

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek  
Departmental Paperwork Clearance Officer  
Office of the Chief Information Officer  
14th and Constitution Ave. NW.  
Room 6625  
Washington, DC 20230

03/10/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 10/29/2004.

TITLE: Billfish Certificate of Eligibility

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0216

EXPIRATION DATE: 03/31/2008

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	400	43	0
New	400	43	0
Difference	0	0	0
Program Change		0	0
Adjustment		0	0

TERMS OF CLEARANCE: None

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OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

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# 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 <span style="float: right;">b. <input type="checkbox"/> None</span> 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  
CERTIFICATE OF ELIGIBILITY FOR BILLFISHES  
OMB CONTROL NO. 0648-0216**

**A. JUSTIFICATION**

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

This Supporting Statement is submitted as part of a PRA request to renew the information collection approval for the Certificate of Eligibility for Billfishes (COE). Under this request, the information collection approval for the COE would be extended. 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. 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 (described on the form). This requirement has been implemented under the Magnuson-Stevens Fishery Conservation and Management Act. The authority to issue these regulations has been delegated from the Secretary to the Assistant Administration for Fisheries, NOAA.

The purpose of the collection of this information is to maintain the nature of the Atlantic billfish fishery as a recreational resource with no commercial trade, as designated in the Atlantic Billfish 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. In the 2003 National Marine Fisheries Service (NMFS) report to Congress on the status of U.S. fisheries, both Atlantic blue marlin and Atlantic white marlin were listed as overfished.

NMFS regulations (Attachment 1) 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 United States, 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 completed and approved for trade if it contains all of the required information 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, as a condition for the domestic trade of fresh or frozen billfish shipments. Dealers or processors who subsequently receive or possess billfish must also retain a copy of the COE while processing the billfish. The COE is also required to accompany any billfish landed in a Pacific state that are shipped to any dealers or processors located outside 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 for Fishing Vessel that Caught 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 (items listed under (A), as listed above), and sign and date the Dealer's/Processors Declaration certifying that the billfish were not harvested from the management unit described below:

Blue Marlin and White Marlin: 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.

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

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

A dealer or processor who subsequently receives or possesses billfish covered by an original COE is only required to complete the Dealer's/Processors Declaration, and retain a copy of the COE while processing the billfish. The Billfish Certificate of Eligibility 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 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.**

This collection of information does not involve the use of automated, electronic, mechanical, or other technological techniques. The certificate must be retained by purchasers of the fish, and

electronic forms would make this more complex.

**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.**

Small businesses will be the respondents of this data collection. 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 limited area 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, necessitates 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.

**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 a copy of 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 (copy attached) 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.**

The Agency does not provide gifts or payment for completion of the Certificate of Eligibility.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

It is Agency 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. 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 during the three-year time period since the previous renewal application, approximately 100 shipments of billfish have been completed by approximately 50 dealers. The average response time for COE completion for the first purchaser is estimated to be 20 minutes, and the recordkeeping for subsequent billfish purchase is estimated to be 2 minutes, with approximately three dealers/processors subsequently involved from first purchase to final destination (300 subsequent dealers). Therefore, the total burden estimate for the collection of information associated with the billfish COE is estimated as follows:

$$\begin{aligned} &50 \text{ dealers} \times 2 \text{ COEs/dealer} \times 20 \text{ min./COE} = 33.3 \text{ hours (100 COEs)} \\ &+ \\ &300 \text{ dealers/processors recordkeeping for subsequent billfish purchase} \times 2 \text{ minutes/COE} \\ &= 10 \text{ hours. (300 COEs)} \end{aligned}$$

The total estimates would therefore be 350 respondents, 400 responses, and 43.3 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 #12 above).**

The only costs associated with completion of the COE is the time burden estimates in Item 12.

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

The annual cost is estimated at less than \$100 for printing and distributing COEs.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

No changes are requested.

**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 identified in Item 19 of the OMB 83-I.**

There are no exceptions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods such as sampling.



[Code of Federal Regulations]  
[Title 50, Volume 7]  
[Revised as of October 1, 2003]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 50CFR635.31]

## TITLE 50--WILDLIFE AND FISHERIES

### CHAPTER VI--FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

#### PART 635--ATLANTIC HIGHLY MIGRATORY SPECIES

##### Subpart C--Management Measures

##### Sec. 635.31 Restrictions on sale and purchase.

(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.

[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]

UNITED STATES CODE  
TITLE 16 - CONSERVATION  
CHAPTER 38 - FISHERY CONSERVATION AND MANAGEMENT  
SUBCHAPTER IV - NATIONAL FISHERY MANAGEMENT PROGRAM

-HEAD-

Sec. 1853. Contents of fishery management plans

-STATUTE-

(b) Discretionary provisions

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

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

-SOURCE-

(Pub. L. 94-265, title III, Sec. 303, Apr. 13, 1976, 90 Stat. 351; Pub. L. 95-354, Sec. 5(2), (3), Aug. 28, 1978, 92 Stat. 521; Pub. L. 97-453, Sec. 6, Jan. 12, 1983, 96 Stat. 2486; Pub. L. 99-659, title I, Sec. 101(c)(2), 105(a)(1), (b), Nov. 14, 1986, 100 Stat. 3707, 3711; Pub. L. 101-627, title I, Sec. 109, Nov. 28, 1990, 104 Stat. 4447; Pub. L. 102-251, title III, Sec. 301(g), Mar. 9, 1992, 106 Stat. 64; Pub. L. 104-297, title I, Sec. 108(a), (c)-(e), Oct. 11, 1996, 110 Stat. 3574-3576; Pub. L. 106-554, Sec. 1(a)(4) (div. B, title I, Sec. 144(a)(1), (2)), Dec. 21, 2000, 114 Stat. 2763, 2763A-238.)

# Magnuson-Stevens Fishery Conservation and Management Act

## Public Law 94-265

As amended through October 11, 1996

### SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of

bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(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;

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

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

**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;

(2) 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;

(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;

(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;

(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, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic 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; and

(12) 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.

**DEPARTMENT OF COMMERCE****International Trade Administration****Export Trade Certificate of Review**

**ACTION:** Notice of application to amend an Export Trade Certificate of Review.

**SUMMARY:** The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or e-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

**Request for Public Comments**

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5

U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 99-2A005."

California Almond Export Association, LLC's ("CAEA") original Certificate was issued on December 27, 1999 (65 FR 760, January 6, 2000) and previously amended on June 25, 2001 (66 FR 34912, July 2, 2001). A summary of the application for an amendment follows.

**Summary of the Application**

*Applicant:* California Almond Export Association, LLC, 4800 Sisk Road, Modesto, California 95356.

*Contact:* Doug Youngdahl, Chairman, Telephone: (916) 446-8595.

*Application No.:* 99-2A005.

*Date Deemed Submitted:* March 23, 2004.

*Proposed Amendment:* California Almond Export Association, LLC seeks to amend its Certificate to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Nutco, LLC doing business as Spycher Brothers, Turlock, California; and Treehouse California Almonds, LLC, Los Angeles, California;
2. Change the listing of the following Members: "A&P Growers Cooperative, Inc., Tulare, California" to the new listing "A&P Growers Cooperative, Inc., Clovis, California"; "Del Rio Nut Company, Livingston, California" to the new listing "Del Rio Nut Company, Inc., Livingston, California"; "Hilltop Ranch, Ballico, California" to the new listing "Hilltop Ranch, Inc., Ballico, California"; "Hughson Nut Company, Hughson, California" to the new listing "Hughson Nut, Inc., Hughson, California"; and "Minturn Nut Company, LeGrand, California" to the new listing "Minturn Nut Company, Inc., LeGrand, California"; and
3. Delete the following companies as "Members" of the Certificate: Calcot, Ltd., Bakersfield, California; California Independent Almond Growers, Ballico, California; and Kindle Nut Company, Denair, California.

Dated: March 30, 2004.

**Jeffrey C. Anspacher,**  
*Director, Office of Export Trading, Company Affairs.*

[FR Doc. 04-7605 Filed 4-2-04; 8:45 am]

**BILLING CODE 3510-DR-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 032904E]

**Proposed Information Collection; Comment Request; Billfish Certificate of Eligibility**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**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, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before June 4, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Christopher Rogers, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 (phone 301-713-2347).

**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' 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 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 Atlantic Ocean management unit (described on the form), and identifies the vessel landing the billfish, the vessel's home port, 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. A standard form is not currently required to document the necessary information. However, NOAA is considering a proposed rule that would require a standard form, and its submission to NOAA after the final sale of the billfish. This collection is necessary to implement the Atlantic Billfish Fishery Management Plan, whose objective is to reserve Atlantic billfish for the recreational fishery.

## II. Method of Collection

A paper form and recordkeeping are used.

## III. Data

*OMB Number:* 0648–0216.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business and other for-profit organizations.

*Estimated Number of Respondents:* 100 for initial completion of certificate (50 dealers x 2 COEs) and 300 for subsequent billfish purchase recordkeeping.

*Estimated Time Per Response:* 20 minutes for initial completion of certificate and 2 minutes for subsequent billfish purchase recordkeeping.

*Estimated Total Annual Burden Hours:* 43.3 hours.

*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: March 26, 2004.

### Gwellnar Banks,

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 04–7512 Filed 4–2–04; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 032904F]

#### Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Implantation and Recovery of Archival Tags

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before June 4, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Christopher Rogers, F/SF1, Room 13563, 1315 East-West Highway, Silver Spring, MD 20910–3282; (phone 301–713–2347, ext. 109).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The National Oceanic and Atmospheric Administration (NOAA) operates a program to implant archival tags in, or affix archival tags to, selected Atlantic Highly Migratory Species (tunas, sharks, swordfish, and billfish). Archival tags are miniature data loggers that acquire information about the movements and behavior of the fish. Persons catching tagged fish are exempted from other normally applicable regulations, such as immediate release of the fish, but must notify NOAA, return the archival tag or

make it available to NOAA personnel, and provide information about the location and method of capture. The information obtained is used by NOAA in the formation of international and domestic fisheries policy and regulations.

Persons outside of NOAA who affix or implant archival tags must obtain prior authorization from NOAA and submit subsequent reports about the tagging of fish. NOAA needs the information to evaluate the effectiveness of archival tag programs, to assess the likely impact of regulatory allowances for tag recovery, and to ensure that the research does not produce undue mortality.

## II. Method of Collection

Catch notifications are provided a toll-free telephone number. Tags and associated information are mailed in (a reward is given for tag recoveries). Notifications and reports of archival tagging efforts are provided in written form, meeting requirements set forth in regulations.

## III. Data

*OMB Number:* 0648–0338.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

*Estimated Number of Respondents:* 20.

*Estimated Time Per Response:* 30 minutes for reporting on an archival tag recovery; 30 minutes for notification of planned archival tagging activity; and one hour for reports of archival tagging activity.

*Estimated Total Annual Burden Hours:* 15.

*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