

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
Fishery Products Subject to Trade Restrictions Pursuant to Certification under the High Seas
Driftnet Fishing (HSDF) Moratorium Protection Act
OMB Control No. 0648-0651

SUPPORTING STATEMENT PART A -

Abstract

This request is for an extension of the current information collection. Pursuant to the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act) and the Marine Mammal Protection Act (MMPA), certain fish products may be excluded from U.S. markets. For example, if a nation is identified under the Moratorium Protection Act and fails to receive a positive certification decision from the Secretary of Commerce, certain fish or fish products from that nation may be prohibited from import to the United States. Similarly, if a nation does not receive a comparability finding for a fishery under the MMPA, products from that nation's fishery may also be prohibited. In each case, if certain fish or fish products of a nation are subject to import prohibitions (e.g., harvest of a particular fishery), NMFS requires that similar fish or fish products from that nation that are not subject to the import prohibitions be accompanied by Certification of Admissibility (COA) fish harvest record form to be eligible for entry into the United States. The benefit of this data collection is to ensure the continuance of permissible trade where import restrictions would otherwise result in blanket prohibitions on all relevant fish and fish products.

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 action requests the extension of an existing information collection. The information collection is currently approved for certification of admissibility of fish or fish products subject to trade measures under the authority of the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act) and for certification of admissibility in the case of fish imports prohibited under the Marine Mammal Protection Act (MMPA).

The Moratorium Protection Act final rule (76 FR 2011, 12 January 2011, RIN 0648-AV51) established a procedure for identifying nations that have vessels engaged in illegal fishing or bycatch of protected living marine resources. The 2011 enactment of the Shark Conservation Act established a requirement to also identify nations that have vessels engaged in unsustainable shark fishing on the high seas. Identified nations must take corrective action or risk a negative certification. Nations that are negatively certified are subject to trade restrictions on fish or fish products harvested in the identified fisheries.

The MMPA final rule (81 FR 54390, 15 August 2016, RIN 0648-AY15), established a procedure for making comparability findings for nations that are eligible for exporting fish and fish products to the United States. The nations may receive a comparability finding to export fish and fish products to the United States by providing documentation that a nation's bycatch reduction regulatory program is comparable in effectiveness to that of the United States.

This information collection is necessary to ensure compliance with any trade restrictions imposed on

foreign nations under the authority of the Moratorium Protection Act or the MMPA. If a nation is negatively certified, or a nation's export fishery fails to receive a comparability finding, certain fish or fish products from that fishery become subject to import prohibitions into the United States. To facilitate enforcement of import prohibitions, the National Marine Fisheries Service (NMFS) will require that other fish or fish products from that nation, not subject to the import prohibitions, must be accompanied by certification of admissibility (i.e., certification that the imported products are not from the fish or the fishery subject to restrictions).

The form will only have to be completed by a harvesting nation that receives a negative certification or is denied a comparability finding for some of its fisheries. In such cases, fish products from certain fisheries would be prohibited from entry into the U.S. market but not from other fisheries exporting fish products of like species. For example, if a nation receives a comparability finding for a purse seine fishery harvesting yellowfin tuna, but does not receive a comparability finding for a longline fishery harvesting yellowfin tuna, an embargo will be placed on yellowfin tuna harvested in the longline fishery. Yellowfin tuna harvested in the purse seine fishery will be eligible for import, but will require certification from a government official of the exporting nation that the fish were not harvested in the prohibited longline fishery.

Hyperlinks to the statutes and regulations:

[High Seas Driftnet Fishing Moratorium Protection Act, 16 USC 1826d-k, 50 CFR Part 300.205](#)
[Marine Mammal Protection Act, 16 USC 1361 et seq., 50 CFR Part 216.24](#)

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.

In the case in which a nation exports fish and fish products from multiple fisheries and not all of the exports are subject to import prohibitions, then to facilitate enforcement, NMFS may require products from fisheries not subject to the import prohibitions to be accompanied by the COA fish harvest record form. A duly authorized official/agent of the exporter's Government must certify that the products in shipments being imported into the United States are not subject to an import restriction of the United States. The exporter and the duly authorized official/agent of the exporter's Government must complete, sign and date the form.

In the event the United States imposes targeted trade restrictions pursuant to the statutes detailed above, NMFS will provide U.S. Customs and Border Protection (CBP) a list of nations and Harmonized Tariff Schedule Codes to delineate the trade restrictions and those products eligible for entry only with the COA fish harvest record form. The U.S. Importer of Record must submit the certification to CBP by filing an electronic entry in the Automated Commercial Environment (ACE) portal. The form must also be uploaded via the Document Image System (DIS). If the documentation is incomplete, fraudulent or missing, the entry will be denied and the lack of certification will cause the inbound shipment to not be released.

For information collected to date under the current information collection, NMFS has used the data to ensure compliance with trade restrictions on fish or fish products from identified fisheries.

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.

As already required under the currently approved information collection, the “Certification of Admissibility” form must be completed and signed by a duly authorized official of the identified nation and validated by a responsible official(s) designated by NMFS. The documentation must be associated with the entry and submitted by the importer of record via electronic filing in the CBP Automated Commercial Environment (ACE) by upload to the Document Image System (DIS). At the time of entry processing, or post-release, the documents will be reviewed by NMFS for validation. If shipments are determined to be ineligible after release, NMFS will work with CBP to issue a redelivery order to the importer and require that the products be returned to the port of entry. The requirement for a signature by the exporting government official and U.S. importer of record precludes the use of fully automated technologies (i.e., electronic signature) for completing the form at this time. However, NMFS has been working with CBP to consider automated procedures for collecting the information through electronic entry processing rather than DIS.

NMFS published a proposed rule (89 FR 102091, December 17, 2024; 0648-BK86) which, if finalized, will further the automation associated with this data collection.

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

Fish or fish products may be subject to trade restrictions under the Moratorium Protection Act or MMPA. These products could overlap with imports authorized under the International Fisheries Trade Permit, which covers a range of programs, including Tuna Tracking and Verification (TTV), Seafood Import Monitoring (SIM), HMS International (HMS) Trade, and Antarctic Marine Living Resource (AMR). As shipments covered by these programs could be subject to COA requirements, there is potential for duplication in information requests. To identify and reduce duplication, NMFS can encourage software developers to make provisions for data entry interfaces to recognize when an import shipment pertains to multiple NMFS programs and subsequently parse those data into multiple message sets so that each requirement can be satisfied with the singular data entry.

Available data cannot be used or modified for the purpose described in Question 2 because the scope of the trade restrictions vary from other collections and differ in duration.

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

A U.S. Importer of Record/Agent may be a small business. To minimize the burden of the information collection on small businesses, the “Certification of Admissibility” form only requires the importer to provide contact information and a signature certifying that the fish or fish products contained in the shipment are accurately described on the form (responsibility of exporter) to the best of the importer’s knowledge and belief. Verifying the contents and value of an import shipment is an essential business practice necessary to avoid fraud, however, the incremental burden on importers is minor – they need only report on the results of a verification activity that is already undertaken.

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 frequency of the information collection is on a per shipment basis. Not collecting, or less frequent collection of, this information would not provide NMFS with data it must have to ensure that fish and fish products subject to import prohibitions do not enter United States commerce. NMFS and CBP could not enforce the import prohibitions without this collection of information.

In the alternative, NMFS would have to implement an import ban on all fish or fish products that could be harvested in the foreign export fishery that does not receive a comparability finding, regardless of whether the fish were harvested in that fishery. As the United States is a member of the World Trade Organization, there are obligations to ensure that import requirements are non-discriminatory and do not impose restrictions on foreign suppliers that are not imposed on domestic producers. A blanket prohibition on fishery products from all of a nation's fisheries would be discriminatory and raise issues of unequal national treatment. Use of the Certification of Admissibility allows NMFS to tailor a trade measure to the specific fishery with unaddressed issues, while allowing continued access to the U.S. market for products from other fisheries that are deemed eligible to export, such as by virtue of a positive certification or comparability finding.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with OMB guidelines.

The collection of information is not consistent with the first two OMB guidelines (by requiring respondents to report information to the agency more often than quarterly and requiring respondents to prepare a written response in fewer than 30 days after receipt of it). The frequency of the information collection is on a per shipment basis and must be submitted within 24 hours after the shipment is released from U.S. Customs. Not collecting, or less frequent collection of, this information prior to the import would not provide NMFS with data it must have to ensure that fish and fish products subject to import prohibitions do not enter United States commerce.

The collection of information is consistent with the remaining six guidelines:

- It does not require respondents to submit more than an original and two copies of any document.
- It does not require respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.
- The collection is not in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study.
- The collection does not require the use of a statistical data classification that has not been reviewed and approved by OMB.
- The collection does not include a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.
- The collection does not require respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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.

The 60-day Federal Register notice was published March 17, 2025 (90 FR 12303). No comments were received.

Those who complete the COA form are primarily exporters from foreign countries. To date, the only users of this form have been exporters and government officials in Mexico. With no changes in the processing of the COA forms in many years, Mexican officials provide updates of its list of duly authorized officials, as needed, without any comment on aspects of the collection. If and when additional trade restrictions go into effect for additional countries, NOAA will have the opportunity to consult new stakeholders.

9. Explain any decision to provide any payment or gift 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 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 form, regulations at [50 CFR 600 Subpart E](#) govern the confidentiality of commercial or financial information submitted under the authority of the [Magnuson-Stevens Fishery Conservation and Management Act](#). These regulatory protections can be applied to protect the confidentiality of commercial or financial information collected under the Moratorium Protection Act and the MMPA.

This information collection is covered by System of Record Notice (SORN) NOAA-11, Contact Information for Members of the Public Requesting or Providing Information Related to NOAA's Mission. The privacy impact assessment for NOAA4000 covers the information collected and applicable security and privacy protections.

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 sensitive questions are asked.

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

In the operational protocol for this information collection, respondents include the foreign country exporter who completes information about the contents of the shipment, the foreign government official or designee who certifies the form prior to export, the U.S importer who verifies the contents of the shipment received and the customs broker who files the certification with CBP. The information collected via the Certification of Admissibility is already available to the respondents identified above and is normally recorded on various fishery reports, business and trade documents. The burden to transfer already available information is minimal, but it is necessary to pull the information together in one place so it can be submitted at the time of entry filing and evaluated at the time of entry processing or soon after release from the port.

The estimate to complete the Certification of Admissibility Form is 10 minutes including gathering supporting documentation (e.g., landing reports, processor receipts) that is readily available to parties in the relevant business transactions. Using data provided by U.S. Customs and Border Protection on the number of Certification of Admissibility entries received during 2019, 2020 and 2021, NMFS calculated an average of 2,657 entries per year. In speculating that import prohibitions could increase under the Moratorium Protection Act or MMPA authority, we estimate that 5,000 entries will be the upper bound and we used that number for the calculations made in this document. NMFS, therefore, estimates that, in the event of import restrictions imposed on 10 foreign export fisheries, responses would be required of 100 respondents (“a” in the below table), each of which would submit an average of 50 responses per year (“b” in the below table), to yield a total of 5,000 responses (certified shipments) per year (“c” in the below table). As previously noted, this estimate of 5,000 responses is the upper bound of our estimate. These numbers are based on an examination of trade statistics and the number of traders that could potentially be subject to import restrictions. Using a time to complete of 10 minutes (“d” in the table below), this results in an estimated burden of 833 total hours per year (“e” in the table below). At 833 hours, we estimate a total annual labor cost of \$32,729 at an estimated \$39.29/hour labor rate for buyers and purchasing agents as estimated by the U.S. Bureau of Labor Statistics (May 2024, BLS occupational code 13-1020, <https://data.bls.gov/oesprofile/>).

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)
Certification of Admissibility Form	Foreign Country Exporters, Foreign government officials, U.S. importers and U.S. customs broker	100	50	5000	10 min	833	\$39.29	\$32,729
TOTALS		100		5000		833		\$32,729

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).

Costs for submitting the forms to CBP and NMFS via the ACE portal are nominal at an estimated \$6.55 per form (“h” in table below, paid by U.S. importer to the customs broker as part of entry filing), which was derived by multiplying the time to upload each form to ACE via the document Image System (10 minutes) by the average salary of such an employee (\$39.29/hour). Using the values for a, b, and c from the table in Question 12, this would yield a total annual cost burden of \$32,750 for broker fees paid by importers.

Information Collection	# of Respondents / Year (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Cost Burden / Respondent (h)	Total Annual Cost Burden (i) = (c) x (h)
Certification of Admissibility Form	100	50	5000	\$6.55	\$32,750
TOTALS	100	50	5000	\$6.55	\$32,750

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.

NMFS estimates, in the event that import restrictions are imposed, the estimated Federal costs for public notice of import restrictions, processing forms, assisting importers, and facilitating CBP enforcement are as shown below. These estimates are inclusive of any recordkeeping responses that may result as this information collection is implemented.

The Rest of U.S. locality rate was used since NOAA employees are geographically dispersed. The upper bound for a ZA-3, Interval 1 was used with a 1.5 multiplier to obtain the loaded salary.
https://www.commerce.gov/sites/default/files/2024-01/CAPS_rpStandard_2024.pdf

Cost Descriptions	Grade/Step	Loaded Salary /Cost	% of Effort	Fringe (if Applicable)	Total Cost to Government
Federal Oversight	ZA - Band 3, Step 1	\$135,825	30%	-	\$40,747.50
Other Costs:	FRN Printing	-	-	-	\$2,000
TOTALS					\$42,747.50

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

Burden hours: The difference in the burden hours (2 hours) is a result of using 10 minutes versus 0.167

hours as the burden response time.

Burden cost: The burden cost decreased from \$33,800 to \$32,750, a decrease of \$1,050. This is a result of a decrease in the estimated salary of the respondent pursuant to current wage information.

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 agency has no intentions to publish results from this collection.

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\(b\)\(3\)](#).