

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

A. JUSTIFICATION

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

This is a request for extension of a currently approved information collection.

The purpose of this collection of information is to implement certain requirements of the [Marine Mammal Protection Act](#) (MMPA), 16 U.S.C. 1361 *et seq.*, and the [Dolphin Protection Consumer Information Act](#) (DPCIA), 16 U.S.C. 1385. The MMPA and the DPCIA authorize the Secretary of Commerce to promulgate regulations that restrict 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 large-scale high seas driftnets (for which entry into the United States is prohibited), and to implement the DPCIA's dolphin-safe labeling standard. The NOAA Form 370, also known as the Fisheries Certificate of Origin (FCO), documents the dolphin-safe status of tuna import shipments and may also be used by U.S. fishermen to document domestic tuna harvests.

The National Marine Fisheries Service (NMFS) issued an interim final rule (RIN 0648-BF73) that amended regulations governing use of the dolphin-safe label for tuna harvested by all captains (other than those participating in the purse seine fishery in the eastern tropical Pacific Ocean (ETP) where the vessel carrying capacity is more than 400 short tons (362.8 mt) hereafter referred to as the "ETP large purse seine vessels"), to certify the dolphin-safe status of their tuna with a written statement. The new regulatory language for the written certification on the FCO effective for fishing trips that begin on or after May 21, 2016 will be "no purse seine net or other fishing gear was intentionally deployed on or used to encircle dolphins during the fishing trip in which the tuna were caught, and that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught." Also, "the Captain of the vessel has completed the NMFS Tuna Tracking and Verification Program (TTVP) dolphin-safe captain's training course." A Nonsubstantive Change Request for the aforementioned modifications was approved by OMB on March 14, 2016.

In regards to public reporting burden for this information collection, the total estimated average time per response remains at 25 minutes, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data, and completing and reviewing the collection of information.

The changes to the information collection due to the Change Request are intended to better ensure "dolphin safe" labels comply with the requirements of the DPCIA and to ensure the United States satisfies its obligation as a member of the World Trade Organization.

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 FCO provides NMFS with information concerning the origin, type, and quantity of imported tuna and tuna products. The FCO also 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 United States (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 products from entering the U.S. without proper documentation. 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, West Coast Region.

If an importation includes frozen tuna and/or tuna products harvested by fishing vessels other than ETP large purse seine vessels or large-scale high seas driftnet vessels (the latter for which entry into the United States is prohibited), in any fishery for which the Assistant Administrator has not determined that there is a regular and significant mortality or serious injury to dolphins and/or a regular and significant association occurring between dolphins and tuna, NMFS regulations require for fishing trips that begin on or after May 21, 2016, valid documentation by 1) the captain of the vessel, and where applicable, documentation by either a qualified and authorized observer or an authorized representative of a nation participating in the observer program, certifying that no purse seine net or other fishing gear was intentionally deployed on or used to encircle dolphins during the fishing trip and that no dolphins were killed or seriously injured in the sets in which the tuna were caught and 2) the captain of the vessel certifying completion of the NMFS dolphin-safe captain's training course.

If the importation includes tuna and/or tuna products harvested by an ETP large purse seine vessel, 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; and 3) a listing of the numbers for the associated Tuna Tracking Forms which contain the captain's and observer's certifications has been provided.

NMFS has made use of the FCO in documenting the entry of frozen and/or processed tuna into the United States for a number of years. NMFS 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. NMFS will retain control over the information and safeguard it from improper use, modification,

and destruction, consistent with National Oceanic and Atmospheric Administration (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 web site at <http://www.nmfs.noaa.gov/pr/dolphinsafe/index.htm> for use on the respondent's own computer system. Respondents are encouraged to provide electronic copies to NMFS via a secure FTP server. Currently, about 50% of the responses are received in this manner.

NMFS has published a proposed rule (see <https://federalregister.gov/a/2015-32743>) that if implemented, all FCO submissions will be required to be submitted electronically to the CBP ACE portal, as part of the International Trade Data System implementation authorized by the SAFE Ports Act of 2006. The comment period for the proposed rule ended February 29th, 2016, and the rule is expected to become final no earlier than July 2016.

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 United States. 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 8, 2016 (81 FR 914) solicited public comment on this information collection. No comments were received.

Requests for comments were sent electronically to 9 respondents. Two respondents gave responses of “No comment”. A third respondent noted that the frequency of collection is a reasonable expectation, the instructions are clear, and the estimated burden of 25 minutes per response is accurate. The third respondent further noted that the collection of data is highly useful for their own business purposes.

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.

As stated on the FCO, 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.

In recent years, program data shows approximately 430 different respondents submitted approximately 13,000 responses. It is estimated that each response averages 25 minutes, including records retention and making copies as needed. Therefore, the estimate in hours of the burden of the collection of information is:

$$13,000 \text{ responses} \times 25 \text{ minutes/response} \times 1 \text{ hour}/60 \text{ minutes} = 5,417 \text{ hours.}$$

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).

Nearly every response requires a certification attached to the FCO form. Approximately 50% 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 4 responses per mailing. Therefore, if 13,000 responses per year are received, then the cost might be:

Copying for CBP submission only (Electronic to NMFS):

$$6,500 \times 2 \times \$0.10/\text{copy} = \$1,300/\text{yr}$$

Copying for all other submissions (One to CBP, one to NMFS):

$$6,500 \times 2 \times 2 \times \$0.10/\text{copy} = \$2,600/\text{yr}$$

Envelopes: 6,500 divided by 4 x \$0.03/envelope = \$49/yr

Postage: 6,500 divided by 4 x \$0.49 (stamp) = \$796/yr

Total annual cost burden estimate: \$1,300 + \$2,600 + \$49 + \$796 = \$4,745

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

Staff hours to collect, analyze, input, and file 13,000 collections per year:

$$13,000 \text{ forms} \times 6 \text{ minutes/form} \times 1 \text{ hour}/60 \text{ minutes} = 1,300 \text{ staff hours/year}$$

Three minutes analysis per collection @ \$19.79/hr (hourly wage average for two contractors)

$$\text{Three minutes} = 0.05 \text{ hours} \times \$19.79 = \$0.99$$

Two minutes data entry per collection @ \$19.79

$$\text{Two minutes} = 0.0333 \text{ hours} \times \$19.79 = \$0.66$$

One minute filing per collection @ \$19.79

$$\text{One minute} = 0.0166 \text{ hours} \times \$19.79 = \$0.33$$

13,000 responses/year x (\$0.99 + \$0.66 + \$0.33) = \$25,740

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

There are no changes or adjustments since the last extension renewal. There is an adjustment to the cost in ROCIS, as the unit cost in ROCIS was in error (\$0.36 instead of %0.365).

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.