

**SUPPORTING STATEMENT  
BILLFISH CERTIFICATE OF ELIGIBILITY  
OMB CONTROL NUMBER 0648-0216**

**A. JUSTIFICATION**

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

This request is for extension of this information collection, Certificate of Eligibility (COE) for Billfishes.

Under current regulations, a COE is required for all first receivers of billfish – except for billfish landed in a Pacific state and remaining in the state of landing – as a condition for the domestic trade of fresh or frozen billfish shipments. A “first receiver” means any entity, person, or company that takes, for commercial purposes (other than solely for transport), immediate possession of the fish, or any part of the fish, as the fish are offloaded from a fishing vessel of the United States whose owner or operator has been issued, or should have been issued, a valid permit under [50 CFR part 635](#). Dealers or processors who subsequently receive or possess billfish must also retain a copy of the COE while processing the billfish. The document certifies that the accompanying billfish was not harvested from the Atlantic Ocean management unit. The management units and applicable species are described on the certificate form and in Question 2.

This requirement has been implemented under the [Magnuson-Stevens Fishery Conservation and Management Act](#) and codified in [50 CFR 635](#). The authority to issue these regulations has been delegated from the Secretary of Commerce to the Assistant Administration for Fisheries, NOAA.

The purpose of the collection of this information is to maintain the recreational nature of the Atlantic billfish fishery with no commercial trade, as designated in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (FMP), as amended. The latest International Commission for the Conservation of Atlantic Tunas (ICCAT) stock assessments for Atlantic blue marlin (2011) and white marlin (2012) indicate that these species are overfished, overfishing is occurring for blue marlin, and overfishing is “not likely” occurring for white marlin. A more definitive determination than “not likely” by the ICCAT Standing Committee for Research and Statistics (SCRS) was not made due to uncertainty associated with the species composition and magnitude of the catch and landings data following the ICCAT requirement that countries release billfish that were alive at haulback. The SCRS expressed specific concern that some landings may be unreported, such as those from artisanal fisheries (the Food and Agricultural Organization (FAO) of the United Nations describes artisanal or small-scale fisheries, as traditional fisheries involving fishing households (as opposed to commercial companies), using relatively small amounts of capital and energy, relatively small fishing vessels (if any), and making short fishing trips, close to shore, and mainly for local consumption). In the 2017 National Marine Fisheries Service (NMFS) Report to Congress on the status of U.S. fisheries, Atlantic blue marlin and white marlin were both listed as overfished, and with overfishing occurring (white marlin was listed as “overfishing occurring” because of the range of stock assessment model outputs and the high degree of uncertainty described above). The latest ICCAT stock assessments for Western Atlantic sailfish (2016) indicates that the stock is not

likely to be overfished and overfishing is not likely occurring. In the 2017 NMFS Report to Congress on the status of U.S. fisheries, Western Atlantic sailfish was listed as rebuilding and overfishing not occurring.

NMFS regulations require a COE as a condition for the domestic commercial trade of fresh or frozen billfish shipments. These requirements augment NMFS' ability to quantify all billfish that enter into commerce of the United States, and to guarantee that these fish were not harvested in or from the Atlantic billfish management unit.

On October 5, 2012, the President signed Public Law 112-183 entitled the "[Billfish Conservation Act of 2012](#)," which prohibits the sale of billfish (or products containing billfish), or the custody, control, or possession of billfish (or products containing billfish) for purposes of sale. The only exemptions to this prohibition include billfish landed by U.S. fishing vessels in Hawaii and Pacific Insular Areas, and billfish landed by foreign fishing vessels in the Pacific Insular Areas when the foreign-caught billfish are exported to non-U.S. markets or retained within Hawaii and the Pacific Insular Areas for local consumption. The Billfish Conservation Act of 2012 is fully in effect and NMFS is considering the development of implementing regulations. If necessary, upon publication of a proposed rule to implement the provisions of the Act, the information collection associated with the Billfish Certificate of Eligibility (0648-0216) will be revised accordingly.

**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.**

A COE is considered complete and approved for trade if all of the required information is recorded. A COE is required for all first receivers of billfish, except for billfish landed in a Pacific state and remaining in the state of landing. Dealers or processors who subsequently receive or possess billfish must also retain a copy of the COE while processing or handling the billfish. A COE is also required to accompany billfish landed in a Pacific state and shipped to any dealers or processors located outside of that state, who subsequently receive or possess the billfish. The COE documentation certifies that the accompanying billfish was not harvested from the Atlantic Ocean management unit. The following information is required on all COEs:

(A) Information on the Fishing Vessel that Caught the Billfishes

- (1) name of the fishing vessel
- (2) homeport of the fishing vessel
- (3) port of offloading
- (4) date of offloading

(B) Dealer's/Processor's Declaration

- (1) name (printed or typed)
- (2) signature
- (3) date

The person who first receives billfish by way of purchase, barter, or trade must provide information on the fishing vessel that caught the billfishes (the items listed under (A) above), and

must also sign and date the Dealer's/Processor's Declaration certifying that the billfish were not harvested from the management units described below:

Blue Marlin, White Marlin, Longbill Spearfish, and Roundscale Spearfish: Waters of the entire North and South Atlantic Oceans (including the Gulf of Mexico and Caribbean Sea);

Sailfish: Waters of the North and South Atlantic Oceans (including the Gulf of Mexico and Caribbean Sea) west of 30° W. longitude; and,

Black Marlin, Striped Marlin, and Shortbill Spearfish: Waters of the entire North and South Atlantic Oceans (including the Gulf of Mexico and Caribbean Sea).

The COE must accompany each billfish throughout its chain of custody. A dealer or processor who subsequently receives or possesses billfish covered by an original COE is required only to complete the Dealer's/Processor's Declaration and retain a copy of the COE while processing or handling the billfish. The Billfish COE information is not required on a specific form – the same information can be provided in another format. The physical piece of paper is intended to be passed along through the chain of custody. It is accompanied by the shipment and signed (printed or typed) by each "custodian" of the product. That would be difficult to accomplish if it were solely electronic. It goes on the trucks, with processors, wholesalers, and then retail establishments (and I do not know how practical or convenient it would be for all custodians to have a tablet handy, or be near a computer in what I would presume would be a 'wet' environment). The chain of custody is the chronological documentation or paper trail that records the sequence of custody, control, transfer, and disposition of physical evidence or product, in this case a billfish. Having the physical hard copy accompanying the billfish would be the easiest and least expensive method indicating the origin, and history of fish. All custodians of the product can sign and date in a matter of seconds. Suggesting that electronic submission replace paper submission to be appears to be a financial burden on every custodian to purchase electronic equipment. NMFS provides a standard form on the Internet at [http://www.nmfs.noaa.gov/sfa/hms/compliance/permits\\_reporting/0216\\_billfish\\_coeform.pdf](http://www.nmfs.noaa.gov/sfa/hms/compliance/permits_reporting/0216_billfish_coeform.pdf) and upon request to help facilitate the data collection.

The information collected on the COE is not disseminated to the public, nor is it used to support information that is disseminated to the public. It is used solely to declare that the accompanying billfish was not harvested from the aforementioned Atlantic billfish management units, to document compliance, and for enforcement purposes.

**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 COE form is downloadable, fillable, and printable. The certificate must be retained in paper form, and thus readily available for reference, by all purchasers and processors of the fish throughout its chain of custody.

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

Coordination with existing programs is always explored to avoid unnecessary duplication of effort. Duplication of certain elements of dealer reports (*e.g.*, date of landing, vessel name, etc)

is unavoidable. In response to a related international recommendation regarding trade tracking, NMFS evaluated whether this information collection could be combined with trade tracking forms for other marine species. NMFS decided that, due to differing objectives, trade tracking programs should not be consolidated at this time.

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

All respondents for this information collection are small businesses. The information requested is presented in a format that is compatible with the dealer operation of landing, purchasing, and processing of billfishes. This consistency will minimize the compliance burden. Thus, there is no 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 limitations on where billfish can legally be landed for purchase, barter, or trade, relative to the wide area of occurrence of billfishes in the Atlantic and Pacific Oceans, necessitate the current level of reporting to ensure compliance with regulatory requirements. If the information were not collected, or collected less frequently, it would be difficult, if not impossible, to ensure that billfish in commercial trade were not harvested from the management units described in Question 2. The Billfish COE helps to ensure that Atlantic billfish remain a recreational resource.

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

The 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 Federal Register Notice published on August 18, 2017 (82 FR 39412) solicited public comment on this proposed renewal. NMFS contacted interested constituents by telephone, e-mail, and through the Atlantic HMS Advisory Panel to inform them of publication of the Federal Register notice. The comment period closed on October 17, 2017.

Two public comments were received. The first comment supported continued use of the Billfish COE for continuing efforts to monitor billfish and conduct responsible management of our marine fisheries. The second comment recognized the need for an accurate, reliable, simple, paper or electronic trail to track product from billfish caught in the Pacific or Indian Oceans through commerce to the consumer to distinguish product that can be legally sold from product that cannot be legally sold. No billfish sales are allowed from Atlantic Ocean or Gulf of Mexico.

No action has been taken in response to these comments. The Billfish COE has been an effective tool to document the origin of billfish product that has entered commerce and prevent the sale of Atlantic billfish or billfish that are prohibited from sale under the Billfish Conservation Act.

HMS did request public comment regarding an electronic form, from the Advisory Panel meeting that took place March 7-9, 2018, per OIRA's request. On March 19, 2018, an Advisory Panel member representing the recreational constituency made a follow-up call to comment on the U.S. Department of Commerce NOAA Billfish Certificate of Eligibility. His comment was "It is the best we can do right now and digitizing this form would be a waste of time and effort."

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

NMFS does not provide gifts or payment for completion of the Billfish COE.

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

As stated on the form, it is NMFS policy not to release confidential data, other than in aggregate form, as the Magnuson-Stevens Fisheries Conservation and Management Act protects (in perpetuity) the confidentiality of those submitting data. [NOAA Administrative Order 216-100](#) also applies. Whenever data are requested, the Agency ensures that information identifying the pecuniary business activity of a particular dealer is not identified.

**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 information of a sensitive nature is requested.

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

It is estimated that approximately 100 initial shipments of billfish are annually completed by approximately 50 dealers. The average response time for COE completion for the first purchaser is estimated to be 20 minutes. Approximately three additional dealers/processors are involved from billfish purchase to its final destination. Therefore, approximately 300 subsequent responses occur (100 shipments x 3 subsequent responses). Each subsequent dealer/processor is estimated to complete 2 of those 300 responses (300 responses ÷ 2 responses per dealer/processor = 150 dealer/processors). The COE response time for subsequent billfish purchases is estimated to be 2 minutes (dealer's name, signature and date, only). Therefore, the total burden estimate for the collection of information associated with the Billfish COE is estimated as follows:

50 initial dealers x 2 COEs per dealer x 20 minutes per COE = 2,000 minutes/60 minutes  
= 33.3 (33) hours. (100 COEs)  
+  
150 subsequent dealers/processors x 2 COEs per dealer/processor x 2 minutes per COE =  
600 minutes/60 minutes = 10 hours. (300 COEs)

Thus, the total estimates would be 200 respondents, 400 responses, and 43.3 (43) 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).**

There are no recordkeeping/reporting costs to respondents. The Billfish COE information is not required on a specific form – the same information can be provided in another format. NMFS provides a standard form on the Internet at

[http://www.nmfs.noaa.gov/sfa/hms/compliance/permits\\_reporting/0216\\_billfish\\_coeform.pdf](http://www.nmfs.noaa.gov/sfa/hms/compliance/permits_reporting/0216_billfish_coeform.pdf)

and upon request to help facilitate the data collection. The form is then transferred manually, along with any billfish products, through the chain of custody.

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

The annual cost is estimated at less than \$100 for printing and distributing the COEs.

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

Not applicable.

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

No publication is planned.

**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.**

The expiration date will be displayed.

**18. Explain each exception to the certification statement.**

There are no exceptions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods such as sampling.