

**JUSTIFICATION FOR CHANGE
FISHERIES CERTIFICATE OF ORIGIN
OMB CONTROL NO. 0648-0335**

This request is to revise the information and instructions on the National Oceanic and Atmospheric Administration (NOAA) Form 370, Fisheries Certificate of Origin, associated with certifications required by Captains and Observers for tuna harvested in a fishery in which the Assistant Administrator has determined there is a regular and significant mortality and serious injury to dolphins and/or a regular and significant association occurring between dolphins and tuna.

The purpose of the NOAA Form 370 (also known as the Fisheries Certificate of Origin; FCO) 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 (U.S.) is prohibited), and to implement the DPCIA's dolphin-safe labeling standard. The FCO documents the dolphin-safe status of tuna import shipments and may also be used on a voluntary basis by U.S. fishermen to document domestic tuna harvests.

On September 28, 2016, the National Marine Fisheries Service's (NMFS) Assistant Administrator made a determination of regular and significant mortality and serious injury of dolphins in gillnet fisheries in the Indian Ocean (see Federal Register Notice 81 FR 66625). This determination affects certain importations of frozen and/or processed tuna product labeled dolphin-safe where the tuna was harvested on fishing trips that begin on or after November 27, 2016. The last revision of a currently approved collection, approved Oct 18, 2016, updated the language on the FCO to reflect this finding. The amendment to the FCO was not complete; this request is to revise the FCO to reflect the full requirements resulting from the determination.

The captain of the vessel and an observer participating in a national or international program acceptable to the Assistant Administrator (unless the Assistant Administrator determines an observer statement is unnecessary) must certify that dolphin-safe tuna was kept physically separate from non-dolphin-safe tuna by the use of netting, other material, or separate storage areas from the time of capture through unloading. Language under section 5(B)(3) of the FCO, will be amended to include this requirement, as will the instructions on page 2, Section 5, of the FCO.

Inserting this language onto the form does not otherwise affect the documents collected from the respondent (i.e., NOAA Form 370 and associated captain statement, observer statement, and/or government certification). Thus, even with added language, the burden estimate for the respondent will not change since the FCO and associated statements are already required under the existing approved collection for OMB Control No. 0648-0335.

In addition to the changes on the FCO, NMFS's Tuna Tracking and Verification Program website, <http://www.nmfs.noaa.gov/pr/dolphinsafe>, will be updated upon OMB approval of this change request. The Internet site currently has links to the existing OMB approved NOAA Form 370.

NMFS seeks OMB approval of these changes to OMB Control No. 0648-0335.