

**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 collection.

The purpose of this collection of information is to comply with the 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 in order to verify the dolphin-safe status and the embargo status; and to prohibit certain other fish and fish products when harvested by large-scale, high seas driftnets. Under the DPCIA and the High Seas Driftnet Fisheries Enforcement Act, the Secretary of Commerce is authorized to determine whether a nation has vessels that use large-scale driftnets to fish on the high seas. Currently, no nation has such a determination. Therefore, there is currently no need for the fish and fish products listed at 50 CFR 216.24(f)(2)(iii) to have a Fisheries Certificate of Origin (FCO) accompany import shipments of these listed products.

This information collection documents the dolphin-safe status of tuna import and cannery receipt shipments; verifies that import shipments of fish were not harvested by large-scale, high seas driftnets; and verifies that tuna was not harvested by a nation under embargo or otherwise prohibited from exporting tuna to the United States (U.S.).

2. 1Explain how, by whom, how frequently, and for what purpose the information will be used. 1If 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 the National Marine Fisheries Service (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 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. 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 NMFS within thirty days of receiving a written request from the NMFS Regional Administrator, West Coast Region.

If the importation includes tuna and/or tuna products harvested in the eastern tropical Pacific Ocean (ETP) by a large purse seine vessel (having a carrying capacity of more than 400 short tons (362.8 metric tons)), then valid documentation signed by a representative of the appropriate International Dolphin Conservation Program (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. These certifications must be attached to the FCO.

If an importation includes tuna and/or tuna products harvested in a fishery other than the large ETP purse seine fishery, then a statement executed by the captain, 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, must be attached to the FCO. The statement by the captain must also include certification of completion of the NMFS Dolphin-safe Captain's Training Course. Where applicable, a similarly worded statement, executed either by a qualified and authorized observer or by an authorized national government representative of the observer program, must be attached to the FCO.

If the importation includes tuna and/or tuna products harvested in a fishery in which the Assistant Administrator has determined there is a regular and significant mortality or serious injury to dolphins and/or a regular and significant association occurring between dolphins and tuna, valid documentation is required by: (1) the captain of the vessel, and where applicable, by an authorized observer 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 or other gear deployments in which the tuna were caught and that the tuna was stored physically separate from tuna caught in a non-dolphin-safe set or other gear deployment by the use of netting, other material, or separate storage areas from the time of capture through unloading; and (2) the captain of the vessel certifying completion of the NMFS Dolphin-safe Captain's Training Course. Valid documentation is also required that is signed by a representative of the vessel flag nation or the processing nation (if processed in another nation) certifying that: A) the catch documentation is correct; B) the tuna or tuna products meet the U.S. dolphin-safe labeling standards under 50 CFR 216.91(a); and C) the chain of custody information is correct. These certifications must be attached to the FCO. See <https://www.fisheries.noaa.gov/dolphin-safe> for more information on fisheries that have been determined as such by the Assistant Administrator.

Tuna harvested by large-scale driftnets on the high seas is never admissible into the United States. Yellowfin tuna harvested in the ETP by purse seine vessels of, or exported from, certain countries is embargoed. See <https://www.fisheries.noaa.gov/dolphin-safe> for a current list of countries where the embargo applies.

NMFS has made use of the FCO in documenting the entry of tuna into the United States for decades. NMFS has also used information collected on the FCO in litigation, fisheries management decisions, and international negotiation decisions.

The information collected will not be disseminated to the public. 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 <https://www.fisheries.noaa.gov/dolphin-safe> for use on the respondent's own computer system. Regulations at 50 CFR 216.24(f)(2) require respondents to submit electronic copies of the FCO and attached certifications to CBP's Automated Commercial Environment (ACE). Thus, 100% of the responses are submitted electronically and the burden of mailing hard copies of the documentation has been eliminated.

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 large-scale, 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 frozen and/or processed tuna and tuna products that enters the United States. This may be more frequent than quarterly for most 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 was published March 25, 2019 (84 FR 11054). No public comments were received.

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 regulations at 50 CFR 216.93(h) and by [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 530 different respondents submitted approximately 13,000 responses annually. This averages to 25 responses per respondent per year. It is estimated that each response averages 25 minutes, including records retention and making electronic copies as needed. Therefore, the estimate in hours of the burden of the collection of information is:

13,000 responses x 25 minutes/response x 1 hour/60 minutes = 5,417 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).0

Due to regulations at 50 CFR 216.24(f)(2) which were implemented since the last collection of information extension, all required documents are to be electronically submitted to CBP's ACE. Since all documents associated with this collection of information are now available online for free and can be stored on a existing computer hard disk or network server

folder, completion of the forms via computer and two year storage of such files has reduced the annual cost burden for this collection of information to a *de minimis* amount (i.e., nearly zero).

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

Staff hours to analyze and input 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 average analysis per collection @ \$20/hr

$$\text{Three minutes} = 0.05 \text{ hours} \times \$20. = \$1.00$$

Three minutes average data entry per collection @ \$20.00

$$\text{Three minutes} = 0.05 \text{ hours} \times \$20.00 = \$1.00$$

$$13,000 \text{ responses/year} \times (\$1.00 + \$1.00) = \$26,000$$

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

Adjustment: A decrease to zero for the respondent's total annual cost burden due to the regulatory requirement for an all-electronic submission. An annualized increase in cost to the Government of \$260 due to a slight increase in the contractor staff hourly wage average.

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.