

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 10/17/2011

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Simon Szykman
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 08/10/2011

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201107-0648-013
AGENCY ICR TRACKING NUMBER:
TITLE: Billfish Certificate of Eligibility
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0216

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 10/31/2014

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	400	43	0
New	400	43	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Billfish Certificate of Eligibility - Initial Dealer Respondents	NA	Bill Fish Certificate of Eligibility	
Billfish Certificate of Eligibility - Subsequent Dealer Respondents	NA	Billfish Certificate of Eligibility	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	10. Abstract
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
BILLFISH CERTIFICATE OF ELIGIBILITY
OMB CONTROL NO. 0648-0216**

A. JUSTIFICATION

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

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

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 Consolidated Highly Migratory Species Fishery Management Plan (FMP). The 2000 Standing Committee for Research and Statistics (SCRS) of the International Commission for the Conservation of Atlantic Tunas (ICCAT) identified Atlantic blue marlin as overfished and the 2002 SCRS identified Atlantic white marlin as overfished. The latest ICCAT stock assessments for Atlantic blue and white marlin (2006) continue to indicate that these species are overfished. In the 2010 National Marine Fisheries Service (NMFS) Report to Congress on the status of United States (U.S.) fisheries, Atlantic blue marlin, Atlantic white marlin, and western Atlantic sailfish were listed as overfished, with overfishing still occurring.

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

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. NMFS provides a standard form on the Internet at <http://www.nmfs.noaa.gov/sfa/hms/GPEA/0216%20Billfish%20COEform.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. However, the additional burden from this program is minimal, because the information is assembled for other reports and is readily available to dealers and processors.

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 February 4, 2011 (76 FR 2011) solicited public comment on this proposed renewal. No comments were received.

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 Certificate of Eligibility.

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 (3) 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).

Not applicable.

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.



Certificate of Eligibility for Billfish



1. Information from fishing vessel which caught billfishes:

Name of Fishing Vessel

Homeport

Port of Offloading

Date of Offloading

2. Dealer's/Processor's Declaration

The undersigned hereby certifies that the above information is complete, true and correct to the best of his/her knowledge and that the billfishes accompanying this form were not harvested from the management unit described below:

Blue marlin & White marlin: Waters of the entire North and South Atlantic Oceans (including the Gulf of Mexico and the Caribbean Sea).

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

Longbill & Roundscale spearfish: Waters of the entire North and South Atlantic Oceans (including the Gulf of Mexico and the Caribbean Sea).

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

Name (printed or typed)	Signature	Date

General Instructions: The person who first receives billfish by way of purchase, barter, or trade must provide the information requested in Sections 1 and 2 of this form. A dealer or processor who subsequently receives or possesses billfish covered by an original certificate of eligibility is only required to complete section 2 and retain a copy of the certificate while possessing the billfish.

Important: This information is required by law (16 U.S.C. 1801 et seq., 50 CFR 635.31 (b)).

Paperwork Reduction Act Notice: Collection of information through a documentation tracking system provides essential information for the conservation and management of Atlantic billfishes, including the tracking of billfish trade activities. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: NMFS, Highly Migratory Species (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

16 U.S.C. 1853
MSA § 303

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

109-479

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

109-479

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

109-479

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.

—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

109-479

(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

109-479

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

109-479

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

16 U.S.C. 1853
MSA § 303

(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

109-479

(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.

—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

104-297

SEC. 402. INFORMATION COLLECTION (16 U.S.C. 1881a)

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

e-CFR Data is current as of March 24, 2011

Title 50: Wildlife and Fisheries

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

Subpart C—Management Measures

§ 635.31 Restrictions on sale and purchase.

(a) *Atlantic tunas.* (1) A persons that owns or operates a vessel from which an Atlantic tuna is landed or offloaded may sell such Atlantic tuna only if that vessel has a valid HMS Charter/Headboat permit, or a valid General, Harpoon, Longline, Purse Seine, or Trap category permit for Atlantic tunas issued under this part. However, no person may sell a BFT smaller than the large medium size class. Also, no large medium or giant BFT taken by a person aboard a vessel with an Atlantic HMS Charter/Headboat permit fishing in the Gulf of Mexico at any time, or fishing outside the Gulf of Mexico when the fishery under the General category has been closed, may be sold (see §635.23(c)). A persons may sell Atlantic tunas only to a dealer that has a valid permit for purchasing Atlantic tunas issued under this part. A person may not sell or purchase Atlantic tunas harvested with speargun fishing gear.

(2) Dealers may purchase Atlantic tunas only from a vessel that has a valid commercial permit for Atlantic tunas issued under this part in the appropriate category.

(3) Dealers or seafood processors may not purchase or sell a BFT smaller than the large medium size class unless it is lawfully imported and is accompanied by a bluefin tuna statistical document, as specified in §300.185(a) of this title.

(4) A BFT in the possession of a dealer or seafood processor is deemed to be from the Atlantic Ocean. However, a BFT will not be deemed to be from the Atlantic Ocean if—

(i) It was landed in a Pacific state and remains in the state of landing, or

(ii) It is accompanied by a bluefin tuna statistical document, as specified in §300.185(a) of this title.

(b) *Billfish.* (1) Persons may not sell or purchase a billfish taken from its management unit.

(2) A billfish or a closely related species, namely, black marlin, *Makaira indica*, striped marlin, *Tetrapturus audax*, or shortbill spearfish, *Tetrapturus angustirostris*, or a part thereof, in the possession of a dealer or seafood processor is considered, for purposes of this part, to be a billfish from the Atlantic Ocean management unit. However, a billfish or a closely related species will not be considered to be from the Atlantic Ocean management unit if—

(i) It was landed in a Pacific state and remains in the state of landing, or

(ii) It is accompanied by a Billfish Certificate of Eligibility (COE) form, obtained from NMFS, or its equivalent that documents that the fish was harvested from other than the Atlantic Ocean management unit.

(A) The Billfish COE required under this section must indicate, in English, the name and homeport of the harvesting vessel, and the date and port of offloading. Only the purchaser of the billfish from the harvesting vessel must complete this information.

(B) The Billfish COE must be signed and dated by each dealer in possession of the product throughout the chain of custody up to but not including the consumer. This signature indicates a declaration that the billfish were not harvested from the management unit.

(C) A Billfish COE may refer to billfish taken from only one harvesting vessel. If a shipment contains billfish taken from more than one vessel, a separate billfish COE must accompany the shipment for each harvesting vessel.

(D) A model Billfish COE can be obtained by contacting the Division Chief. An equivalent form may be used provided it contains all of the information required under this section.

(3) For the purposes of this paragraph, a dealer or seafood processor means any individual, other than a consumer, who engages in any activity, other than fishing, of industry, trade, or commerce, including but not limited to the buying or selling of a regulated species or parts thereof and activities conducted for the purpose of facilitating such buying and selling.

(c) *Shark.* (1) Persons that own or operate a vessel that possesses a shark from the management unit may sell such shark only if the vessel has a valid commercial shark permit issued under this part. Persons may possess and sell a shark only when the fishery for that species group and/or region has not been closed, as specified in §635.28(b).

(2) Persons that own or operate a vessel for which a valid commercial shark permit has been issued and on which a shark from the management unit is possessed, may sell such shark only to a dealer that has a valid permit for shark issued under this part.

(3) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found at part 600, subpart N, of this chapter and in §635.30(c).

(4) Only dealers that have a valid shark dealer permit may purchase shark from the owner or operator of a fishing vessel. Dealers may purchase a shark only from an

owner or operator of a vessel who has a valid commercial shark permit issued under this part, except that dealers may purchase a shark from an owner or operator of a vessel that does not have a commercial permit for shark if that vessel fishes exclusively in state waters. Dealers may purchase a sandbar shark only from an owner or operator of a vessel who has a valid shark research permit and who had a NMFS-approved observer onboard the vessel for the trip in which the sandbar shark was collected. Dealers may purchase a shark from an owner or operator of fishing vessel that has a permit issued under this part only when the fishery for that species group and/or region has not been closed, as specified in §635.28(b).

(5) A dealer issued a permit under this part may not purchase from an owner or operator of a fishing vessel shark fins that were not harvested in accordance with the regulations found at part 600, subpart N, of this chapter and in §635.30(c).

(d) *Swordfish*. (1) Persons that own or operate a vessel on which a swordfish in or from the Atlantic Ocean is possessed may sell such swordfish only if the vessel has a valid commercial permit for swordfish issued under this part. Persons may sell such swordfish only to a dealer who has a valid permit for swordfish issued under this part.

(2) Dealers may purchase a swordfish harvested from the Atlantic Ocean only from an owner or operator of a fishing vessel that has a valid commercial permit for swordfish issued under this part.

[64 FR 29135, May 28, 1999, as amended at 67 FR 6201, Feb. 11, 2002; 67 FR 77438, Dec. 18, 2002; 68 FR 715, Jan. 7, 2003; 69 FR 53362, Sept. 1, 2004; 69 FR 67284, Nov. 17, 2004; 71 FR 58173; Oct. 2, 2006; 73 FR 40711, July 15, 2008]

only for subject merchandise which Heze Huayi both produced and exported.

Interested parties requiring access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 19 CFR 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 19 CFR 351.221(c)(1)(i).

Dated: January 31, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011-2526 Filed 2-3-11; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Billfish Certificate of Eligibility

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 5, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Margo Schulze-Haugen, (301) 713-2347 or Margo.Schulze-Haugen@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is

responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' (U.S.) obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). A Certificate of Eligibility (COE) for Billfishes is required under 50 CFR part 635 to accompany all billfish, except for a billfish landed in a Pacific state and remaining in the state of landing. This documentation certifies that the accompanying billfish was not harvested from the applicable Atlantic Ocean management unit (described on the NOAA sample certificate at <http://www.nmfs.noaa.gov/sfa/hms/GPEA/0216%20Billfish%20COEform.pdf>), and identifies the vessel landing the billfish, the vessel's homeport, the port of offloading, and the date of offloading. The certificate must accompany the billfish to any dealer or processor who subsequently receives or possesses the billfish. The certificate is required for all first receivers of billfish, and dealers or processors who subsequently receive or possess billfish must also retain a copy of the certificate while processing or handling the billfish. A standard certificate format is not currently required to document the necessary information, provided it contains all of the information required. The continuation of this collection is necessary to implement the Consolidated Highly Migratory Species Fishery Management Plan, which contains an objective to reserve Atlantic billfish for the recreational fishery.

II. Method of Collection

A paper document is required to be completed by respondents. The document must be signed, dated, and retained by each dealer or processor who subsequently receives or possesses the billfish.

III. Data

OMB Control Number: 0648-0216.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Response: 20 minutes for initial completion of certificate and 2 minutes for subsequent billfish purchase record keeping.

Estimated Total Annual Burden Hours: 43.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 1, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011-2459 Filed 2-3-11; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA189

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application for a new scientific research and enhancement permit, notice of public meetings, and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for a scientific research and enhancement permit (permit 14868) relating to salmon listed under the Endangered Species Act (ESA). The application includes a Hatchery and Genetic Management Plan (HGMP) that provides detailed information regarding the proposed enhancement activities. This document serves to notify the public of the availability of the permit application and HGMP for review and comment. The applications and related documents may be viewed online at: <http://swr.nmfs.noaa.gov/sjrestorationprogram/salmonreintroduction.htm>. These documents are also available upon written request or by appointment by contacting NMFS by phone (916) 930-3600, fax (916) 930-3629.