

SUPPORTING STATEMENT
NMFS Implementation of a Seafood Traceability Program – adding imported shrimp and abalone
OMB CONTROL NO. 0648-xxxx

A. JUSTIFICATION

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

On March 23, 2018, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2018 (2018 Appropriations Act)(P.L. 115-141, Div. B) was signed by the President and became law. Section 539 of Division B of the Act directed the Secretary of Commerce to “lift the stay on the effective date of the final rule for the Seafood Traceability Program published by the Secretary on December 9, 2016, (81 FR 88975 et seq.) for the species described in section 300.324(a)(3) of title 50, Code of Federal Regulations: provided that the compliance date for the species described in section 300.324(a)(3) of title 50, Code of Federal Regulations, shall occur not later than December 31, 2018.” On April 24, 2018, NMFS published a final rule lifting that stay, and established a compliance date of December 31, 2018 for shrimp and abalone. See 83 FR 17762.

This rulemaking establishes permitting, reporting and recordkeeping requirements under the Seafood Import Monitoring Program (Program) for importing shrimp and abalone into the United States. The Program consists of three requirements for importers of shrimp and abalone for consumption as food: (1) obtaining an International Fisheries Trade Permit (IFTP); (2) reporting of harvest and landing data; and (3) recordkeeping requirements with respect to the chain of custody from harvest to the point of entry into U.S. commerce. This rule is published under the authority of the 2018 Appropriations Act and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.

Application of the Program’s reporting and recordkeeping requirements will enable NMFS to determine the origin of the products and confirm that they were lawfully imported and enable implementation and enforcement of the Seafood Traceability Program, commonly referred to as the Seafood Import Monitoring Program.

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 Program consists of two primary components: (1) Reporting of harvest events at the time of entry; and (2) permitting and recordkeeping requirements with respect to both harvest events and chain of custody information. See 50 CFR 300.324 (reporting and recordkeeping) and *id.* §§ 300.320–300.323 (permit-related). As of the December 31, 2018 compliance date established by this rule, importers of shrimp and abalone species will be required to obtain an International Fisheries Trade Permit as specified at 50 CFR 300.322, submit harvest and landing information on those products into the U.S. Customs and Border Protection (CBP) International Trade Data System (ITDS) through the Automated Commercial Environment (ACE) portal prior to entry into U.S. Commerce, and maintain supply chain records from the point of harvest to the point of entry into U.S. Commerce for a period of two years after entry.

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 Regional Fisheries Management Organizations (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.

NMFS requires that importers of record provide information to obtain and annually renew the IFTP electronically via a NMFS website. When importing shrimp and abalone products, importers of record (IFTP holders) will be required to submit data (message set) 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 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 the Seafood Import Monitoring Program would cover data and recordkeeping requirements 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, which serves as the single electronic window for entry filing

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 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 of record.

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 2018 Appropriations Act and be less effective in enforcing the Magnuson-Stevens Act (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. Reduced enforcement capabilities will hamper the U.S. Government's efforts to level the playing field for U.S. fishermen who abide by rigorous fisheries conservation and management regulations.

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.

On August 8, 2018, NMFS published a Federal Register notice (*See* 83 FR 39077) soliciting public comment on the information collection burden for the shrimp and abalone reporting and recordkeeping requirements under the Seafood Import Monitoring Program. NMFS received one request for additional information on the burden; that information is provided in the analysis presented here which clarifies NMFS cost estimates, which were assessed initially in development of the seafood traceability rule.

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 MSA, 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.

This information is covered under a Privacy Act System of Records Notice, COMMERCE/NOAA-19, Permits and Registrations for U.S. Federally Regulated Fisheries.

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.

Estimated Number of Respondents: 651. Estimated Time per Response: International Fisheries Trade Permit, 5 minutes; data entry, 1 hour.

Annual responses: 651 permit applications + 70,000 data entries = 70,651 responses.

Annual burden: 54 hours for IFTP applications + 70,000 hours for data entry = 70,054 total hours.

Based on program monitoring during implementation, data on permits, entries, and pages of documentation per entry will be applied to re-evaluate the actual burden imposed under this regulatory program. Many importers of shrimp and abalone may already be importers of other species requiring an IFTP, so the actual number of new IFTP applications may be less, but NMFS is using a higher estimate to cover all eventualities.

13. Provide an estimate of the total annual cost burden to the respondents or recordkeepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

NMFS estimates there will be approximately 651 applicants for the IFTP under the 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 651 importers X \$30 = \$19,530.

Recordkeeping/reporting costs for data entry: 70,000 x \$25 labor cost = \$1,750,000.

Total annualized recordkeeping/reporting costs: \$19,530 + \$1,750,000 = \$1,769,530.

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.

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 and the Seafood Import Monitoring Program 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, and an ACE message set for imports subject to NMFS' trade monitoring programs. In NMFS view, the addition of shrimp and abalone to the Seafood Import Monitoring Program falls closely within the protocols and systems already developed and agreed with CBP. While additional HTS codes for shrimp and abalone seafood products will be subject to data collection at entry, 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. There is no reimbursable CBP cost to NOAA to add shrimp and abalone HTS codes to the existing seafood traceability program.

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.**

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

This is a new information collection for the designated priority species mandated under the 2018 Appropriations Act, adding shrimp and abalone to the Seafood Import Monitoring Program by December 31, 2018.

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

As appropriate, NOAA may issue periodic reports that will include aggregated information on the number of entries for which additional information was collected under the Seafood Import Monitoring Program as well as an evaluation of how the program has been implemented to date, with recommendations of how and under what timeframe it may be expanded. Expansion of the Program to include additional species would 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 wells 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.