

**SUPPORTING STATEMENT**  
**NMFS Implementation of a Seafood Traceability Program**  
**OMB CONTROL NO. 0648-0739**

**A. JUSTIFICATION**

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

On June 17, 2014, the White House released a *Presidential Memorandum* entitled “Establishing a Comprehensive Framework to Combat Illegal, Unreported, and Unregulated Fishing and Seafood Fraud.” Among other actions, the Memorandum established a Presidential Task Force on Combating Illegal, Unreported, and Unregulated (IUU) Fishing and Seafood Fraud (Task Force), co-chaired by the Departments of State and Commerce, with membership including a number of other Federal agency and White House offices.

The Task Force was directed to report to the President “recommendations for the implementation of a comprehensive framework of integrated programs to combat IUU fishing and seafood fraud that emphasizes areas of greatest need.” Those recommendations were provided to the President through the National Ocean Council, and NMFS requested comments from the public on how to effectively implement the recommendations of the Task Force (79 FR 75536, December 18, 2014). Oversight for implementing the recommendations of the Task Force has been charged to the National Ocean Council Standing Committee on IUU Fishing and Seafood Fraud (NOC Committee).

Task Force Recommendation 14 concerns the development of a risk-based traceability program (including defining operational standards and the types of information to be collected) as a means to combat IUU fishing and seafood fraud. Recommendation 15 calls for the implementation of the first phase of that risk-based traceability program that tracks fish and fish products identified as being at risk of IUU fishing or seafood fraud from point of harvest to point of entry into U.S. commerce. The first step taken to address Recommendations 14 and 15 was the identification of those species likely to be at risk of IUU fishing or seafood fraud. The second step taken was a rulemaking (RIN 0648-BF09) to establish data reporting and related operational requirements at the point of entry into U.S. commerce for imported fish and fish products of the priority species. The rule implements Magnuson-Stevens Act section 307(1)(Q), which makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation or any treaty or binding conservation measure to which the United States is a party. *See* 16 U.S.C. § 1857(1)(Q).

As part of this final rule, RIN 0648-BF09, NMFS establishes procedures for filing import documentation for 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. Consistent with the [Safety and Accountability for Every \(SAFE\) Port Act of 2006](#) and other applicable statutes, import documentation is to be collected at the time of entry via the International Trade Data System (ITDS), requiring electronic information collection through the Automated Commercial Environment (ACE) maintained by the Department of Homeland Security, Customs and Border Protection (CBP). Under these procedures, NMFS requires importers to obtain an annually renewable International Fisheries Trade Permit (IFTP) and report specific data for certain fish and fish products as a

condition of import. NMFS has previously established a consolidated (IFTP) to 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 Verification Program (50 CFR Part 216, OMB Control No. 0648-0335). The seafood traceability rule would extend the IFTP and reporting requirements to importers of fish and fish products of the priority species.

The rule stipulates data and documentation which must be provided electronically to NMFS to determine admissibility, and establishes recordkeeping requirements for supply chain information about the imported fish. The chain-of-custody recordkeeping requirements are necessary to support audits that will allow NMFS to verify that the imported products entered into U.S. commerce are linked to the harvest event that is reported in the entry filing.

The trade monitoring program will enable the U.S. to identify and/or exclude certain fisheries products that do not meet the criteria for admissibility to U.S. markets, in particular, products of illegal, unregulated, and unreported (IUU) fishing activities. The rule will also serve the dual purpose of decreasing the incidence of seafood fraud by collecting data at import so that the species of fish and the location and method of its production can be verified.

**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-AX63) (80 FR 81251, December 29, 2015) to establish 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. Although NMFS has not yet issued a final ITDS rule, the agency anticipates completing that final rule prior to finalizing this rule to establish a seafood traceability program. 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. 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, and have the beneficial effect of decreasing the incidence of seafood fraud.

For priority species, this rule would require that entry filers submit additional data elements at the point of entry into U.S. commerce and use the CBP ACE portal for submission of a data set and/or document images. This rule would also require the importer of record identified on an

entry document for a designated at-risk species to obtain a permit to import such species. At-risk species, and some products derived from such species, will be identified by Harmonized Tariff Schedule (HTS) codes (in combination with other codes or product descriptors where applicable), and entries filed under these codes would be subject to the additional data requirements set forth in this rule. While some HTS codes will have a direct correspondence to the at-risk species, other applicable HTS codes, particularly for processed products, may be broader (i.e., potentially including species other than those designated at-risk.) In such cases, supplementary product identifiers supplied at entry filing (e.g., acceptable market name, scientific name) would be used to determine if the shipment includes at-risk species and is subject to additional data collection.

Misrepresentation – i.e., HTS misclassification or inaccurate description on commercial, shipping or entry documents - in order to avoid the additional data collection requirements, would be prohibited. NMFS is excluding certain highly processed fish products (fish oil, slurry, sauces, sticks, balls, cakes, puddings, and other similar highly processed fish products) from the additional data requirements in cases where these products cannot be traced back to one species of fish or associated with a specific commercial fishing operation.

The data reporting requirements apply to importers of record. The importers of record are the importers as identified in CBP entry filings for shipments containing the designated species. Customs brokers may fulfill these requirements on behalf of the importer of record at the importer of record's request. Refer to the annex to this supporting statement for details on the data elements to be collected at entry via the ACE portal and the model catch certificate and transshipment/processor documentation to record chain-of-custody.

NMFS has adopted a flexible approach for the seafood traceability program. For an entry to be admissible, certain data elements must be filed and certain supply chain information must be retained as records. NMFS has developed model forms to guide the development and implementation of information collection systems. Although the rule does not require the use of the model forms, those forms can serve as a guide for the information to be collected and reported by the trade. Any national or multilateral catch documents or electronic systems that contain the required data can be used to meet the admissibility requirements. It is possible that the actors in the supply chain could develop an electronic recordkeeping system, based on the model forms. Thus, the information required to file an entry could be collected along the supply chain and passed forward electronically. Alternatively, if a nation requires catch certificates for its fisheries, those certificates could be passed along the supply chain and submitted at the time of entry to the U.S. - provided those certificates meet the U.S. data requirements. Another alternative would be if actors in the supply chain subscribe to a third party certification scheme and the information collected in those systems meets the U.S. data requirements.

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 for some of the at-risk species, as applicable. Any dissemination of the information in aggregate form 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 rule, NMFS requires that information necessary to obtain and annually renew the IFTP be submitted electronically via a NMFS website. IFTP holders would then be required to submit data set/document images electronically to CBP in conjunction with the filing of the CBP entry summary (CBP Form 7501, OMB Control No. 1651-0022). While NMFS will release model forms for use by the trade in documenting catch and subsequent chain-of-custody to the U.S. border, the forms are not mandatory. Rather, the model forms will serve as a guide for the trade in building reporting/recordkeeping systems that would support the requirements for information in the message set or document image files in entry processing. Information for software developers, entry filers (customs brokers) and importers of records on how to format the NMFS data set for reporting in ACE/ITDS is found on the CBP website and is explained in the NMFS Implementation Guide:

<https://www.cbp.gov/document/guidance/nmfs-pga-message-set-guidelines>.

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

The data to be collected for at-risk species would be in addition to the information required by CBP as part of normal entry processing via the ACE portal. To avoid duplication, an interagency working group considered data that are already collected by CBP on the entry/entry summary, and data that are, or will be, collected via ACE by NMFS and other ITDS partner government agencies (e.g., Food and Drug Administration, Fish and Wildlife Service, Department of State). To the extent that the proposed requirements overlap with other reporting requirements applicable to the designated at-risk species, this will be taken into account to avoid collecting data more than once or by means other than the single window ACE portal.

**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 have not been developed. Only the minimum data required to determine admissibility and satisfy RFMO reporting requirements will be requested as part of the message set. Other information to support the admissibility decisions and to facilitate verification of the chain-of-custody when an entry is subject to audit, will be maintained by the importer of record as transmitted through the supply chain as a recordkeeping requirement. Such transfer or chain-of-custody records are produced in the normal course of business by fish dealers, processors, exporters, freight forwarders and carriers. This rule requires that the records be transmitted through the supply chain and retained by the U.S. importer.

**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 mandate of the MSA 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.

**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-BF09, was published coincident with this submission to OMB for an information collection. The notice of proposed rulemaking solicited public comment on the data elements to be reported and the recordkeeping requirements. Seafood importers and customs brokers were also contacted via a direct mailing to obtain their views on the information collection requirements that were proposed under the rule. As part of the government-wide ITDS integration process, DHS/CBP has convened technical working groups consisting of trade representatives and partner government agency personnel. The NMFS technical working group was consulted on the use of the ACE message set and the Document Imaging System. Trade representatives requested that there be options for the mechanisms to submit image files (upload, email, etc.) and CBP is accommodating accordingly. Importers and entry filers also requested that NMFS avoid duplication between the message set and image file submission. NMFS has therefore minimized the message set requirements by restricting the reportable data elements to those that are amenable to automated processing for admissibility determination and/or for screening and targeting for pre- or post-release audits.

A number of specific comments on the information collection were received in response to the notice of proposed rulemaking. Comments were received from U.S. importers and trade associations, foreign governments on behalf of their respective fishing industry exporters, and several non-governmental organizations with an interest in combatting IUU fishing and preventing seafood fraud. NMFS has adjusted the information collection in response to several comments:

*Wild Capture v Aquaculture*

The harvest event model form (catch document) was revised to clearly indicate which data elements are applicable to wild capture fisheries and which are applicable to farm raised seafood.

*Reported Weight*

The weight to be recorded at harvest and reported at U.S. entry was clarified to be the total weight of each species landed or transhipped as delivered to the first receiver. The landed

weight figure must specify units (lb or kg) and product form (round weight, gilled and gutted, etc) to allow proper interpretation of the weight at harvest and prevent association of IUU product with a catch certificate later in the supply chain. This weight is consistent with the catch reporting requirements of the EU and RFMO certificates. NMFS removed "product description" at import from the data elements to be reported as part of the NMFS PGA message set. This information is reported on transportation manifests and to FDA in prior notice reports as well as part of the entry summary reported to CBP.

#### *Area of Harvest*

The final rule will clarify area of harvest to be specified according to the reporting requirements of the competent authority exercising jurisdiction over the wild capture operation. If no such reporting requirements exist, the harvest event must be associated with an FAO designated fishing area and, if fishing within an EEZ, the ISO 2-alpha code for the coastal state concerned.

<http://www.fao.org/3/a-az126e.pdf>

[ftp://ftp.fao.org/FI/STAT/by\\_FishArea/Fishing\\_Areas\\_list.pdf](ftp://ftp.fao.org/FI/STAT/by_FishArea/Fishing_Areas_list.pdf)

<https://www.iso.org/obp/ui/#search>

#### *Fishing Gear*

The final rule will clarify that gear codes are to be specified according to the reporting requirements of the competent authority exercising jurisdiction over the wild capture operation. If no such reporting requirements exist, the harvest event must be associated with an FAO designated standard abbreviation for the fishing gear used.

<http://www.fao.org/fishery/cwp/handbook/M/en>

#### *Small Scale Fisheries*

Several commenters noted that a large number of individual harvest events may contribute to a single inbound shipment to the U.S. This is particularly true for small-scale fisheries abroad. In addition, such small-scale fisheries may not be subject to controlled reporting mechanisms. In response to these concerns about harvest event data collection and transmission of this data along the supply chain, NMFS will make allowances for aggregation of small catches into a single catch report. The final rule will adopt a similar definition to that of the EU re small scale vessels and allow a harvest event to be recorded in aggregation for a single collection point on a single calendar day inclusive of any grouping of small scale vessels that have offloaded at that point on that day. An entity operating at the collection point shall record the harvest event information in aggregate for any grouping of receipts from small scale vessels by that entity. As there may be multiple receivers at a landing point, each would generate one or more harvest event reports for their respective aggregate receipts on that day. Production from small scale aquaculture facilities delivering less than 500 kg per day to a collection point or processing facility may be aggregated to record a harvest event associated with the specific collection point or processing facility on that calendar day. The entity operating at the collection point or the processing facility shall record the harvest event information in aggregate for all receipts by that entity. As there may be multiple receivers at an intermediate collection point prior to delivery to a processor, each receiver would generate a daily harvest event report for respective aggregate receipts.

#### *Consolidated Shipments*

NMFS has clarified that tracing back to the harvest vessel does not imply segregation of entered

product by harvesting event. All harvest events contributing to the inbound shipment must be reported, but links between portions of the shipment and particular harvest events are not required.

#### *Recordkeeping Period*

In response to the concerns about recordkeeping burden for U.S. importers, the recordkeeping requirement for supply chain information is reduced to two years.

#### *Species Identification*

Several commenters noted the redundancy of the species identification requirement if several codes and scientific name were all required. NMFS will require the ASFIS 3 alpha code to be filed as part of the message set for all entries under an HTS code that is not associated with a particular species and which may contain product derived from one of the priority species within the scope of the final rule.

<http://www.fao.org/fishery/collection/asfis/en>

#### *Harvest Date*

NMFS has clarified that the harvest date to be reported for wild capture fisheries is the date of landing/offloading at the end of a fishing trip, or the date of transshipment at-sea or in-port. During multi-day fishing trips, it may be a requirement of the competent authority (flag nation of vessel or coastal state of fishing area) to report on each individual day's catch in a vessel logbook, but the date required by NMFS for entry processing is the date recorded for offloading, whether a single day or multi-day fishing trip.

#### *Exclusion of Shrimp/Abalone*

In the proposed rule, NMFS noted concerns about including shrimp and abalone in the import monitoring program given gaps in comparable reporting and recordkeeping for the domestic aquaculture industry. These gaps present a national treatment issue with respect to U.S. obligations as a member of the World Trade Organization. As other agencies have the regulatory authority to require reporting and/or recordkeeping in the domestic aquaculture industry, NMFS is excluding shrimp/abalone from the import monitoring program until such action is taken to close the gaps. Therefore, NMFS will seek approval for the information collection burden attributable to import monitoring for shrimp/abalone at such time that the program is extended to include these products.

### **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.**

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., Trade Secrets Act), information collected

will be handled in compliance with agency filing and retention policy. The data sharing MOU between NMFS and CBP also addresses confidentiality concerns and disclosure provisions for information collected via ACE/ITDS.

**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.**

**Lower Bound Estimate**

The ITDS rule (0648-AX63) integrates the three existing NMFS programs (HMS, AMLR, TTVP) into the CBP ACE reporting environment. The seafood traceability rule (0648-BF09) creates a fourth program and essentially establishes the same requirements (trade permit, the ACE message set, document imaging system, and recordkeeping) for the designated priority species included in this new monitoring program.

In response to the comments received on the proposed rule, NMFS revised several assumptions to estimate the compliance cost of the final rule. NMFS updated the hourly labor rate to \$25.00 for data entry. This is consistent with the Bureau of Labor Statistics' fourth quarter 2015 estimate of \$23.84 per hour on total cost to the employer for office and administrative support services. In addition, NMFS reconsidered the burden on the U.S. importer imposed by reporting on numerous individual harvest events that contribute to a single inbound shipment. First, NMFS has made an allowance for aggregation of harvest records for small scale wild capture fisheries and small scale aquaculture facilities. Second, NMFS clarified that the individual harvest events do not have to be associated with particular portions of the shipment, only that all of the harvest events contributing to the shipment in the aggregate must be reported. Finally, NMFS examined import reporting data from the Tuna Tracking and Verification Program (TTVP) to evaluate the number of harvest events associated with inbound shipments for that program. On average about three harvest events would be reported for each shipment requiring about 24 minutes of data entry time.

**IFTP Requirement:** With the requirement to obtain an IFTP under this program, there would be approximately 2,000 respondents who would need approximately 5 minutes to fill out the online IFTP form (estimate consistent with that used for ITDS proposed rule 0648-AX63) resulting in a total annual burden of 167 hours and a cost of \$4,175. This estimate of the number of entities that would be required to obtain the permit under the seafood traceability program is in addition to those entities that would be required to obtain the permit under the ITDS rule. However, there may be some overlap in that importers of multiple seafood products that are covered under more than one trade monitoring program would not be required to obtain a separate permit for each program. A single, consolidated permit would suffice for all commodities covered under all programs.

**Data Set Submission Requirement:** Data sets to be submitted electronically to determine product admissibility are, to some extent, either already collected by the trade in the course of



supply chain management, already required to be collected and submitted under existing trade monitoring programs (e.g., tuna, swordfish, toothfish), or collected in support of third party certification schemes voluntarily adopted by the trade. Incremental costs are likely to consist of developing interoperable systems to ensure that the data are transmitted along with the product to ensure the information is available to the entry filer. Initial feedback from one seafood importer indicates, however, that importers may already have arrangements with software developers to update entry filing programs as needed to address required changes so no extra incremental costs may be involved to accommodate this new requirement.

Taking into account differences in fisheries (small and large catch volume), but also the allowance for aggregated harvest reports by small scale vessels, NMFS has increased the time for vessel data entry relative to the TTVP example. NMFS therefore estimates that the data entry costs for vessel information would average about \$10.00 or 24 minutes for each import. In addition to the vessel information to be reported in each entry filing, the NMFS Message Set requires some header records and structural records so that the data are correctly interpreted when loaded into ACE, as well as permit data for the importer. NMFS estimates that the data entry costs for this type of information to be about 12 minutes or \$5.00 per import.

Based on 2014 CBP import records of seafood products derived from the priority species subject to the traceability program, it can be expected that approximately 215,000 entries per year would require a NMFS message set reported via ACE. However, in the final rule, NMFS has delayed shrimp and abalone imports from harvest event data reporting due to present concerns about parity with harvest data reporting in the U.S. domestic aquaculture sector. Approximately 70,000 entries of shrimp and abalone products would not immediately require permitting, harvest event data reporting in ACE, or chain-of-custody recordkeeping on the part of the U.S. importer. NMFS will request approval of these information collection requirements at the time that shrimp and abalone imports will be included in the Seafood Traceability Program. This will be dependent on the establishment of reporting and recordkeeping requirements for the domestic aquaculture industry through separate actions by other agencies.

Therefore, excluding these shrimp and abalone entries would incur reporting and recordkeeping costs for approximately 145,000 entries annually. These 145,000 entries would be subject to submission of harvest event data that would require 36 minutes of data entry each. The total increase in hours for the 145,000 responses for the data set submission requirement would therefore total 87,000 hours and labor costs of \$2,175,000@ \$25/hour.

**Recordkeeping Requirement:** The rule also requires that the harvest event records and the chain-of-custody records be retained by the importer for two years from cargo release. NMFS estimates that organizing and filing the records would require 24 minutes or \$10.00 for each entry subject to import reporting. The burden for the NMFS-specific recordkeeping requirements under this rule would amount to 58,000 hours or \$1,450,000 in labor costs. **145,000**

### **Total Lower Bound Estimate**

Assuming that this rule would affect 2,000 importers and 600 customs brokers making 145,000 entries per year for the priority species subject to the initial phase of the traceability program, the total burden for permit applications, data entry, recordkeeping and audits would amount to 146,617 hours, and labor costs of \$3,665,425@ \$25/hour.

## Alternative Upper Bound Estimate

In providing comments on the proposed rule, the National Fisheries Institute provided alternative estimates of the data reporting and recordkeeping burden likely to be imposed by the Seafood Traceability Program. To obtain an upper-bound on estimated compliance costs, NMFS calculated an alternative estimate using information provided by National Fisheries Institute (NFI) through the E.O. 12866 regulatory review (<http://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=0648-BF09&meetingId=2004&acronym=0648-DOC/NOAA>) as well as NFI's written comments on the proposed rule (<https://www.regulations.gov/document?D=NOAA-NMFS-2015-0122-0098>). Specifically, NMFS used NFI's estimate of cost per year for complex supply chains. However, in certain instances, NMFS revised the NFI assumptions and resulting estimates where the assumptions were based on an inaccurate understanding of the rule or to account for changes from the proposed rule.

In response to comments pointing out the challenge and cost of compliance for small boat fisheries and small-scale aquaculture, NOAA modified the rule to include a provision for aggregated harvest reports of landings by small vessels and small-scale aquaculture. This provision will significantly reduce the number of harvest events associated with certain import entries, thereby reducing the amount of information to be reported by the importer of record and the overall cost of compliance. NOAA estimates that in some instances the ability to aggregate harvests by small vessels and small-scale fish farm will reduce the number of reported harvest events by more than half. For the purposes of an upper bound estimate, NOAA assumed that allowing the reporting of aggregate harvest by small vessels reduced the cost per container by 25% for blue crab, grouper, red snapper, and sea cucumber. While NOAA expects the actual reduction to be well in excess of 50%, it used the more conservative percentage for the purposes of establishing an upper-bound.

NFI also developed its estimate on the understanding that the Seafood Import Monitoring Program will require reporting of production and harvest data for aquaculture. In order to address a gap in the reporting of domestic aquaculture data, which must be addressed by other agency action, the final rule will delay the permitting, reporting and recordkeeping requirements for imported shrimp and abalone.

For the purposes of estimation, NMFS adopted the assumption that an entry filing corresponds to a container of fish product, although multiple entry lines may pertain to a single container with different products declared under multiple HTS codes. Conversely, multiple containers all containing the same product (single HTS code) can be declared on a single entry.

NOAA assumed in its upper-bound estimate that recordkeeping would require one hour per entry, resulting in a \$32 per cost per entry using NFI's labor cost estimate.

NMFS revised the cost per container for Inshore Atlantic Cod as submitted to OIRA as part of the E.O. 12866 regulatory review. NMFS increased NFI's volume per vessel estimate of 270 kg to 1000 kg. This increase is intended to reflect both a higher average per vessel as indicated in landing reports made available online by the Icelandic Directorate of Fisheries at <http://www.fiskistofa.is/english/quotas-and-catches/>, (NMFS considers NFI's estimate to be unreasonably low relative to reported landings), and the aggregation of small boat harvests as described in the final rule but not incorporated into NFI's model.

NFI's presentation and materials indicate an assumption that each product type present in an entry would require separate entry of harvest and landing information, however this is not the intent of the rule. To the extent that multiple product types such as loins and fillets of various size grades result from the same harvest event or events, that information would have to be reported by the importer of record only once. For that reason, NMFS did not use the "product types per container" multiplier in calculating a cost per container and therefore assumed fewer entries per container. NMFS notes that in NFI's cost estimate for Atlantic cod there is a reduction of "product available for processing" by one half to account for cod going to the salted market and considers this adjustment adequate to account for all instances in which portions of one landing are directed to different markets.

For Pacific cod, NFI assumed that product would be harvested by small Alaskan jig vessels. Given the volume of Pacific cod imports, NMFS considers it far more likely that product would be sourced from large trawl and longline catcher vessels and catcher processors. NOAA therefore used NFI's estimate of cost per container for the Atlantic cod trawl fishery as a proxy.

In its submission, NFI suggested that for mahi-mahi, a ninety-fold increase in cost per container for complex supply chains delivering mahi-mahi, however no rationale or supporting assumptions were provided. Based on its review of NFI's more detailed calculations provided for Atlantic cod, NMFS assumes that this increase was based on an incorrect understanding that harvest and landing information must be reported separately for each product type contained in a shipment. In addition, NFI's estimates were based on the proposed rule requirement that each small boat must report landings separately, which was changed to allow fisheries to aggregate the harvest of small boats. In the Ecuadorian panga fishery used as a basis for this estimate, the aggregated harvest provision will significantly reduce the number of reported harvest events. For these reasons, NMFS included in the upper bound estimate NFI's estimate for the low end of the range for mahi-mahi.

Based on NFI's assumptions as modified by NMFS and the methodology applied to generate a cost estimate suggested by NFI, NMFS estimates an upper-bound estimate of compliance cost for reporting, recordkeeping and supply chain auditing of \$11,742,311 per year. A species-by-species breakdown of that cost estimate is provided in the following table:

Upper-bound estimate of reporting/recordkeeping compliance cost based on National Fisheries Institute comments and suggested estimation approach.

Species	Country and Harvest Technique	Cost Per Container	2015 Containers	Cost Per Year	Supply Chain Audit Costs	Total Cost
Swordfish	Singapore, Longline/Harpoon	\$1,725	750	\$1,293,750	\$200,000	\$1,493,750
King Crab (Red)	Russia, Pot	\$73	3991	\$291,343	\$30,000	\$321,343
Farmed Shrimp <sup>1</sup>	Thailand, Aquaculture	-	-	-	-	-
Atlantic Cod Trawl	Norway, Iceland, Russia	\$274	1868	\$511,832	\$840,000	\$1,351,832
Atlantic Cod Inshore	Norway, Iceland, Russia	\$993 <sup>2</sup>	467	\$463,680	N/A	\$463,680
Pacific Cod	U.S., Russia	\$274 <sup>3</sup>	877	\$240,298	N/A	\$240,298
Mahi-Mahi	Ecuador, Panga	\$872 <sup>4</sup>	1309	\$1,141,448	\$770,000	\$1,911,448
Blue Crab	Mexico, Day Boats	\$17,668 <sup>5</sup>	54	\$954,072	\$40,000	\$994,072
Grouper	Indonesia, Small boats	\$4,155 <sup>6</sup>	763	\$3,170,265	\$290,000	\$3,460,265
Red Snapper	Mexico and Brazil, longline	\$421 <sup>7</sup>	1131	\$476,151	\$150,000	\$626,151
Sea Cucumber	Canada, Divers	\$4,361 <sup>8</sup>	167	\$728,287	\$110,000	\$838,287
Shark	Thailand, Otter trawl	\$237	5	\$1,185	\$40,000	\$41,185
Abalone <sup>1</sup>	Australia, Divers	-	-	-	-	-
<b>Total</b>			<b>11,382</b>	<b>\$9,272,311</b>	<b>\$2,470,000</b>	<b>\$11,742,311</b>

<sup>1</sup> NFI estimate excluded from total to account for delayed implementation provision in the final rule.

<sup>2</sup> NFI estimate for simple supply chain used assuming 1000 kg volume per vessel to account for aggregated harvest and larger average volume per vessel.

<sup>3</sup> NFI estimate for Atlantic cod trawl used to account for harvest by large trawler and longline vessels.

<sup>4</sup> Low end of NFI's complex range in public comment used to account for aggregated harvest report.

<sup>5</sup> NFI estimate reduced by 25% to account for aggregated harvest reports.

<sup>6</sup> NFI estimate reduced by 25% to account for aggregated harvest reports.

<sup>7</sup> NFI estimate reduced by 25% to account for aggregated harvest reports.

<sup>8</sup> NFI estimate reduced by 25% to account for aggregated harvest reports.

N/A – Audit costs for all cod imports based on importer estimate for trawl-caught Atlantic Cod

Assuming the NFI estimated cost of \$32.00 per hour of labor for the data reporting and, recordkeeping, the burden hour estimate derived by applying the NFI methodology as modified by NMFS amounts to 289,760 hours for reporting and recordkeeping and a cost of \$9,272,295.

**Requested Burden**

As the Seafood Traceability Program is a new program, it is difficult to estimate the burden of reporting and recordkeeping that will be place on the trade community. NMFS requests that OMB approve the upper bound estimate of burden hours for the purposes of this information collection:

IFTP application: 167 hours (NMFS estimate)  
 Reporting and recordkeeping: 289,760 hours (NFI estimate)  
 Total Burden: 289,927 hours

Information collection	Responses	Hours	Recordkeeping/Reporting Costs		
IFTP application	2,000	167	60,000		
Data Submission	11,382	144,880	600,000 (1.8M annualized)		
Data Storage	11,382	144,880	431,630		
<b>Totals</b>	<b>24,764</b>	<b>289,927</b>	<b>\$1,091,630</b>		

**Burden and Cost to the Public**

Based on program monitoring during implementation, data on permits, entries, pages of documentation per entry will be applied to re-evaluate the actual burden imposed under this regulatory program.

**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, particularly with regard to maintaining chain-of-custody information. However, most seafood dealers already have systems in place for supply chain records to meet food safety and business management requirements. Once the harvest event information is recorded, these existing systems for passing commercial documents along the supply chain, either electronically or in paper form, can be used to enable the importer of record to submit the required data as part of an ACE entry filing.

NMFS estimates there will be approximately 2,000 new applicants for the IFTP under the proposed seafood traceability program. Since NMFS has 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 2,000 importers X \$30 = \$60,000.

An additional cost of the rule would be the purchase of ACE certified software to allow submission of the NMFS message set on the part of customs brokers. Although some large brokerage houses have software developers on staff who are addressing the programming needs

for ITDS integration, other brokerages will have to purchase software from developers. Note that some brokerages have already invested in software in response to a separate rulemaking for NMFS integration with ITDS (RIN 0648-AX63). NMFS estimates that software would cost about \$3,000 for each broker. For the 600 brokers filing entries for the priority species, software acquisition costs would amount to \$1,800,000. However, this would be a one-time cost and not accruing in future years except for new customs brokers beginning to enter fishery products.

Apart from the labor costs of assembling and organizing records, importers would incur data storage costs for records that are kept for two years from the date of entry. Chain of custody records can be scanned and stored as digital images subject to retrieval in case of selection for audit. NMFS estimates that the data storage costs for 2,000 importers would amount to \$431,630 annually. This estimate is based on 145,000 entries annually (*but for the upper bound, 11382 containers*), for which an average of 10 pages of documentation for each entry would be scanned and stored as an image file.

#### **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, thus there will be no incremental cost to the Federal government.

For the last several years, NMFS has undertaken collaborative efforts with CBP to integrate its three existing trade monitoring programs within the operations of ITDS, as mandated by the SAFE Port Act (Pub. L. 109-347) and the Executive Order on Streamlining the Export-Import Process for America's Businesses (E.O. 13659). Given these efforts, NMFS has worked out an import permitting program, an ACE message set, and a protocol for use of the DIS for submission of supporting documents. In NMFS view, the requirements of the seafood import monitoring program fall closely within the protocols and systems already developed and agreed with CBP. While additional HTS codes will be subject to data collection at entry, additional documents would be submitted via DIS, and some new business rules for validating electronic data would be needed in ACE, the programming required would be consistent with the work already completed for NMFS ITDS integration. Also in NMFS view, the new requirements are within timeframe of the ITDS deployment schedule. However, CBP will complete the development and deployment of ITDS core functionality by December 2016. After this time frame, CBP will implement a fee for service for other government agencies requesting new functionality for data collection via ITDS. As the seafood traceability final rule will be issued after the ITDS transition to fee for service, NMFS will work with CBP to determine the extent of programming costs necessary to provide the enhanced functionality in the ACE portal necessary to implement the seafood traceability program. A preliminary estimate of the one-time programming costs is on the order of \$400,000.

Additional costs to government are attributable to monitoring imports, auditing entries, consulting with foreign government counterparts regarding lawful acquisition, and addressing violations of the permitting, reporting or recordkeeping requirements of this rule. Assuming the program specialist, seafood inspector, and enforcement agent personnel assigned to implementation of the seafood import monitoring program amount to 6 full-time equivalent positions at an average annual labor cost of \$125,000 each, the ongoing costs would amount to \$750,000 annually.

The total, with the programming costs annualized, would be \$833,333.

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

This is a new information collection for the designated priority species mandated under the recommendations of the Presidential Task Force on Combating IUU Fishing and Seafood Fraud.

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

The National Ocean Council Committee on Combating IUU Fishing and Seafood Fraud will issue periodic reports that will include aggregated information on the number of entries for which additional information was collected under the seafood traceability program as well as an evaluation of how the program has been implemented to date, with recommendations of how and under what timeframe it would be expanded. Expansion of the import monitoring program to include additional species will be subject to additional rulemaking and will require a revision to this information collection.

**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.**

OMB approval will be displayed on the electronic IFTP application form posted on the NMFS website and also on the NMFS compliance guides explaining to importers and entry filers how to make electronic data set and admissibility document entries.

NMFS requests approval from OMB not to display the expiration date on the model forms as this could lead to confusion on the part of foreign industries, foreign governments and supply chain managers if harvest events were recorded on forms with valid expiration dates at the time, but due to normal industry practices (cold storage, processing and transport), the expiration date has passed when products are imported into the United States. NMFS has proposed the forms as models only, thus foreign national governments may have developed or will develop forms to record harvest and processing events to meet national requirements, RFMO requirements or requirements for markets other than the U.S. In some instances, private industry or third party certifiers may develop forms to meet the U.S. requirements as well as other market states. Requiring an expiration date on the forms may lead to problems in interpretation of the meaning of the expiration date and the legitimacy of the fish products in trade. This could affect sourcing decisions or rejection of deliveries if products are incorrectly deemed to have expired documentation.

NMFS will furnish the burden statement and expiration date to U.S. importers of record who are responsible to report the harvest event data at entry. This information on OMB approval of the information collection will be presented in compliance guides issued to the U.S. importers and entry filers.

**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.