

**SUPPORTING STATEMENT**  
**U.S. Department of Commerce**  
**National Oceanic & Atmospheric Administration**  
**Fisheries Certificate of Origin**  
**OMB Control No. 0648-0335**

**Abstract**

This information collection documents, on the Fisheries Certificate of Origin (FCO; also known as the NOAA Form 370), the dolphin-safe status of frozen and/or processed tuna import shipments (not fresh) and verifies that import shipments of fish were not harvested by large-scale, high seas driftnets nor harvested by a nation under embargo or otherwise prohibited from exporting tuna to the United States. Additional dolphin-safe certifications may be required to accompany the FCO. While this information collection renewal does not request additional information from the respondent over the previous OMB approved collection, the format of the FCO has been revised to aid automatic data upload through the use of Optical Character Recognition (OCR) software.

**Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

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). Implementing regulations are found at [50 CFR 216.24\(f\)](#) and at [50 CFR 216 Subpart H](#). 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 an FCO accompany import shipments of these listed products.

This information collection documents the dolphin-safe status of tuna import 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.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The FCO, and attached certifications if applicable, provides 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 electronically to the U.S. Customs and Border Protection (CBP) prior to, or at the time of importation, for each and every importation of frozen and/or processed tuna or tuna products. This assists CBP in preventing tuna products from entering the United States without proper documentation. All importers 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.

If an importation includes frozen tuna and/or tuna products harvested by fishing vessels other than large purse seine vessels fishing in the eastern tropical Pacific Ocean (ETP) or large-scale high seas driftnet vessels (the latter for which entry into the United States is prohibited), in any fishery for which the NMFS Assistant Administrator has not determined that there is a regular and significant mortality or serious injury to dolphins and/or a regular and significant association occurring between dolphins and tuna, NMFS regulations require valid documentation by 1) the captain of the vessel, and where applicable, documentation by either a qualified and authorized observer or an authorized representative of a nation participating in the observer program, 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 in which the tuna were caught; and 2) the captain of the vessel certifying completion of the NMFS dolphin-safe captain's training course. The training course is available online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/dolphin-safe-captains-training-course>.

If the importation includes tuna and/or tuna products harvested in the ETP by a large purse seine vessel (defined as having a carrying capacity greater 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.

If the importation includes tuna caught in a fishery in which the NMFS Assistant Administrator has determined that either a regular and significant association between dolphins and tuna (similar to the association between dolphins and tuna in the ETP) or a regular and significant mortality or serious injury of dolphins is occurring, a written statement, executed by 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. On September 28, 2016, the Assistant Administrator for Fisheries [issued a determination](#)—under the Dolphin Protection Consumer Information Act—of regular and significant mortality and serious injury of dolphins in gillnet fisheries harvesting tuna by vessels flagged under the governments of India, Iran, Mozambique, Pakistan, Oman, Saudi Arabia, Sri Lanka, Tanzania, the United Arab Emirates, and Yemen. This determination triggered additional documentation requirements for tuna products marketed or labeled as dolphin-safe that were harvested on fishing trips that began on or after November 28, 2016. Additional documentation requirements include an observer statement. Currently, the NMFS Assistant Administrator has not determined any observer programs for gillnet fisheries and tuna vessels in the above-named governments to be acceptable (see [Determination of Observer Programs as Qualified and Authorized by the Assistant Administrator for Fisheries](#)). Therefore, until a notice is published in the *Federal Register* (FR) where the NMFS Assistant Administrator has determined that an observer program in the above listed fisheries is acceptable, importation of such tuna into the United States will be unable to satisfy current documentary requirements for dolphin-safe tuna products. Should such a determination

be made in the future by the NMFS Assistant Administrator, the determination will be published as a notice in the Federal Register. It should be noted that the current version of the FCO is already set to accommodate such an import as the fishery would be described in the form's Box 5B(3).

NMFS has made use of the FCO in documenting the dolphin-safe status of imported frozen and/or processed tuna into the United States for decades. The last collection-of-information change to the FCO occurred in 2016 where enhanced documentation was required for attached certifications. It is also noted that the enhanced documentation was expanded to apply to all tuna fisheries worldwide, with the exception of the large purse seine fishery in the ETP.

The information collected will not be disseminated to the public since the DPCIA mandates at 16 U.S.C. 1385(f) that the Secretary of Commerce “establish appropriate procedures for ensuring the confidentiality of proprietary information.” This mandate was implemented into regulation at [50 CFR 216.93\(h\)](#). The main purpose of the FCO is to satisfy the legal mandates of Congress regarding the dolphin-safe status of imported tuna products. However, NMFS has at times used the information collected on the FCO in litigation, fisheries management decisions, and international negotiation decisions.

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](#).

**Table: Information Requirements and Needs and Uses of Information Collected**

Item #	Requirement	Statute	Regulation	Form #	Needs and Uses
1	Submission of the FCO	16 U.S.C. 1361 <i>et seq.</i> and 16 U.S.C. 1385	50 CFR 216.24(f) and 50 CFR 216 Subpart H	NOAA Form 370	Used by the public to document the dolphin-safe status of a tuna import. Used by NMFS to verify compliance of tuna imports with statute and regulation.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

FCO submission has been 100% electronic to CBP since September 2016 as per regulation at [50 CFR 216.24\(f\)\(2\)](#). U.S. importers choose to either use third-party vendor software to upload electronically the FCO directly to CBP's Document Imaging System or use common email instead. CBP allows for a variety of approved electronic file formats, but the vast majority of electronic FCO submissions use the PDF file format.

NMFS has a computer server which communicates automatically with the appropriate CBP computer

server on a nightly basis to download electronic FCOs. There are no plans to alter this existing upload and download protocol.

For this renewal, the FCO form layout will be slightly altered so as to aid OCR computer software which can be used by the agency to scan submitted forms and allow for the automatic upload of the form's data into the agency's database. While the amount and type of information being collected will not change from the previous approval, the presentation of FCO's typed statements and corresponding check boxes will be realigned on the form for better OCR readability. A new version of the FCO is attached to this renewal application.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2**

The FCO was one of the first forms developed by NMFS decades ago 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 impacts small businesses or other small entities, describe any methods used to minimize burden.**

This collection does not have a significant impact on small entities. The FCO is considered by the global tuna industry as foundational for establishing the dolphin-safe tuna status of a tuna shipment. NMFS has known for many years that the FCO is voluntarily used by industry, when the tuna product is not destined for the United States. Therefore, the use and submission of the FCO does not negatively impact small businesses or small entities as global tuna product manufacturers provide an FCO to U.S. importers as part of importation documentation protocol.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

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 would cause an information collection to be conducted in a manner inconsistent with OMB guidelines.**

This information collection is required for each and every importation of frozen and/or processed tuna product. Thus, some respondents will be required to report information to NMFS more than quarterly. Regulations at [50 CFR 216.24\(f\)\(2\)](#) require respondents to submit the FCO prior to, or at the time of importation, in order to give CBP and NMFS the ability to determine legal admissibility into the United States. The respondent submits only one copy of the FCO to CBP. On a nightly basis, CBP transfers the FCO to NMFS. Thus, the respondent is not subject to a requirement of multiple submissions of the same document. Regulations at [50 CFR 216.93\(g\)\(1\)](#) require record maintenance of the FCO and associated certifications for at least two years. Thus, respondents are under no obligation to retain records for more than two years. This information collection is not associated with a statistical survey. Therefore, no use of a statistical data classification is required to be reviewed and approved by OMB.

The DPCIA authorized the Secretary of Commerce to “establish appropriate procedures for ensuring the confidentiality of proprietary information.” NMFS implemented this mandate with a regulation at [50 CFR 216.93\(h\)](#) that states “Information submitted to the Assistant Administrator under this section will be treated as confidential in accordance with NOAA Administrative Order 216-100 “Protection of Confidential Fisheries Statistics.” [NOAA Administrative Order 216-100](#) establishes agency policy on data disclosure and data security. Thus, in addition to the confidentiality mandate of the DPCIA, NOAA Administrative Order 216-100 encompasses the provisions of the Trade Secrets Act, which also prohibits the release proprietary confidential information.

**8. If applicable, provide a copy and identify the date and page number of publications in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

On January 24, 2022, NMFS published in the FR, notice of the information collection and made a request for comment within 60 days of the publication date. The FR citation is 87 FR 3507. No comments were received.

NMFS staff regularly fields inquiries by the tuna importing industry on the FCO. NMFS staff periodically takes these opportunities to discuss the utility and integrity of the FCO, as well as how often the form is collected. Company representatives typically decline to provide comment on the cost and hour burden of the collection.

**9. Explain any decision to provide any payment or gift 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 the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

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 in accordance with [NOAA Administrative Order 216-100](#). Information collected is handled in compliance with agency filing and retention policy. No PII information is collected on the FCO. Therefore, a SORN does not apply.

NMFS has a PIA titled “The NOAA4020 Science and Technology (S&T) system.” This S&T system functions as a general data processing system for NOAA and NMFS headquarters located in Silver Spring, MD. It provides resources to support scientific operations and research, data and information management, fisheries surveys, statistical analysis, stock assessments, socio-economic analysis, ecosystem management, other national program database and applications development, and management decisions needs. The user base of this system reaches across different headquarter offices and across regions and science centers within NMFS. Many of these automated systems are built in support of the NMFS mission. The FCO is stored on a NMFS database system called the International Trade Data System (NMFS ITDS).

The NMFS ITDS is used to support a number of NMFS offices/programs to monitor imports of fisheries

products. Types of Business Identifiable Information (BII) data collected are name of business, address, contact information, and product information. The data is collected by CBP and provided to NMFS via Secure File Transfer Protocol (SFTP) for inclusion in the CBP ITDS database. Reasons for the NMFS database: (1) The CBP ITDS is an inter-agency, distributed system that allows businesses to submit trade data to a single agency (i.e., CBP). CBP then makes these data available to participating ITDS agencies via secure, system integration; (2) The NMFS component of the ITDS is an import monitoring system designed to improve the efficiency and accuracy of NMFS trade monitoring programs by utilizing the data and services provided by CBP via the national ITDS architecture. NMFS trade monitoring programs supported by the NMFS ITDS include the Antarctic Marine Living Resources (AMLR) program, the Highly Migratory Species (HMS) program, the Seafood Import Monitoring Program (SIMP), and the Tuna Tracking and Verification Program (TTVP). The NMFS ITDS is also integrated with the NMFS National Permit System (NPS) to provide international trade permit data to NMFS trade monitoring programs and to CBP. To view the complete PIA, see [https://www.osec.doc.gov/opog/privacy/NOAA%20PIAs/NOAA4020\\_PIA\\_SAOP\\_Approved.pdf](https://www.osec.doc.gov/opog/privacy/NOAA%20PIAs/NOAA4020_PIA_SAOP_Approved.pdf).

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

No questions of a sensitive nature are included in this information collection.

**12. Provide estimates of the hour burden of the collection of information.**

For the period 2019 through 2021, NMFS program data shows approximately 540 different respondents submitted approximately 14,000 FCO responses annually. Therefore, each respondent averaged approximately 26 responses per year. NMFS has estimated that each FCO response averages 25 minutes, including records retention and making electronic copies as needed. Therefore, the estimate of the burden for this collection of information is 5,833 hours. The estimated annualized cost to respondents for this collection of information is \$115,318. This figure was obtained by multiplying the estimated hour burden (i.e., 5,833 hours) by the estimated hourly wage of \$19.77. The hourly wage was obtained from the Bureau of Labor Statistics (BLS) web site (see <https://www.bls.gov/bls/blswage.htm>) for an estimated national hourly wage of “office and administrative support workers”. The most recent year available from the BLS web site is for calendar year 2020.

Information Collection	Type of Respondent (e.g., Occupational Title)	# of Respondents/year (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Burden Hrs / Response (d)	Total Annual Burden Hrs (e) = (c) x (d)	Hourly Wage Rate (for Type of Respondent) (f)	Total Annual Wage Burden Costs (g) = (e) x (f)
Fisheries Certificate of Origin (0648-0335)	Tuna Importer - office and administrative support worker	540	25.925	14,000	25min	5,833 hrs	\$19.77/hr	\$115,318
<b>Totals</b>				<b>14,000</b>		<b>5,833</b>		<b>\$115,318</b>



**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).**

There are no capital costs or operating and maintenance costs associated with this information collection. Since responses to this collection of information are 100% electronic, a tuna importing company has already procured common computer software (e.g., Microsoft Windows operating system), Internet access, and email capabilities as part of its operational necessity. NMFS also estimates the recordkeeping burden to be at zero. An FCO stored in an electronic file would be kept with other necessary documents associated with that tuna importation (e.g., invoice, bill of lading, etc.). Therefore, any additional recordkeeping burden is *de minimis*.

**14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.**

For this information collection, there are no associated operational expenses such as special equipment, overhead or printing costs. All documents are received electronically and are easily viewed on staff computer workstations. Support staff consists of both federal and contracted labor. Fiscal year 2022 labor rates have been used. Below are the calculations used to estimate the annualized cost to the Federal government for each FCO response:

Estimated cost to analyze and input 14,000 FCO collections per year:

Three minutes average analysis per FCO collection @ \$40.67/hour

Three minutes = 0.05 hours x \$40.67/hour = \$2.0335 per FCO analysis

Three minutes average data entry per FCO collection @ \$26.91/hour

Three minutes = 0.05 hours x \$26.91/hour = \$1.3455 per FCO data entry

14,000 FCO responses/year x (\$2.0335 + \$1.3455) = \$47,306 annualized estimated cost for FCO analysis and input

In addition, there is an estimated government program staff oversight annualized cost of \$47,454 (\$118,635 annual salary x 40% effort). Therefore, the total estimated annualized cost to the Federal Government for this information collection is \$94,760 (\$47,306 federal and contract labor to analyze and input FCOs plus \$47,454 for FCO program oversight).

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
<b>Federal Oversight</b>	ZA-III	\$118,635	40%		\$47,454
Other Federal Positions	ZA-II	\$37,674	50%		\$18,837
<b>Contractor Cost</b>		\$56,938	50%	0	\$28,469



Travel					0
Other Costs:					0
<b>TOTAL</b>				0	\$94,760

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

There were no program changes since the previously approved information collection. However, since the previously approved collection in 2019, both the number of respondents and the number of responses have increased. This is based on an analysis of program data.

Information Collection	Respondents		Responses		Burden Hours		Reason for change or adjustment
	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	
Fisheries Certificate of Origin (0648-0335)	540	530	14,000	13,000	5,833	5,417	Adjustments due to an increase of both respondents and responses.
<b>Total for Collection</b>	<b>540</b>	<b>530</b>	<b>14,000</b>	<b>13,000</b>	<b>5,833</b>	<b>5,417</b>	
<b>Difference</b>	<b>10</b>		<b>1,000</b>		<b>416</b>		

Information Collection	Labor Costs		Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	Current	Previous	
Fisheries Certificate of Origin (0648-0335)	\$94,760	NA	0	0	Labor costs not previously included
<b>Total for Collection</b>	<b>\$94,760</b>	<b>NA</b>	<b>0</b>	<b>0</b>	
<b>Difference</b>	<b>\$94,760</b>		<b>0</b>		

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

This is not applicable, as NMFS will not publish results of the information collection and the information will be used internally for compliance monitoring purposes.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The agency plans to display the expiration date for OMB approval of the information collection on all instruments.

**18. Explain each exception to the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

The agency certifies compliance with [5 CFR 1320.9](#) and the related provisions of [5 CFR 1320.8\(b\)\(3\)](#).