentation:

$$130 \text{ submission} \times 15 \text{ minutes/submission} \times 1 \text{ hour}/60 \text{ minutes} = 32.5 \text{ staff hours/year}$$

130 responses/year (i.e. 32.5 staff hours) x \$15/hour = \$488/year for chain-of-custody recordkeeping auditing.

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

There will be an estimated increase of 130 responses from an estimated 130 respondents which equates to 65 additional hours of burden, costing \$975. This is due to a new collection of information to enhance document requirements to support use of the dolphin-safe label and for the United States to satisfy its obligations as a Member of the WTO.

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.