

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 06/02/2008

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 06/02/2008

ACTION REQUESTED: Revision of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200806-0648-002
AGENCY ICR TRACKING NUMBER:
TITLE: Highly Migratory Species Dealer Reporting Family of Forms
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0040

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: 10/31/2010

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	37,418	6,148	7,408
New	37,435	6,152	8,258
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	17	4	850
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
Application for authorization for non-government validation			50 CFR 635.5
HMS Dealer and Landings Biweekly Reports	NA, NA, NA	Southeast Region Biweekly Dealer Reporting Form for HMS, HMS Trade Biweekly Dealer Report, Atlantic Bluefin Tuna Dealer Landings and Trade Biweekly Report	
Atlantic Bluefin Tuna Daily Landing Report and Tag	NOAA 88-144	Atlantic Bluefin Tuna Daily Landing Report	
Statistical Documents, Catch Documents and Re-export Certificates	NA, NA, NA	ICCAT Swordfish Statistical Document, ICCAT Bigeye Tuna Statistical Document, Bluefin Tuna Catch Document and Re-export Certificate package	

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 or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

SUPPORTING STATEMENT
HIGHLY MIGRATORY SPECIES DEALER REPORTING FAMILY OF FORMS
OMB CONTROL NO.: 0648-0040

A. JUSTIFICATION

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

This package seeks to revise a previously approved information collection affecting seafood dealers who import or export covered Atlantic highly migratory species (HMS). This revision is associated with a proposed rule (Regulation Identifier Number (RIN) 0648-AU88) to adjust portions of the HMS international trade permit (ITP) program. The ITP program tracks trade of internationally managed HMS, including bluefin tuna, southern bluefin tuna, bigeye tuna, and swordfish. The proposed rule would, among other things, adjust the ITP program to improve program efficacy and enforceability, and implement a bluefin tuna catch documentation program recently adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

The United States is a member of ICCAT and authorized by Atlantic Tunas Conservation Act ([ATCA](#)), 16 U.S.C. 971, to promulgate regulations as may be necessary and appropriate to implement recommendations adopted by ICCAT. Regulations implementing HMS ITP program are found at [50 CFR 300](#), Sections 180-189.

International trade tracking programs are required by both ICCAT and the Inter-American Tropical Tuna Commission (IATTC). An overall goal of these programs is to reduce illegal, unreported and unregulated fishing for the covered species, and improve management of associated fisheries. The statistical document (SD) programs are designed to account for all international trade of covered species by requiring that an SD accompany each export from and import into a member nation, and that a re-export certificate (RXC) accompany each re-export. In this way, markets will be closed to trade of covered species with non-participating nations. At its 2007 annual meeting, ICCAT adopted a recommendation to expand the bluefin tuna SD program into a catch documentation (CD) program. This program builds on the goals of the SD program but begins documentation for bluefin tuna at the point of harvest, with the intent of better accounting for bluefin tuna landings and farming operations.

Current United States (U.S.) documentation of commercial bluefin tuna landings which includes tagging satisfies the ICCAT catch document requirements for bluefin tuna harvest. The specific portions of this information collection that will be revised include the following: 1) the bluefin tuna SD for Atlantic bluefin tuna exports from the United States and imports into the U.S. will be replaced by an ICCAT bluefin tuna CD for which there will be no change in reporting cost or burden; 2) upon re-export of untagged Atlantic bluefin tuna consignments, the HMS ITP holder re-exporting the consignment will be required to forward a copy of the ICCAT bluefin tuna re-export certificates and catch document to the ICCAT secretariat and the importing government agency. This activity will include an increase in reporting costs and burden under this collection.

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.

Consignment Documentation, including Catch Documents and Re-export Certificates

Original CDs accompany each harvest and export consignment, and must stay with a shipment until it reaches its final destination. If the consignment is re-exported, then a RXC may also be required. National Marine Fisheries Service (NMFS) collects the documents and forwards the information to ICCAT, which can then compare the data collected from all participating nations to cross-reference and verify trade and landings data. The program is designed to account for all landings and trade of Atlantic bluefin tuna. Trade data may be cross-referenced with each nation's landings quotas to help identify illegal or unreported landings.

A CD is considered complete and approved for import, export, or re-export if it is identified by a number assigned by the issuing government and has all of the required information recorded, and, if applicable, is validated (see below). U.S. CDs and RXC will be available from NMFS to accompany exports from the United States. Imports to the United States must be accompanied by a CD (and RXC if applicable) issued by the flag country of the harvesting vessel (or re-exporting nation if applicable). U.S. importers are required to complete the import section of the foreign CD and foreign RXC.

The following information is required on all CDs and is used for tracking the consignment unless otherwise noted:

- (1) The document number assigned by the country issuing the document;
- (2) The name of the country issuing the document, which must be the country whose flag vessel harvested the fish, regardless of where it is first landed;
- (3) The name of the vessel that caught the fish, the vessel's length, the vessel's registration number, and ICCAT record number, if applicable;
- (4) The point of export, which is the city, state or province, and country from which the fish is first exported;
- (5) The product type (fresh or frozen), time of harvest (month/year), and product form (round, gilled and gutted, dressed, fillet, or other);
- (6) The method of fishing used to harvest the fish (e.g., purse seine, trap, rod and reel) - used to gather socio-economic data on fishery regarding catch per sector;
- (7) The ocean area from which the fish was harvested (i.e., western Atlantic, eastern Atlantic, Mediterranean, or Pacific);
- (8) The weight of each fish (in kilograms for the same product form previously specified) or the net weight of each product type, as applicable;
- (9) The name and license number of, and signature of the exporter and date in the exporter's certification block; and
- (10) The name and title of, and signature and date in the validation block by, a responsible government official of the country whose flag vessel caught the fish (regardless of where the fish are first landed) or by an official of an institution accredited by said government, with official government or accredited institution seal affixed, thus validating the information on the CD. (NOTE: Validation of an

imported CD by a government official is not required if NMFS waives the requirement following a recommendation of the ICCAT Secretariat.)

- (11) If applicable, the name(s) and address(es), including the name of the city and state or province of import, and the name(s) of the intermediate country(ies) or the name of the country of final destination, and license number(s) of, and signature and date in the importer certification block by each intermediate dealer and final importer.
- (12) Whether the fish was farmed or captured.
- (13) Identifying information regarding the owner of the trap that caught the fish or the farm from which the fish was taken, if applicable.
- (14) The identifying tag number, if landed by vessels from countries with bluefin tuna tagging programs or tagged by a U.S. dealer under the Atlantic bluefin tuna tagging program.
- (15) All applicable farming and transfer information.

A RXC is considered complete and approved for import, export, or re-export if it is identified by a number assigned by the issuing government and has all of the required information recorded, and, if applicable, is validated (see below):

- (1) Re-exporting country.
- (2) Point of re-export.
- (3) Description of imported bluefin tuna, including product type, weight, flag of vessel harvesting the fish, date of import, and CD number.
- (4) Description of bluefin tuna for re-export, including product type, weight, and CD number.
- (5) Re-exporter statement, including name, address, signature, and date.
- (6) Government validation (if necessary).
- (7) Importer Statement, including name, address, signature, and date.
- (8) Final point of import, including city, state/province, and country.

Validation - ICCAT requires that CDs and RXCs be validated by a government institution at export. NMFS has worked with ICCAT to develop several alternative approaches with the intent of minimizing the public reporting burden for the government validation requirement. For example, in the United States, Atlantic bluefin tuna are tagged when landed, and the numbered tag stays with the carcass. This obviates the need for validation since the bluefin tuna data associated with the tag number must be provided to NMFS and can be tracked. In addition, NMFS has instituted a FAX-in validation service which is available on a 24 hour/7 day per week basis. NMFS may also authorize non-governmental industry partners to validate CDs and RXCs once they have met the necessary requirements. The entity must apply for authorization in writing to NMFS, and indicate the procedures to be used for verification of information to be validated, list the names, addresses, and phone/fax numbers of individuals to perform validation, and provide an example of the stamp or seal to be applied to the consignment document. Upon approval, NMFS will issue a letter specifying the duration of effectiveness and conditions of authority for validation. Authorization must be renewed annually.

As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

CDs and RXCs for import consignments are completed original documents received by dealers, who must then sign and mail the original import documents to NMFS. Documents for U.S. exports will be available on the NMFS website (http://www.nmfs.noaa.gov/sfa/hms/ITP/International_Trade_Permit.htm) and electronically form fillable. These may be emailed or faxed to NMFS. NMFS is preparing to implement the International Trade Data System which will provide permit holders with the ability to submit all documents electronically. See also Item 4 below.

4. Describe efforts to identify duplication.

The impacts of the revised reporting requirements were analyzed and will be provided for public review through rulemaking processes (proposed rule, RIN 0648-AU88). No duplicative efforts have been identified. The Highly HMS Management Division of NMFS works closely with other NMFS offices on reporting and permitting issues, and ensures that reporting regulations are not duplicative. NMFS has attempted to combine SD with other reporting requirements into a single form in the past; however, ICCAT did not approve the use of forms other than those developed specifically by ICCAT. The United States is participating in discussions among many regional fishery management organizations (most recently in a July 2007 meeting in Raleigh, NC) to determine ways of using technology to reduce paperwork and improve the efficacy of harvest and trade monitoring programs.

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 and this revision will not have a significant impact on them. As described in Item 4, reporting requirements have been condensed as much as possible. In addition, electronic reporting will be implemented as soon as practicable as discussed in Items 3 and 4.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If this information collection were not conducted, the U.S. would fall into a status of non-compliance with its international obligations under ICCAT in violation of ATCA. The U.S. bluefin tuna industry would no longer be able to export its valuable commodity.

Without the authorization of non-government validation, NMFS would be required to individually validate each export and re-export, which would impose a greater reporting burden on industry. If authorization were not renewed annually, in the same manner that dealer and vessel permits are annually renewed, NMFS would not be able to effectively monitor implementation of the ITP program.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The frequency with which data are collected in this package is inconsistent with Office of Management and Budget (OMB) guidelines that state; “do not require respondents to report information more often than quarterly.” Failure to implement the ICCAT Catch Documentation program as recommended, including reporting when activity occurs rather than on a quarterly basis, would preclude U.S. businesses from international trade of bluefin tuna.

Consistent with the last renewal of OMB approval for the bluefin tuna SD forms, it is requested that the burden statement, expiration date, and OMB Control Number not appear on any CD form, but be provided in a cover letter to U.S. tuna dealers and importers. An example cover letter is included in this submission. Due to the confusion the PRA information presents to foreign dealers and customs officials, in the last renewal package for this collection, NMFS proposed to provide this information in a cover letter so that the form would more closely match the generic form adopted by ICCAT. Since all U.S. dealers will be required to have an international trade permit in order to import and/or export species requiring consignment documentation, NMFS will be able to ensure that each dealer receives the cover letter. This will meet NMFS obligations under the PRA while reducing the likelihood of delays/problems in clearing customs in countries that are contracting parties to ICCAT.

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.

The Federal Register notice for the proposed rule RIN 0648-AU88 will solicit public comment on this collection.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts are to be offered as part of this information collection.

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

Pursuant to Section 402(b) of the Magnuson-Stevens Act, as amended in 2007, and consistent with NOAA Administrative Order 216-100 (Confidentiality of Fisheries Statistics), the Agency does not release confidential information submitted in compliance with provisions of the Act, other than in aggregate form and under circumstances required or authorized by law. This assurance is given in the Paperwork Reduction Act Statement on each form. Whenever data are requested or released to the general public, the Agency ensures that information on the pecuniary business activity of a 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 in this collection of information.

12. Provide an estimate in hours of the burden of the collection of information.

The universe of respondents for this collection was previously calculated and is not being changed in this revision.

Burden hours associated with CDs are the same as those for SDs for bluefin tuna, and no change is expected because of the change in document forms.

The increase in burden estimate for mailing Atlantic bluefin tuna RXC to both ICCAT and the relevant agency of the importing nation, in cases of re-export of untagged consignments, is the only revision to the previous burden estimate. The overall burden for each untagged re-export consignment is expected to be approximately 15 minutes (0.25 hours) per consignment, not including validation.

Of the 67 re-exported consignments in 2006, 50 were originally landed in Canada and were tagged fish. Thus, only 17 shipments would have been subject to the additional reporting included in this revision. The additional annual estimated burden hours for this collection is (17 x .25 hours per consignment) = 4.25 hours. The new burden subtotal for catch documents, statistical documents and re-export certificates is thus 3,494 (previously 3,490) and the new total for all burden in this collection is 6,152 (previously 6,148).

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).

Additional costs as a result of this revision include an estimated \$50 per consignment for overseas shipping of document copies. Although permit holders are encouraged to submit electronic copies via email which would be cost-free, some may not have computer access, so postal costs are estimated. The additional annual estimated costs due to this revision are (17 x \$50 per consignment) = \$850. The new subtotal for the catch documents, statistical documents and re-export certificates is now \$5,675 (previously \$4,825). The new overall cost for this collection is \$7,942 (previously \$7,092).

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

No additional costs to the Federal government for as a result of this revision are anticipated.

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

The addition of 4.25 hours in reporting burden and \$850 in annualized costs are both a result of program changes.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Results from data collection using the forms in this family are not planned for publication.

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.

See Item 7 regarding a request not to display the expiration date for OMB approval on CDs or RXCs.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions to the certification statement identified in Item 19 of the OMB 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

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

June XX, 2008

Dear Permit Holder,

This letter summarizes new reporting requirements for Highly Migratory Species International Trade Permit (HMS ITP) holders. Please note that this summary is not a replacement for the regulations governing reporting requirements (50 CFR 300. 183-187 and 189), and the regulations hold precedence.

These requirements are established under international agreements and domestic law. The United States must implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and Inter-American Tropical Tuna Commission (IATTC), both of which have adopted statistical document programs for frozen bigeye tuna. In addition, ICCAT has adopted bluefin tuna and swordfish consignment document programs. A statistical document program for southern bluefin tuna under the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) has also been implemented by the United States.

The bluefin tuna statistical document program (BSD) that has been in effect since the mid-1980's will ***be changed to a catch documentation program under these new regulations***. Tags will still be used for bluefin tuna landed in the United States, and validation is not necessary for tagged bluefin.

Several documents are attached to this letter for your use and information. These documents may be reproduced locally for use in satisfying reporting and documentation requirements. These documents may also be accessed at **http://www.nmfs.noaa.gov/sfa/hms/ITP/International_Trade_Permit.htm**. The attached documents are as follows:

ICCAT Statistical Documents for swordfish and frozen bigeye tuna;
ICCAT Re-export Certificates for swordfish, frozen bigeye tuna and bluefin tuna;
IATTC Statistical Document & Re-export Certificate for frozen bigeye tuna;
CCSBT Statistical Document & Re-export Certificate for southern bluefin tuna;
HMS International Trade Biweekly Report

Covered Species

Reporting requirements are applicable for trade of bluefin tuna, southern bluefin tuna, swordfish and frozen bigeye tuna. (Note that there are some exceptions to bluefin reporting due to the previously implemented BSD program.)

Imports

An import of any covered species that comes into the country as an “entry for consumption” must be accompanied by a correctly completed consignment document (and foreign re-export certificate if applicable) from the country of export (or re-export).

If the product is consumed in the United States, the permit holder must complete the Import Section of the consignment document (Box 8), and mail the original to NMFS within the required timeframe (see below), at the address indicated below. The shipment entry number assigned by US Customs and Border Protection (CBP, e.g. entry number from CBP form 7501) must be noted at the top of the document (there is no box for it – just write it in). The permit holder must retain a copy of the consignment document on file for two years.

If the product is then re-exported from the United States, the U.S. importer must complete the Import Section of the consignment document. If the shipment remains intact (i.e., is not subdivided), it can be exported with the original consignment document as completed by the importer, without need for another document or validation. A copy of this consignment document must be provided to NMFS within the required timeframe (see below). If the shipment is subdivided, a re-export certificate must be completed by the U.S. exporter, and validated (see below). The original re-export certificate and the original consignment document must accompany the re-export. An individual re-export certificate is necessary for each sub-shipment, and a copy of the original consignment document may be used in the event more than one sub-shipment is exported. A copy of the re-export certificate and consignment document must be provided to NMFS within the specified time period.

Imports and re-exports must be recorded on biweekly reports (see below).

Exports

Each export of a covered species from the United States must be accompanied by a complete consignment document. In order to be complete, Boxes 1-6 must be correctly completed and the consignment document must be validated and numbered (see below). The consignment documents provided in this mailing may be reproduced, or blank consignment documents are available at the website mentioned above. A copy of each validated consignment document must be provided to NMFS within the specified time period (see below). Exports must be recorded on biweekly reports (see below).

Validation

Each consignment document accompanying an export, and each re-export certificate accompanying a re-export, must be validated and numbered by NMFS or an entity authorized by NMFS (*Catch documents and re-export certificates for tagged bluefin tuna do not require validation*). Validation and numbering is obtained by faxing the document to **866/252-3751**. **NOTE: Return fax number and phone number MUST be specified, and the document MUST be complete.** Validation services are available on a 24 hour/7 days-per-week basis. Your numbered and validated statistical document will be faxed back to you within approximately 2 hours of receipt. If you experience a delay, please

contact the validating official at 843/724-6425. Please note that assistance in preparing a complete consignment document or re-export certificate, or in answering technical questions is only available during business hours at the following number: 228/769-8964.

NMFS validation of a consignment document or re-export certificate does not constitute an exemption from requirements of the Magnuson-Stevens Fishery Conservation and Management Act, Atlantic Tunas Convention Act, Tunas Convention Act, CBP regulations, or other applicable law. In addition, validation does not exempt an ITP holder, or any other person, from applicable requirements under 50 C.F.R. Parts 300 and 635, including prohibitions on the submission of false information.

Biweekly Reports

All imports, exports, and re-exports must be recorded on the HMS Trade biweekly report and provided to NMFS to be received within 10 days of the close of a biweekly reporting period. The biweekly report contained in this mailing may be reproduced, or blank forms are available at the website mentioned above. Copies of biweekly reports must be retained by permit holders for two years. (**NOTE:** Atlantic Bluefin tuna landings and trade should be recorded on a separate form, the *Bi-weekly Atlantic Bluefin Tuna Landings and Trade Report*, available on the above website or by calling 978/281-9140).

Reporting Timeframe

Imports - Within 24 hours of entry into the United States, original consignment documents must be submitted to NMFS, or a copy must be mailed/faxed to NMFS. If a copy is submitted or faxed, the original must be submitted with the biweekly report.

Exports – A copy of the consignment document (and re-export certificate, if applicable) must be faxed or mailed to NMFS and postmarked within 24 hours of the time the product was exported.

Biweekly reports - Biweekly reporting periods extend from the 1st of each month to the 15th of each month, and from the 16th of each month to the last day of each month. Biweekly reports must be submitted within ten days of the close of each reporting period.

Reporting Addresses

Swordfish, Southern Bluefin tuna, and frozen

Bigeye tuna:

NOAA/NMFS/NSIL
P.O. Box 1207
Pascagoula, MS 39568-1207
Attn: Kim Dawson Guynn
FAX: 228/762-7144
Phone: 228/762-7402

Bluefin Tuna (Atlantic & Pacific)

NERO/NMFS/NOAA
One Blackburn Dr.
Gloucester, MA 01930-2298
Attn: Kathy Goldsmith
FAX: 978/281-9340
Phone: 978/281-9140

Parties Responsible for Reporting

The permit holder is the party responsible for reporting. A permit must be held by all importers (defined as the consignee as identified on CBP entry documentation, or the importer of record if a consignee is not listed), and exporters (U.S. principal party in interest) of covered species.

Additional Information

- To obtain the HMS ITP, download an application from the website or call 727/824-5326.
- Regulatory Questions: 978/281-9260
- Report Preparation: 228/762-7402
- Website:
http://www.nmfs.noaa.gov/sfa/hms/ITP/International_Trade_Permit.htm

It is unlawful to falsify or fail to record, report, or maintain information required to be recorded, reported, or maintained, as specified in 50 C.F.R. § 300.183 (ITP reporting and recordkeeping requirements) or § 300.185 (Requirements for statistical documents and re-export certificates). See 50 C.F.R. § 300.189 for other prohibitions.

Sincerely yours,

Margo Schulze-Haugen
Chief
Highly Migratory Species Management Division

Attachments

Paperwork Reduction Act Statement for Consignment Documents and Re-Export Certificates

The following information is provided to you as required by the Paperwork Reduction Act of 1955 (PL 104-13):

Under the provisions of the Paperwork Reduction Act and the Privacy Act of 1974 (PL 93-579), you are advised that disclosure of the information requested on statistical documents and re-export certificates is mandatory for the purpose of managing the bluefin tuna, swordfish, and bigeye tuna fisheries. The data is used to monitor trade of these species. Reporting burden for the collection of information is estimated to average 5 minutes per completed form, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. Pursuant to Section 402(b) of the Magnuson-Stevens Act, and consistent with NOAA Administrative Order 216-100 (Confidentiality of Fisheries Statistics), the Agency does not release confidential information submitted in compliance with provisions of the Act, other than in aggregate form and under circumstances required or authorized by law. Whenever data are requested or released to the general public, the Agency ensures that information on the pecuniary business activity of a dealer is not identified. **Because you have been provided with a currently valid OMB control number for a collection of information subject to the requirements of the Paperwork Reduction Act you are required to respond to, or be subject to penalty for failing to comply with, this collection of information. Send comments regarding this burden estimate or suggestions for reducing this burden to: NMFS, Highly Migratory Species Division, 1 Blackburn Drive, Gloucester, MA 01930-2298.**

**RECOMMENDATION BY ICCAT ON AN ICCAT
BLUEFIN TUNA CATCH DOCUMENTATION PROGRAM**

RECOGNIZING the situation of Atlantic bluefin tuna stocks and the impact that market factors have on the fishery;

TAKING INTO ACCOUNT the rebuilding plan for western Atlantic bluefin tuna and the recovery plan for eastern Atlantic and Mediterranean bluefin tuna that ICCAT has adopted, including the need for complementary market related measures;

CONCERNED by the impact that illegal, unregulated and unreported (IUU) fishing has in the Convention area;

AWARE that the current Bluefin Tuna Statistical Document Programme was not designed to provide a mechanism to provide direct control on bluefin tuna fisheries;

REITERATING the responsibilities of flag States to ensure that their vessels conduct their fishing activities in a responsible manner, fully respecting ICCAT conservation and management measures;

NOTING the need for improved and strict control on all the components involved in the bluefin tuna fisheries;

MINDFUL of the rights and obligations of port States to promote the effectiveness of management measures adopted by regional fisheries management organizations;

UNDERLINING the complementary role that importing States also have in the control of the catches of bluefin tuna to ensure compliance with ICCAT conservation and management measures;

RECOGNIZING that in order to have effective control of the movement of bluefin tuna, strict tracking of the product from the point of capture throughout the whole operation to its final market has to be established;

COMMITTED to taking steps that conform with international law, notably as regards the World Trade Organization (WTO), and to ensure that bluefin tuna entering markets of Contracting and Cooperating non-Contracting Parties, Entities or Fishing Entities of ICCAT and non-members of ICCAT is caught in the Convention area in a manner that does not diminish the effectiveness of ICCAT conservation and management measures;

UNDERLINING that the adoption of this measure is intended to help support the implementation of conservation and management measures as well as scientific research for bluefin tuna and is being applied on an exceptional basis;

**THE INTERNATIONAL COMMISSION FOR THE CONSERVATION
OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:**

PART I

GENERAL PROVISIONS

1. Each Contracting Party, Cooperating non-Contracting Party, Entity and Fishing Entity (hereafter referred to as CPCs) shall take the necessary steps to implement an ICCAT Bluefin Tuna Catch Documentation Scheme for the purpose of identifying the origin of any bluefin tuna in order to support the implementation of conservation and management measures.

2. For the purpose of this Programme:
 - a) "Domestic trade" means:
 - trade of bluefin tuna harvested in the ICCAT Convention area by a vessel or trap, which is landed in the territory of the CPC where the vessel is flagged or where the trap is established, and
 - trade of farmed bluefin tuna products originating from bluefin tuna harvested in the ICCAT Convention area by a vessel which is flagged to the same CPC where the farm is established, which is supplied to any entity in this CPC, and
 - trade between the Member States of the European Community of bluefin tuna harvested in the ICCAT Convention area by vessels flagged to one Member State or by a trap established in one Member State.
 - b) "Export" means:

Any movement of bluefin tuna in its harvested or processed form (including farmed) from the territory of the CPC where the fishing vessel is flagged or where the trap or farm is established to the territory of another CPC or non-Contracting Party, or from the fishing grounds to the territory of a CPC which is not the flag CPC of the fishing vessel or to the territory of a non-Contracting Party.
 - c) "Import" means:

Any introduction of bluefin tuna in its harvested or processed form (including farmed) into the territory of a CPC, which is not the CPC where the fishing vessel is flagged or where the trap or the farm is established.
 - d) "Re-export" means:

Any movement of bluefin tuna in its harvested or processed form (including farmed) from the territory of a CPC where it has been previously imported.
3. CPCs shall require a completed bluefin tuna catch document (BCD) for each bluefin tuna:
 - a) Landed at its ports,
 - b) Delivered to its farms, and
 - c) Harvested from its farms.

Each consignment of bluefin tuna domestically traded, imported into or exported or re-exported from its territories shall be accompanied by a validated BCD, except in cases where paragraph 8(c) applies and, as applicable, an ICCAT transfer declaration or a validated Bluefin Tuna Re-export Certificate (BFTRC). Any such landing, transfer, delivery, harvest, domestic trade, import, export or re-export of bluefin tuna without a BCD or a BFTRC shall be prohibited.

4. In order to support an effective BCD, CPCs shall:
 - a) not place bluefin tuna into a farm not authorized by the CPC or listed in the ICCAT record,
 - b) not place bluefin tuna from different years or CPCs in the same cages unless effective measures are in place to determine the CPC of origin and catch year when the bluefin tuna are ultimately harvested from the farm.
5. Each CPC shall provide BCD forms only to vessels and traps authorized to harvest bluefin tuna in the Convention area, including as by-catch, and to authorized farms. Such forms are not transferable. Each BCD form shall have a unique document identification number. Document numbers shall be specific to the flag State and assigned to the vessel or trap.

PART II

VALIDATION OF BCDs

6. The fishing vessel master or trap operator, or its authorized representative, or the operator of farms, or the authorized representative of the flag State shall complete the BCD by providing the required information in appropriate sections and request validation in accordance with paragraph 8 for a BCD for catch landed,

transferred to cages, harvested or transshipped on each occasion that it lands, transfers, harvests or transships bluefin tuna.

7. A validated BCD shall include the information identified in **Annex 1** attached.
8. a) The BCD must be validated by an authorized government official, or other authorized individual or institution, of the flag State of the vessel or the State of establishment of the trap or farm that harvested the bluefin tuna, or if the vessel is operating under a charter arrangement, by an authorized governmental official or institution of the chartering CPC.
 - b) The flag CPCs shall validate the BCD for all bluefin tuna products only when all the information contained in the BCD has been established to be accurate as a result of the verification of the consignment, and only when the accumulated validated amounts are within their quotas or catch limits of each management year, including, where appropriate, individual quotas allocated to vessels or traps, and when those products comply with other relevant provisions of the conservation and management measures.
 - c) Validation under 8(a) shall not be required in the event that all bluefin tuna available for sale are tagged by the flag State of the harvesting vessel or the State of establishment of the trap that harvested the bluefin tuna.
 - d) Where the bluefin tuna quantities caught and landed are less than 1 metric ton or three fish, the logbook or the sales note may be used as a temporary BCD, pending the validation of the BCD within seven days and prior to export.

PART III

VALIDATION OF BFTRCs

9. Each CPC shall ensure that each bluefin tuna consignment which is re-exported from its territory be accompanied by a validated bluefin tuna re-export certificate (BFTRC). In cases where farmed bluefin tuna is imported live, the BFTRC shall not apply.
10. The operator who is responsible for the re-export shall complete the BFTRC by providing the required information in its appropriate sections and request its validation for the bluefin tuna consignment to be re-exported. The completed BFTRC shall be accompanied by a copy of the validated BCD(s) relating to the bluefin tuna products previously imported.
11. The BFTRC shall be validated by an authorized government official or authority.
12. The CPC shall validate the BFTRC for all bluefin tuna product only when
 - a) all the information contained in the BFTRC has been established to be accurate,
 - b) the validated BCD(s) submitted in support to the BFTRC had been accepted for the importation of the products declared on the BFTRC and
 - c) the products to be re-exported are wholly or partly the same products on the validated BCD(s).
 - d) A copy of the BCD(s) shall be attached to the validated BFTRC.
13. The validated BFTRC shall include the information identified in **Annex 2** attached.

PART IV

VERIFICATION AND COMMUNICATION

14. Each CPC shall communicate a copy of all validated BCDs or BFTRCs, except in cases where paragraph 8 c) applies, within five working days following the date of validation, or without delay where the expected duration of the transportation should not take more than five working days, to the following.

- a) the competent authorities of the country where the bluefin tuna will be domestically traded, or transferred into a cage or imported, and
 - b) the ICCAT Secretariat.
15. The ICCAT Secretariat shall extract from the validated BCDs or BFTRCs communicated under paragraph 14 above the information marked with an asterisk in **Annex 1** or **Annex 2** and enter this information in a database on a password protected section of its website, as soon as practicable.

At its request, the SCRS shall have access to the catch information contained in the database, except the vessel or trap names.

PART V

TAGGING

16. CPCs may require their harvesting vessels or traps to affix a tag to each bluefin tuna preferably at the time of kill, but no later than the time of landing. Tags shall have unique country specific numbers and be tamper proof. The tag numbers shall be linked to the BCD and a summary of the implementation of the tagging program shall be submitted to the ICCAT Secretariat by the CPC. The use of such tags shall only be authorized when the accumulated catch amounts are within their quotas or catch limits of each management year, including, where appropriate, individual quotas allocated to vessels or traps.

PART VI

VERIFICATION

17. Each CPC shall ensure that its competent authorities, or other authorized individual or institution, take steps to identify each consignment of bluefin tuna landed in, imported into or exported or re-exported from its territory or among member states of a regional economic organization and request and examine the validated BCD(s) and related documentation of each consignment of bluefin tuna. These competent authorities, or authorized individuals or institutions, may also examine the content of the consignment to verify the information contained in the BCD and in related documents and, where necessary, shall carry out verifications at with the operators concerned.
18. If, as a result of examinations or verifications carried out pursuant to paragraph 17 above, a doubt arises regarding the information contained in a BCD, the final importing State and the CPC whose competent authorities validated the BCD(s) or BFTRCs shall cooperate to resolve such doubts.
19. If a CPC involved in trade of bluefin tuna identifies a consignment with no BCD, it shall notify the findings to the exporting State and, where known, the flag State.
20. Pending the examinations or verifications under paragraph 17 to confirm compliance of the bluefin tuna consignment with the requirements in the present Recommendation and any other relevant Recommendations, the CPCs shall not grant its release for domestic trade, import or export, nor, in the case of live bluefin tuna destined to farms, accept the transfer declaration.
21. Where a CPC, as a result of examination or verifications under paragraph 17 above and in cooperation with the validating authorities concerned, determines that a BCD or BFTRC is invalid, the domestic trade, import, export or re-export of the bluefin tuna concerned shall be prohibited.
22. The Commission shall request the non-Contracting Parties that are involved in domestic trade, import, export or re-export of bluefin tuna to cooperate with the implementation of the Program and to provide to the Commission data obtained from such implementation.

PART VII

NOTIFICATION AND COMMUNICATION

23. Each CPC that validates BCDs in respect of its flag vessels, traps or farms in accordance with paragraph 8(a), shall notify the ICCAT Secretariat of the government authorities, or other authorized individuals or institutions (name and full address of the organization(s) and, where appropriate, name and title of the validating officials who are individually empowered, sample form of document, sample impression of stamp or seal, and as appropriate tag samples) responsible for validating and verifying BCDs or BFTRCs. This notification shall indicate the date at which this entitlement comes into force. A copy of the provisions adopted in national law for the purpose of implementing the bluefin tuna catch documentation program shall be communicated with the initial notification, including procedures to authorize non-governmental individuals or institutions. Updated details on validating authorities and national provisions shall be communicated to the ICCAT Secretariat in a timely fashion.

24. The information on validating authorities transmitted by notifications to the ICCAT Secretariat shall be placed on the password protected page of the database on validation held by the ICCAT Secretariat. The list of the CPCs having notified their validating authorities and the notified dates of entry into force of the validation shall be placed on a publicly accessible website held by the ICCAT Secretariat.

CPCs are encouraged to access this information to help verify the validation of BCDs and BFTRCs.

25. Each CPC shall notify to the ICCAT Secretariat the points of contact (name and full address of the organization(s)) that should be notified when there are questions related to BCDs or BFTRCs.

26. Copies of validated BCDs and notification pursuant to paragraphs 23, 24 and 25 shall be sent by CPCs to the ICCAT Secretariat, by electronic means, whenever possible.

27. The Commission shall consider the introduction of an electronic system as informed by results reported to the Commission from the electronic statistical document pilot programs conducted by CPCs in accordance with *Recommendation by ICCAT on an Electronic Statistical Document Pilot Program* [Rec. 06-16]. Those CPCs which implement an electronic system in advance of the Commission shall ensure the electronic system meets the requirements of this measure and has the ability to produce paper copies upon request of national authorities from the exporting and importing Parties.

28. Copies of BCDs shall follow each part of split shipments or processed product, using the unique document number of the BCD to link them.

29. CPCs shall keep copies of documents issued or received for at least two years.

30. CPCs shall provide to the ICCAT Secretariat a report each year by October 1 for the period from July 1 of the preceding year to June 30 of the current year to provide the information described in **Annex 3**.

The ICCAT Secretariat shall post these reports on the password protected section of the ICCAT website, as soon as practicable.

At its request, the SCRS shall have access to the reports received by the ICCAT Secretariat.

31. Recommendations 92-01, 93-03, 96-10, 97-04, 98-12 and 06-15 and the Resolutions 93-02, 94-04, 94-05 on the ICCAT Bluefin Tuna Statistical Document Programme are repealed and replaced by this Recommendation.

Data to be Included in Bluefin Tuna Catch Document (BCD)

1. **ICCAT Bluefin tuna catch document number***
2. **Catch Information**
 Vessel or trap name*
 Flag State*
 ICCAT Record No.
 Date, area of catch and gear used*
 Number of fish, total weight, and average weight*
 Tag No. (if applicable)
3. **Transfer information**
Towing vessel description
 Vessel name, flag
 ICCAT Record No., and towing cage number (if applicable)
4. **Transshipment information**
Carrier vessel description
 Flag State
 ICCAT Record No.
Date
Port (name and country or position)
Product description
 (F/FR; RD/GG/DR/FL/OT)
 Total weight (NET)
5. **Farming information**
Farming facility description
 Name, flag of farm*, ICCAT FFB No.* and location of farm
 Participation in national sampling program (yes or no)
Cage description
 Date of caging, cage number
Fish description
 Estimates of number of fish, total weight, and average weight*
 Estimated size composition (<8 kg, 8-30 kg, >30 kg)
6. **Harvest from Farms information**
Harvest description
 Date of harvest*
 Number of fish, total (round) weight, and average weight*
 Tag numbers (if applicable)
7. **Trade information**
Product description
 (F/FR; RD/GG/DR/FL/OT)
 Total weight (NET)
Exporter/Seller information
 Point of export or departure*
 Export company name, address, signature and date
 Description of transportation (relevant documentation to be attached)
Importer/buyer information
 Point of import or destination*
 Import company name, address, signature and date
8. **Government validation**
 Name of authority and signatory, title, address, signature, seal and date

ICCAT BLUEFIN TUNA CATCH DOCUMENT #									
CATCH INFORMATION									
VESSEL/TRAP		NAME			FLAG		ICCAT RECORD NO.		
CATCH DESCRIPTION		DATE (ddmmyy)			AREA		GEAR		
				NO. FISH		TOTAL WT (KG)		AVG WT (KG)	
				TAG NOS. (if applicable)					
GOVT VALIDATION		NAME OF AUTHORITY AND SIGNATORY					TITLE		
		SIGNATURE					DATE		SEAL
TRANSFER INFORMATION									
TOWING VESSEL DESCRIPTION		NAME			FLAG		ICCAT RECORD NO.		
TOWING CAGE DESCRIPTION		NUMBER							
TRANSSHIPMENT INFORMATION									
CARRIER VESSEL DESCRIPTION		NAME			FLAG		ICCAT RECORD NO.		
		DATE			PORT (NAME AND COUNTRY)/ POSITION (LAT/LONG)				
PRODUCT DESCRIPTION		F/FR (circle one)			RD/GG/DR/FL/OT (circle one)		NET WT (kg)		
GOVT VALIDATION		NAME OF AUTHORITY AND SIGNATORY					TITLE		
		SIGNATURE					DATE		SEAL
FARMING INFORMATION									
FARMING FACILITY DESCRIPTION		NAME			FLAG		ICCAT FFB NO.		
		LOCATION							
		NATIONAL SAMPLING PROGRAM? YES or NO (circle one)							
CAGE DESCRIPTION		DATE (ddmmyy)			CAGE NO				
FISH DESCRIPTION		NO. OF FISH		TOTAL WT (kg)			AVG WT (kg)		
		SIZE COMPOSITION		<8 kg		8-30 kg		>30 kg	
OBSERVER INFORMATION		NAME			TITLE		SIGNATURE		
GOVT VALIDATION		NAME OF AUTHORITY AND SIGNATORY					TITLE		
		SIGNATURE					DATE		SEAL
HARVEST FROM FARM INFORMATION									
HARVEST DESCRIPTION		DATE (ddmmyy)			NO. FISH		TOTAL ROUND WT (kg)		
		AVG WT (kg)							
		TAG NOS. (if applicable)							
GOVT VALIDATION		NAME OF AUTHORITY AND SIGNATORY					TITLE		
		SIGNATURE					DATE		SEAL
TRADE INFORMATION									
PRODUCT DESCRIPTION		F/FR (circle one)			RD/GG/DR/FL/OT (circle one)		NET WT (kg)		
EXPORTER/ SELLER		PT OF EXPORT/DEPARTURE			COMPANY		ADDRESS		
		SIGNATURE			DATE				
TRANSPORTATION DESCRIPTION		(RELEVANT INFORMATION TO BE ATTACHED)							
GOVT VALIDATION		NAME OF AUTHORITY AND SIGNATORY					TITLE		
		SIGNATURE					DATE		SEAL
IMPORTER/ BUYER		PT OF IMPORT/DESTINATION			COMPANY		ADDRESS		
		SIGNATURE							
		DATE							

Data to be Included in the Bluefin Tuna Re-export Certificate (BFTRC)

- 1. Document number of the BFTRC***
- 2. Re-export section**
Re-exporting CPC/Entity/Fishing Entity
Point of re-export*
- 3. Description of imported bluefin tuna**
Product type F/FR RD/GG/DR/FL/OT
Net weight (kg)
BCD number(s) and date(s) of importation*
Flag(s) of fishing vessel(s) or state of establishment of the trap, where appropriate
- 4. Description of bluefin tuna to be re-exported**
Product type F/FR RD/GG/DR/FL/OT*
Net weight (kg)*
Corresponding BCD number(s) from section 3
- 5. Statement of re-exporter**
Name
Address
Signature
Date
- 6. Validation by governmental authorities**
Name and address of the authority
Name and position of the official
Signature
Date
Government seal
- 7. Import section**
Statement by the importer in the CPC of import of the bluefin tuna consignment
Name and address of the importer
Name and signature of the importer's representative and date
Point of import: City and CPC*

Note – Copies of the BCD(s) and Transport document(s) shall be attached

DOCUMENT NUMBER	ICCAT BLUEFIN TUNA RE-EXPORT CERTIFICATE			
RE-EXPORT SECTION:				
1. RE-EXPORTING COUNTRY/ENTITY/FISHING ENTITY				
2. POINT OF RE-EXPORT				
3. DESCRIPTION OF IMPORTED BLUEFIN TUNA				
Product Type <i>F/FR RD/GG/DR/FL/OT</i>	Net Weight (Kg)	Flag CPC	Date of import	BCD No.
4. DESCRIPTION OF BLUEFIN TUNA FOR RE-EXPORT				
Product Type <i>F/FR RD/GG/DR/FL/OT</i>	Net Weight (kg)	Corresponding BCD number		
F=Fresh, FR=Frozen, RD=Round, GG=Gilled & Gutted, DR=Dressed, FL=Fillet, OT=Others (Describe the type of product:)				
5. RE-EXPORTER STATEMENT:				
I certify that the above information is complete, true and correct to the best of my knowledge and belief.				
Name	Address	Signature	Date	
6. GOVERNMENT VALIDATION:				
I validate that the above information is complete, true and correct to the best of my knowledge and belief.				
				Total weight of the shipment: kg
Name & Title	Signature	Date	Government Seal	
IMPORT SECTION				
7. IMPORTER STATEMENT:				
I certify that the above information is complete, true and correct to the best of my knowledge and belief.				
Importer Certification				
Name	Address	Signature	Date	
Final Point of Import: City	State/Province	CPC		

BFTSD Re-Export Certificate: 2007

NOTE: IF A LANGUAGE OTHER THAN ENGLISH IS USED IN COMPLETING THIS FORM, PLEASE ADD THE ENGLISH TRANSLATION ON THIS DOCUMENT.

* Valid transport document and copies of the BCDs shall be attached.

Report on the Implementation of the ICCAT Bluefin Tuna Catch Documentation Programme

Reporting CPC:

Period of reference: July 1 [2XXX] to June 30 [2XXX]

1. Information extracted from BCDs
 - number of BCDs validated:
 - number of validated BCDs received:
 - total amount of bluefin tuna products traded domestically, with breakdown by fishing areas and fishing gears,
 - total amount of bluefin tuna products imported, exported, transferred to farms, re-exported with breakdown by CPC of origin, re-export or destination, fishing areas and fishing gears,
 - number of verifications of BCDs requested to other CPCs and summary results:
 - number of requests for verifications of BCDs received from other CPCs and summary results:
 - total amount of bluefin tuna consignments subject to a prohibition decision with breakdown by products, nature of operation (domestic trade, import, export, re-export, transfer to farms), reasons for prohibition and CPCs and/or non-Contracting Parties of origin or destination.

2. Information on cases under Part VI paragraph 17
 - number of cases
 - total amount of bluefin tuna with breakdown by products, nature of operation (domestic trade, import, export, re-export, transfer to farms), CPCs or other countries referred to in Part VI paragraph 17 above.

e-CFR Data is current as of February 21, 2008

Title 50: Wildlife and Fisheries

PART 300—INTERNATIONAL FISHERIES REGULATIONS

[Browse Previous](#) | [Browse Next](#)

Subpart M—International Trade Documentation and Tracking Programs for Highly Migratory Species

Authority: 16 U.S.C. 951–961 and 971 *et seq.* ; 16 U.S.C. 1801 *et seq.*

Source: 69 FR 67277, Nov. 17, 2004, unless otherwise noted.

§ 300.180 Purpose and scope.

The regulations in this subpart are issued under the authority of the Atlantic Tunas Convention Act of 1975 (ATCA), Tuna Conventions Act of 1950, and Magnuson-Stevens Act. The regulations implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) for the conservation and management of tuna and tuna-like species in the Atlantic Ocean and of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the Eastern Tropical Pacific Ocean, so far as they affect vessels and persons subject to the jurisdiction of the United States.

§ 300.181 Definitions.

Atlantic bluefin tuna means the species *Thunnus thynnus* found in the Atlantic Ocean.

Bigeye tuna means the species *Thunnus obesus* found in any ocean area.

Bluefin tuna , for purposes of this subpart, means Atlantic and Pacific bluefin tuna, as defined in this section.

BSD tag means a numbered tag affixed to a bluefin tuna issued by any country in conjunction with a catch statistics information program and recorded on a bluefin tuna statistical document (BSD).

CBP means the U.S. Customs and Border Protection.

CCSBT means the Commission for the Conservation of Southern Bluefin Tuna established pursuant to the Convention for the Conservation of Southern Bluefin Tuna.

Customs territory of the United States has the same meaning as in 19 CFR 101.1 and includes only the States, the District of Columbia, and Puerto Rico.

Dealer tag means the numbered, flexible, self-locking ribbon issued by NMFS for the identification of Atlantic bluefin tuna sold to a dealer permitted under §635.4 of this title as required under §635.5(b) of this title.

Entered for consumption has the same meaning as in 19 CFR 141.0a(f) and generally refers to the filing of an entry summary for consumption with customs authorities, in proper form, with estimated duties attached.

Entry for consumption , for purposes of this subpart, has the same meaning as entry for consumption, withdrawal from warehouse for consumption, or entry for consumption of merchandise from a foreign trade zone, as provided under 19 CFR parts 101.1, 141, 144, and 146. For purposes of this subpart, “entry for consumption” generally means an import into the Customs territory of the United States or the separate customs territory of a U.S. insular possession, for domestic use, that is classified for customs purposes in the “consumption” category (entry type codes 00–08) or withdrawal from warehouse or foreign trade zone for consumption category (entry type codes 30–34 and 38). For purposes of this subpart, HMS destined from one foreign country to another, which transits the Customs territory of the United States or the separate customs territory of a U.S. insular possession, and is not classified as an entry for consumption upon release from CBP or other customs custody, is not an entry for consumption under this definition.

Entry number , for purposes of this subpart, means the unique number/identifier assigned by customs authorities for each entry into a customs territory. For CBP, the entry number is assigned at the time of filing an entry summary (CBP Form 7501 or equivalent electronic filing) for entries into the Customs territory of the United States.

Export , for purposes of this subpart, means to effect exportation.

Exportation has the same general meaning as 19 CFR 101.1 and generally refers to a severance of goods from the mass of things

belonging to one country with the intention of uniting them to the mass of things belonging to some foreign country. For purposes of this subpart, a shipment between the United States and its insular possessions is not an export.

Exporter, for purposes of this subpart, is the principal party in interest, meaning the party that receives the primary benefit, monetary or otherwise, of the export transaction. For exports from the United States, the exporter is the U.S. principal party in interest, as identified in Part 30 of title 15 of the CFR. An exporter is subject to the requirements of this subpart, even if exports are exempt from statistical reporting requirements under Part 30 of title 15 of the CFR.

Finlet means one of the small individual fins on a tuna located behind the second dorsal and anal fins and forward of the tail fin.

Fish or fish products regulated under this subpart means bluefin tuna, frozen bigeye tuna, southern bluefin tuna and swordfish and all such products of these species except parts other than meat (e.g., heads, eyes, roe, guts, and tails).

IATTC means the Inter-American Tropical Tuna Commission, established pursuant to the Convention for the Establishment of an Inter-American Tropical Tuna Commission.

ICCAT means the International Commission for the Conservation of Atlantic Tunas established pursuant to the International Convention for the Conservation of Atlantic Tunas.

Import, for purposes of this subpart, generally means the act of bringing or causing any goods to be brought into the customs territory of a country with the intent to unlade them. For purposes of this subpart, goods brought into the United States from a U.S. insular possession, or vice-versa, are not considered imports.

Importer, for purposes of this subpart, means the principal party responsible for the import of product into a country. For imports into the United States, and for purposes of this subpart, "importer" means the consignee as identified on entry documentation or any authorized, equivalent electronic medium required for release of shipments from the customs authority of the United States or the separate customs territory of a U.S. insular possession. If a consignee is not declared, then the importer of record is considered to be the consignee.

Insular possession of the United States or U.S. insular possession, for purposes of this subpart, means the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and other possessions listed under 19 CFR 7.2, that are outside the customs territory of the United States.

Intermediate country means a country that exports to another country HMS previously imported as an entry for consumption by that nation. A shipment of HMS through a country on a through bill of lading, or in another manner that does not enter the shipment into that country as an entry for consumption, does not make that country an intermediate country under this definition.

IOTC means the Indian Ocean Tuna Commission established pursuant to the Agreement for the Establishment of the Indian Ocean Tuna Commission approved by the Food and Agriculture Organization (FAO) Council of the United Nations.

Pacific bluefin tuna means the species *Thunnus orientalis* found in the Pacific Ocean.

Permit holder, for purposes of this subpart, means, unless otherwise specified, a person who obtains a trade permit under §300.182.

Re-export, for purposes of this subpart, means the export of goods that were previously entered for consumption into the customs territory of a country.

RFMO, as defined under this subpart, means regional fishery management organization, including CCSBT, IATTC, ICCAT, or IOTC.

Separate customs territory of a U.S. insular possession means the customs territory of a U.S. insular possession when that possession's customs territory is not a part of the Customs territory of the United States.

Southern bluefin tuna means the species *Thunnus maccoyi* found in any ocean area.

Swordfish means the species *Xiphias gladius* that is found in any ocean area.

Tag means either a dealer tag or a BSD tag.

Trade permit means the HMS international trade permit under §300.182.

§ 300.182 HMS international trade permit.

(a) *General.* A person entering for consumption, exporting, or re-exporting fish or fish products regulated under this subpart from any ocean area must possess a valid trade permit issued under this section. Importation of fish or fish products regulated under this subpart by nonresident corporations is restricted to those entities authorized under 19 CFR 141.18.

(b) *Application.* A person must apply for a permit in writing on an appropriate form obtained from NMFS. The application must be completed, signed by the applicant, and submitted with required supporting documents, at least 30 days before the date upon which the permit is made effective. Application forms and instructions for their completion are available from NMFS.

(c) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, NMFS will issue a permit within 30 days of receipt of a completed application.

(2) NMFS will notify the applicant of any deficiency in the application, including failure to provide information or reports required under this subpart. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section is valid for the period specified on it, unless suspended or revoked.

(e) *Alteration.* Any permit that is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* NMFS may issue replacement permits. An application for a replacement permit is not considered a new application. An appropriate fee, consistent with paragraph (j) of this section, may be charged for issuance of a replacement permit.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the permit holder to whom it is issued.

(h) *Inspection.* The permit holder must keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any authorized officer, or any employee of NMFS designated by NMFS for such purpose.

(i) *Sanctions.* The Assistant Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(j) *Fees.* NMFS may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from NMFS, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(k) *Change in application information.* Within 30 days after any change in the information contained in an application submitted under this section, the permit holder must report the change to NMFS in writing. If a change in permit information is not reported within 30 days, the permit is void as of the 31st day after such change.

(l) *Renewal.* Persons must apply annually for a trade permit issued under this section. A renewal application must be submitted to NMFS, at an address designated by NMFS, at least 30 days before the permit expiration date to avoid a lapse of permitted status. NMFS will renew a permit provided that: the application for the requested permit is complete; all reports required under the Magnuson-Stevens Act, ATCA, and the Tuna Conventions Act of 1950 have been submitted, including those required under §§300.183, 300.185, 300.186, and 300.187 and §635.5 of this title; and the applicant is not subject to a permit sanction or denial under paragraph (i) of this section.

[69 FR 67277, Nov. 17, 2004, as amended at 71 FR 58163, Oct. 2, 2006]

§ 300.183 Permit holder reporting and recordkeeping requirements.

(a) *Biweekly reports.* Any person issued a trade permit under §300.182 must submit to NMFS, on forms supplied by NMFS, a biweekly report of imports entered for consumption, exports, and re-exports of fish or fish products regulated under this subpart.

(1) The report required to be submitted under paragraph (a) of this section must be postmarked within 10 days after the end of each biweekly reporting period in which fish or fish products regulated under this subpart were entered for consumption, exported, or re-exported. The bi-weekly reporting periods are defined as the first day to the 15th day of each month and the 16th day to the last day of each month.

(2) Each report must specify accurately and completely the requested information for each shipment of fish or fish products regulated under this subpart that is entered for consumption, exported, or reexported.

(b) *Recordkeeping.* Any person issued a trade permit under §300.182 must retain at his/her principal place of business a copy of each biweekly report and supporting records for a period of 2 years from the date on which each report was submitted to NMFS.

(c) *Other reporting and recordkeeping requirements.* Any person issued a trade permit is also subject to the reporting and recordkeeping requirements identified in §300.185.

(d) *Inspection.* Any person authorized to carry out the enforcement activities under the regulations in this subpart has the authority, without warrant or other process, to inspect, at any reasonable time: fish or fish products regulated under this subpart, biweekly reports,

statistical documents, re-export certificates, relevant sales receipts, import and export documentation, or other records and reports required by this subpart to be made, retained, or submitted. A permit holder must allow NMFS or an authorized person to inspect and copy, for any fish or fish products regulated under this subpart, any import and export documentation and any reports required under this subpart, and the records, in any form, on which the completed reports are based, wherever they exist. Any agent of a person issued a trade permit under this part, or anyone responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, shall be subject to the inspection provisions of this section.

§ 300.184 Species subject to documentation requirements.

The following fish or fish products are subject to the documentation requirements of this subpart regardless of ocean area of catch.

(a) *Bluefin tuna*. (1) Documentation is required for bluefin tuna products including those identified by the following subheading numbers from the Harmonized Tariff Schedule of the United States (HTS):

(i) Fresh or chilled bluefin tuna (No. 0302.35.00.00) excluding fillets and other fish meat of HTS heading 0304.

(ii) Frozen bluefin tuna (No. 0303.45.00.00), excluding fillets and other fish meat of HTS heading 0304.

(2) In addition, bluefin tuna products in other forms (e.g., chunks, fillets, and products in airtight containers) that may be classified under any other HTS heading/subheading numbers are subject to the documentation requirements of this subpart, except that fish parts other than meat (e.g., heads, eyes, roe, guts, and tails) may be imported without said documentation.

(b) *Southern bluefin tuna*. (1) Documentation is required for southern bluefin tuna products including those identified by the following subheading numbers from the HTS:

(i) Fresh or chilled southern bluefin tuna (No. 0302.36.00.00), excluding fillets and other fish meat of HTS heading 0304.

(ii) Frozen southern bluefin tuna (No. 0303.46.00.00), excluding fillets and other fish meat of HTS heading 0304.

(2) In addition, southern bluefin tuna products in other forms (e.g., chunks, fillets, products in airtight containers) that may be classified under any other HTS heading/subheading numbers are subject to the documentation requirements of this subpart, except that fish parts other than meat (e.g., heads, eyes, roe, guts, and tails) may be imported without said documentation.

(c) *Bigeye tuna*. (1) Documentation is required for frozen bigeye tuna products including those identified by the following subheading numbers from the HTS:

(i) Frozen bigeye tuna (No. 0303.44.00.00), excluding fillets and other fish meat of HTS heading 0304.

(ii) [Reserved]

(2) In addition, frozen bigeye tuna products in other forms (e.g., chunks and fillets) that may be classified under any other HTS heading/subheading numbers are subject to the documentation requirements of this subpart, except that frozen fish parts other than meat (e.g., heads, eyes, roe, guts, and tails), may be imported without said documentation.

(3) Bigeye tuna caught by purse seiners and pole and line (bait) vessels and destined for canneries within the United States, including all U.S. commonwealths, territories, and possessions, may be imported without the documentation required under this subpart.

(d) *Swordfish*. (1) Documentation is required for swordfish products including those identified by the following subheading numbers from the HTS:

(i) Fresh or chilled swordfish, steaks (No. 0302.69.20.41).

(ii) Fresh or chilled swordfish, excluding fish fillets, steaks, and other fish meat (No. 0302.69.20.49).

(iii) Frozen swordfish, steaks (No. 0303.79.20.41).

(iv) Frozen swordfish, excluding fillets, steaks and other fish meat (No. 0303.79.20.49).

(v) Fresh, chilled or frozen swordfish, fillets and other fish meat (No. 0304.20.60.92).

(2) In addition, swordfish products in other forms (e.g., chunks, fillets, and products in airtight containers) that may be classified under any other HTS heading/subheading numbers, are subject to the documentation requirements of this subpart, except that fish parts

other than meat (e.g., heads, eyes, roe, guts, tails) may be allowed entry without said statistical documentation.

§ 300.185 Documentation, reporting and recordkeeping requirements for statistical documents and re-export certificates.

(a) *Imports —(1) Applicability of requirements.* The documentation requirements in paragraph (a)(2) of this section apply to all imports of fish or fish products regulated under this subpart into the Customs territory of the United States, except when entered as a product of an American fishery landed overseas (HTS heading 9815). For insular possessions with customs territories separate from the Customs territory of the United States, documentation requirements in paragraph (a)(2) of this section apply only to entries for consumption. The reporting requirements of paragraph (a)(3) of this section do not apply to fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and are designated as an entry type other than entry for consumption as defined in §300.181.

(2) *Documentation requirements.* (i) All fish or fish products regulated under this subpart, imported into the customs territory of the United States or entered for consumption into a separate customs territory of a U.S. insular possession, must, at the time of presenting entry documentation for clearance by customs authorities (e.g., CBP Forms 7533 or 3461 or other documentation required by the port director) be accompanied by an original, completed, approved, validated, species-specific statistical document with the required information and exporter's certification completed as specified in §300.186. Customs forms can be obtained by contacting the local CBP port office; contact information is available at www.cbp.gov. For a U.S. insular possession, contact the local customs office for any forms required for entry.

(ii) The statistical document must be validated as specified in §300.187 by a responsible government official of the country whose flag vessel caught the fish (regardless of where the fish are first landed).

(iii) For fish products entered for consumption, the permit holder must provide on the original statistical document that accompanied the import shipment the correct information and importer's certification specified in §300.186, and must note on the top of the statistical document the entry number assigned at the time of filing an entry summary (e.g., CBP Form 7501 or electronic equivalent) with customs authorities.

(iv) Bluefin tuna, imported into the Customs territory of the United States or entered for consumption into the separate customs territory of a U.S. insular possession, from a country requiring a BSD tag on all such bluefin tuna available for sale, must be accompanied by the appropriate BSD tag issued by that country, and said BSD tag must remain on any bluefin tuna until it reaches its final destination. If the final import destination is the United States, which includes U.S. insular possessions, the BSD tag must remain on the bluefin tuna until it is cut into portions. If the bluefin tuna portions are subsequently packaged for domestic commercial use or re-export, the BSD tag number and the issuing country must be written legibly and indelibly on the outside of the package.

(3) *Reporting requirements.* For fish or fish products regulated under this subpart that are entered for consumption and whose final destination is within the United States, which includes a U.S. insular possessions, a permit holder must submit to NMFS the original statistical document that accompanied the fish product as completed under §300.186 and paragraph (a)(2) of this section. A copy of the original completed statistical document must be postmarked and mailed, or faxed, by said permit holder to NMFS at an address designated by NMFS within 24 hours of the time the fish product was entered for consumption into the Customs territory of the United States or the separate customs territory of a U.S. insular possession.

(b) *Exports —(1) Applicability of requirements.* The documentation and reporting requirements of this paragraph apply to exports of fish or fish products regulated under this subpart that were harvested by U.S. vessels and first landed in the United States, or harvested by vessels of a U.S. insular possession and first landed in that possession. This paragraph also applies to products of American fisheries landed overseas.

(2) *Documentation requirements.* A permit holder must complete an original, numbered, species-specific statistical document issued to that permit holder by NMFS for each export referenced under paragraph (b)(1) of this section. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific export shipment. A permit holder must provide on the statistical document the correct information and exporter certification specified in §300.186. The statistical document must be validated, as specified in §300.187, by NMFS, or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting U.S. validation for exports should notify NMFS as soon as possible after arrival of the vessel to avoid delays in inspection and validation of the export shipment.

(3) *Reporting requirements.* A permit holder must ensure that the original statistical document, as completed under paragraph (b)(2) of this section, accompanies the export of such products to their export destination. A copy of the statistical document must be postmarked and mailed by said permit holder to NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was exported from the U.S. or a U.S. insular possession. Once a system is available, permit holders will also be able to submit the forms electronically via the Internet.

(c) *Re-exports —(1) Applicability of requirements.* The documentation and reporting requirements of this paragraph apply to exports of fish or fish products regulated under this subpart that were previously entered for consumption into the customs territory of the United States or the separate customs territory of a U.S. insular possession through filing the documentation specified in paragraph (a) of this section. The requirements of this paragraph do not apply to fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and which are designated as an entry type other than entry for consumption as defined in §300.181.

(2) *Documentation requirements.* (i) If a permit holder subdivides or consolidates a shipment that was previously entered for consumption as described in paragraph (c)(1) of this section, the permit holder must complete an original, individually numbered,

species-specific re-export certificate issued to that permit holder by NMFS for each such re-export shipment. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific re-export shipment. A permit holder must provide on the re-export certificate the correct information and re-exporter certification specified in §300.186. The permit holder must also attach the original statistical document that accompanied the import shipment or a copy, and provide the correct information and intermediate importer's certification specified in §300.186, and must note on the top of both the statistical documents and the re-export certificates the entry number assigned by customs authorities at the time of filing the entry summary.

(ii) If a shipment that was previously entered for consumption as described in paragraph (c)(1) of this section is not subdivided into sub-shipments or consolidated, for each re-export shipment, a permit holder must complete the intermediate importer's certification on the original statistical document and note the entry number on the top of the statistical document. Such re-exports do not need a re-export certificate and the re-export does not require validation.

(iii) Re-export certificates must be validated, as specified in §300.187, by NMFS or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting validation for re-exports should notify NMFS as soon as possible to avoid delays in inspection and validation of the re-export shipment.

(3) *Reporting requirements.* For each re-export, when required under this paragraph (c), a permit holder must submit the original of the completed re-export certificate and the original or a copy of the original statistical document completed as specified under paragraph (c)(2) of this section, to accompany the shipment of such products to their re-export destination. A copy of the completed statistical document and re-export certificate, when required under this paragraph (c), must be postmarked and mailed by said permit holder to NMFS, at an address designated by NMFS, within 24 hours of the time the shipment was re-exported from the U.S. Once a system is available, permit holders will also be able to submit the forms electronically via the Internet.

(d) *Recordkeeping.* A permit holder must retain at his or her principal place of business, a copy of each statistical document and re-export certificate required to be submitted to NMFS pursuant to this section, and supporting records for a period of 2 years from the date on which it was submitted to NMFS.

(e) *Inspection.* Any person responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, including permit holders, consignees, customs brokers, freight forwarders, and importers of record, shall be subject to the inspection provisions at §300.183(d).

[69 FR 67277, Nov. 17, 2004, as amended at 71 FR 58163, Oct. 2, 2006]

§ 300.186 Contents of documentation.

(a) *Statistical documents.* To be deemed complete, all statistical documents must state:

(1) The document number assigned by the country issuing the document.

(2) The name of the country issuing the document, which must be the country whose flag vessel harvested the fish, regardless of where it is first landed.

(3) The name of the vessel that caught the fish, the vessel's length (in meters), the vessel's registration number, and the ICCAT record number, if applicable.

(4) The point of export, which is the city, state or province, and country from which the fish is first exported.

(5) The product type (fresh or frozen), time of harvest (month/year), and product form (round, gilled and gutted, dressed, fillet, or other).

(6) The method of fishing used to harvest the fish (e.g., purse seine, trap, rod and reel).

(7) The ocean area from which the fish was harvested.

(8) The weight of each fish (in kilograms for the same product form previously specified) or the net weight of each product type, as applicable.

(9) The name and license number of, and be signed and dated in the exporter's certification block by, the exporter.

(10) If applicable, the name and title of, and be signed and dated in the validation block by, a responsible government official of the country whose flag vessel caught the fish (regardless of where the fish are first landed) or by an official of an institution accredited by said government, with official government or accredited institution seal affixed, thus validating the information on the statistical document.

(11) If applicable, the name(s) and address(es), including the name of the city and state or province of import, and the name(s) of

the intermediate country(ies) or the name of the country of final destination, and license number(s) of, and be signed and dated in the importer's certification block by, each intermediate and the final importer.

(b) *Bluefin tuna statistical documents.* Bluefin tuna statistical documents, to be deemed complete, in addition to the elements in paragraph (a) of this section, must also state:

- (1) Whether the fish was farmed or captured.
- (2) The name and address of the owner of the trap that caught the fish, or the farm from which the fish was taken, if applicable.
- (3) The identifying tag number, if landed by vessels from countries with BSD tagging programs, or tagged pursuant to §300.187(d) or §635.5(b) of this title.

(c) *Southern bluefin tuna statistical documents.* To be complete, southern bluefin tuna statistical documents must, in addition to the elements in §300.186(a), also state:

- (1) The name and address of the processing establishment, if applicable.
- (2) [Reserved]

(d) *Bigeye tuna statistical documents.* To be deemed complete, bigeye tuna statistical documents must, in addition to the elements in paragraph (a) of this section, also state:

- (1) The name of the owner of the trap that caught the fish, if applicable.
- (2) The net weight of product for each product type (in kilograms for the same product form previously specified).

(e) *Swordfish statistical documents.* To be deemed complete, swordfish statistical documents must, in addition to the elements in paragraph (a) of this section, also state:

- (1) Certification by the exporter that, for swordfish harvested from the Atlantic Ocean, each individual Atlantic swordfish included in the shipment weighs at least 15 kilograms (33 lb) dressed weight, or if pieces, that the pieces were derived from a swordfish that weighed at least 15 kilograms (33 lb) dressed weight. Import provisions pertaining to swordfish minimum size are provided at §635.20(f) of this title.
- (2) [Reserved]

(f) *Re-export certificates.* To be deemed complete, all re-export certificates, must state:

- (1) The document number assigned by the country issuing the document.
- (2) The name of the country issuing the document, which must be the country through which the product is being re-exported.
- (3) The point of re-export, which is the city, state, or province, and country from which the product was re-exported.
- (4) The description of the fish product as imported, including the product type (fresh or frozen), product form (round, gilled and gutted, dressed, fillet, or other), the net weight, flag country of the vessel that harvested the fish in the shipment, and the date of import to the country from which it is being reexported.
- (5) The description of the fish product as re-exported, including the product type (fresh or frozen), product form (round, gilled and gutted, dressed, fillet, or other) and the net weight.
- (6) The name and license number (if applicable) of, and be signed and dated in the re-exporter's certification block by, the re-exporter.

(7) If applicable, the name and title of, and be signed and dated in the validation block by, a responsible government official of the re-exporting country appearing on the certificate, or by an official of an institution accredited by said government, with official government or accredited institution seal affixed, thus validating the information on the re-export certificate.

(8) If applicable, the name(s) and address(es), including the name of the city and state or province of import, and the name(s) of the intermediate country(ies) or the name of the country of final destination, and license number(s) of, and be signed and dated in the importer's certification block by each intermediate and the final importer.

(g) *Bluefin tuna re-export certificates.* To be deemed complete, Bluefin tuna re-export certificates must, in addition to the elements in paragraph (f) of this section, also state:

(1) Whether the fish for re-export was farmed.

(2) The name and address of the farm from which the fish was taken.

(h) *Approved statistical documents and re-export certificates.* (1) An approved statistical document or reexport certificate may be obtained from NMFS to accompany exports of fish or fish products regulated under this subpart from the customs territory of the United States or the separate customs territory of a U.S. insular possession.

(2) A nationally approved form from another country may be used for exports to the United States if that document strictly conforms to the information requirements and format of the applicable RFMO documents. An approved statistical document or re-export certificate for use in countries without a nationally approved form may be obtained from the following websites, as appropriate: www.iccat.org , www.iattc.org , www.ccsbt.org , or www.iotc.org to accompany exports to the United States.

§ 300.187 Validation requirements.

(a) *Imports.* The approved statistical document accompanying any import of any fish or fish product regulated under this subpart must be validated by a government official from the issuing country, unless NMFS waives this requirement pursuant to an applicable RFMO recommendation. NMFS will furnish a list of countries for which government validation requirements are waived to the appropriate customs officials. Such list will indicate the circumstances of exemption for each issuing country and the non-government institutions, if any, accredited to validate statistical documents and re-export certificates for that country.

(b) *Exports.* The approved statistical document accompanying any export of fish or fish products regulated under this subpart must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

(c) *Re-exports.* The approved re-export certificate accompanying any re-export of fish or fish products regulated under this subpart, as required under §300.185(c), must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

(d) *Validation waiver.* Any waiver of government validation will be consistent with applicable RFMO recommendations concerning validation of statistical documents and re-export certificates. If authorized, such waiver of government validation may include exemptions from government validation for Pacific bluefin tuna with individual BSD tags affixed pursuant to paragraph (f) of this section or for Atlantic bluefin tuna with tags affixed pursuant to §635.5(b) of this title. Waivers will be specified on statistical documents and re-export certificates or accompanying instructions, or in a letter to permit holders from N M F S.

(e) *Authorization for non-NMFS validation.* An official from an organization or government agency seeking authorization to validate statistical documents or re-export certificates accompanying exports or re-exports from the United States, which includes U.S. commonwealths, territories, and possessions, must apply in writing, to NMFS, at an address designated by NMFS for such authorization. The application must indicate the procedures to be used for verification of information to be validated; list the names, addresses, and telephone/fax numbers of individuals to perform validation; procedures to be used to notify NMFS of validations; and an example of the stamp or seal to be applied to the statistical document or re-export certificate. NMFS, upon finding the applicant capable of verifying the information required on the statistical document or re-export certificate, will issue, within 30 days, a letter specifying the duration of effectiveness and conditions of authority to validate statistical documents or re-export certificates accompanying exports or re-exports from the United States. The effectiveness of such authorization will be delayed as necessary for NMFS to notify the appropriate RFMO of other officials authorized to validate statistical document or re-export certificates. Non-government organizations given authorization to validate statistical documents or re-export certificates must renew such authorization on a yearly basis.

(f) *BSD tags —(1) Issuance.* NMFS will issue numbered BSD tags for use on Pacific bluefin tuna upon request to each permit holder.

(2) *Transfer.* BSD tags issued under this section are not transferable and are usable only by the permit holder to whom they are issued.

(3) *Affixing BSD tags.* At the discretion of permit holders, a tag issued under this section may be affixed to each Pacific bluefin tuna purchased or received by the permit holder. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel.

(4) *Removal of tags.* A tag, as defined in this subpart and affixed to any bluefin tuna, must remain on the tuna until it is cut into portions. If the bluefin tuna or bluefin tuna parts are subsequently packaged for transport for domestic commercial use or for export, the number of each dealer tag or BSD tag must be written legibly and indelibly on the outside of any package containing the bluefin tuna or bluefin tuna parts. Such tag number also must be recorded on any document accompanying the shipment of bluefin tuna or bluefin tuna parts for commercial use or export.

(5) *Labeling.* The tag number of a BSD tag affixed to each Pacific bluefin tuna under this section must be recorded on NMFS reports required by §300.183, on any documents accompanying the shipment of Pacific bluefin tuna for domestic commercial use or export as indicated in §§300.185 and 300.186, and on any additional documents that accompany the shipment (e.g., bill of lading, customs manifest, etc.) of the tuna for commercial use or for export.

(6) *Reuse.* BSD tags issued under this section are separately numbered and may be used only once, one tail tag per Pacific bluefin tuna, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a tuna or recorded on any package, container or report, a BSD tag and associated number may not be reused.

§ 300.188 Ports of entry.

NMFS shall monitor the importation of fish or fish products regulated under this subpart into the United States. If NMFS determines that the diversity of handling practices at certain ports at which fish or fish products regulated under this subpart are being imported into the United States allows for circumvention of the statistical document requirement, NMFS may undertake a rulemaking to designate, after consultation with the CBP, those ports at which fish or fish products regulated under this subpart from any ocean area may be imported into the United States.

§ 300.189 Prohibitions.

In addition to the prohibitions specified in §300.4, and §§600.725 and 635.71 of this title, it is unlawful for any person subject to the jurisdiction of the United States to violate any provision of this part, the Atlantic Tunas Convention Act, the Magnuson-Stevens Act, the Tuna Conventions Act of 1950, or any other rules promulgated under those Acts. It is unlawful for any person or vessel subject to the jurisdiction of the United States to:

- (a) Falsify information required on an application for a permit submitted under §300.182.
- (b) Import as an entry for consumption, purchase, receive for export, export, or re-export any fish or fish product regulated under this subpart without a valid trade permit issued under §300.182.
- (c) Fail to possess, and make available for inspection, a trade permit at the permit holder's place of business, or alter any such permit as specified in §300.182.
- (d) Falsify or fail to record, report, or maintain information required to be recorded, reported, or maintained, as specified in §300.183 or §300.185.
- (e) Fail to allow an authorized agent of NMFS to inspect and copy reports and records, as specified in §300.183 or §300.185.
- (f) Fail to comply with the documentation requirements as specified in §300.185, §300.186 or §300.187, for fish or fish products regulated under this subpart that are imported, entered for consumption, exported, or re-exported.
- (g) Fail to comply with the documentation requirements as specified in §300.186, for the importation, entry for consumption, exportation, or re-exportation of an Atlantic swordfish, or part thereof, that is less than the minimum size.
- (h) Validate statistical documents or re-export certificates without authorization as specified in §300.187.
- (i) Validate statistical documents or re-export certificates as provided for in §300.187 with false information.
- (j) Remove any NMFS-issued numbered tag affixed to any Pacific bluefin tuna or any tag affixed to a bluefin tuna imported from a country with a BSD tag program before removal is allowed under §300.187; fail to write the tag number on the shipping package or container as specified in §300.187; or reuse any NMFS-issued numbered tag affixed to any Pacific bluefin tuna, or any tag affixed to a bluefin tuna imported from a country with a BSD tag program, or any tag number previously written on a shipping package or container as prescribed by §300.187.
- (k) Import, or attempt to import, any fish or fish product regulated under this subpart in a manner inconsistent with any ports of entry designated by NMFS as authorized by §300.188.
- (l) Ship, transport, purchase, sell, offer for sale, import, enter for consumption, export, re-export, or have in custody, possession, or control any fish or fish product regulated under this subpart that was imported, entered for consumption, exported, or re-exported contrary to this subpart.
- (m) Fail to provide a validated statistical document for imports at time of entry into the customs territory of the United States of fish or fish products regulated under this subpart, regardless of whether the importer, exporter, or re-exporter holds a valid trade permit issued pursuant to §300.182 or whether the fish products are imported as an entry for consumption.

SECTION 515 PRE-DISSEMINATION REVIEW & DOCUMENTATION GUIDELINES

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554, aka the Data Quality Act or Information Quality Act) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies.” OMB complied by issuing guidelines which direct each federal agency to 1) issue its own guidelines; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with the OMB 515 Guidelines or the agency guidelines; and 3) report periodically to OMB on the number and nature of complaints received by the agency and how the complaints were handled. The OMB Guidelines can be found at:

<http://www.whitehouse.gov/omb/fedreg/reproducible2.pdf>

The Department of Commerce Guidelines can be found at: <http://www.osec.doc.gov/cio/oipr/iqg.htm>

The NOAA Section 515 Information Quality Guidelines, created with input and reviews from each of the components of NOAA Fisheries, went into effect on October 1, 2002. **The NOAA Information Quality Guidelines are posted on the NOAA home page under “Information Quality.”** <http://www.noaanews.noaa.gov/stories/iq.htm>

The guidelines apply to a wide variety of government information products and all types of media, including printed, electronic, broadcast or other. The guidelines define “Information” as, “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.” For example, this definition includes information that an agency disseminates from a web page. The guidelines define “Dissemination” as, “agency initiated or sponsored distribution of information to the public.” Explicitly **not** included within this term is distribution limited to “government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law.” It also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes. (See the NOAA IQ Guidelines, pgs 5-6).

To assist in Data Quality Act compliance, NOAA Fisheries has established a series of actions that should be completed for each new information product subject to the Data Quality Act. (See “Information Generation and Compliance Documentation” and “Pre-Dissemination Review” below.) **In addition to the information contained in this document, familiarity with the NOAA Section 515 Information Quality Guidelines (<http://www.noaanews.noaa.gov/stories/iq.htm>) is crucial for NOAA Fisheries employees who engage in the generation and dissemination of information.**

Information Generation and Compliance Documentation

- The fundamental step in the process is to create a Sec. 515 Information Quality file for each new information product. To aid in this process, a Section 515 Pre-Dissemination Review and Documentation form has been created. These guidelines are intended to serve as a supplement to the Pre-Dissemination Review and Documentation Form. The basic steps to the documentation process are outlined below.
- Complete general information (e.g., author/responsible office, title/description) section of the form.
- Determine the information category (i.e., original data; synthesized products; interpreted products; hydrometeorological, hazardous chemical spill, and space weather warnings, forecasts, and advisories; experimental products; natural resource plans; corporate and general information). **For most information products, you will only need to check one box.** More complex documents may be an “aggregate” of different categories of information products.
- Generate the information in a way that meets each of the applicable standards for the appropriate information category. See the NOAA Information Quality Guidelines.
- Document how the standards for **utility, integrity and objectivity** are met for each information product, describing what measures were taken to meet each of the applicable standards. Use the 2 page Pre-Dissemination Review & Documentation Form to document compliance with the Utility and Integrity standards contained in NOAA’s Information Quality Guidelines. The Utility and Integrity standards pertain to all categories of information disseminated by NOAA. Use these guidelines (pgs 4-11) to document compliance with the applicable objectivity standards for your information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.
- Maintain the Sec. 515 Information Quality file in a readily accessible place. [Pre-Dissemination Review](#)
- Before information is disseminated, it must be reviewed for compliance with the NOAA Sec. 515 Information Quality Guidelines. This is accomplished by reviewing the information and the Sec. 515 Information Quality file.
- The Pre-Dissemination Review should be conducted during the normal course of clearing the information product for release. The person conducting the Pre-Dissemination Review will sign and date the Pre-Dissemination Review & Documentation Form. The reviewing official must be at least one level above the person generating the information product.
- The Pre-Dissemination Review form and the supporting information quality documentation must accompany the information product through the clearance process and be maintained on file.

Completing the Section 515 Pre-Dissemination Review & Documentation Form

Using the Section 515 Pre-Dissemination Review & Documentation Form and these guidelines, document how the information product meets the

following standards for **Utility, Integrity and Objectivity**. **Please note:** Use the Pre-Dissemination Review & Documentation Form to document how the information product complies with the Utility and Integrity standards that pertain to all categories of information products. The Utility and Integrity standards are presented here for your convenience. Use these guidelines to explain how the information product meets the applicable Objectivity standards for the information product and attach that documentation to the Pre-Dissemination Review & Documentation Form.

I. Utility of Information Product

Utility means that disseminated information is useful to its intended users. "Useful" means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use.

- A. Is the information helpful, beneficial or serviceable to the intended user? Explain.
- B. Who are the intended users of the data or information product? (e.g., the American public; other federal agencies; state and local governments; recreational concerns; national and international organizations). Is this data or information product an improvement over previously available information? Is it more detailed or current? Is it more useful or accessible to the public? Has it been improved based on comments or interactions with users?
- C. What media are used in the dissemination of the information? Printed publications? CD-ROM? Internet?
Is the product made available in a standard data format?
Does it use consistent attribute naming and unit conventions to ensure that the information is accessible to a broad range of users with a variety of operating systems and data needs?

II. Integrity of Information Product

Integrity refers to security - the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. Prior to dissemination, NOAA information, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. **Please note: all electronic information disseminated by NOAA adheres to the standards set forth in paragraph A below. If the information product is disseminated electronically, simply circle paragraph II(A) on the form.** You may also contact your IT Manager for further information.

Explain (circle) how the information product meets the following standards for integrity:

- A. All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, "Security of Automated Information Resources," OMB Circular A-130; the Computer Security Act; and the Government Information Security Reform Act.
- B. If information is confidential, it is safeguarded pursuant to the Privacy Act and Titles 13, 15, and 22 of the U. S. Code (confidentiality of census, business and financial information).
- C. Other/Discussion
(e.g., 50 CFR 600, Subpart E, Confidentiality of Statistics of the Magnuson-Stevens Fishery Conservation and Management Act; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act.)

III. Objectivity of Information Product

(1) Indicate which one of the following categories of information products apply for this product (check one):

- Original Data - go to Section A
- Synthesized Products - go to Section B
- Interpreted Products - go to Section C
- Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories - go to Section D
- Experimental Products - go to Section E
- Natural Resource Plans - go to Section F
- Corporate and General Information - go to Section G

(2) Describe how this information product meets the applicable objectivity standards.

General Standard: Information is presented in an accurate, clear, complete, and unbiased manner, and in proper context. The substance of the information is accurate, reliable, and unbiased; in the scientific, financial or statistical context, original and supporting data are generated and the analytical results are developed using sound, commonly accepted scientific and research methods. "Accurate" means that information is within an acceptable degree of imprecision or error appropriate to the particular kind of information at issue and otherwise meets commonly accepted scientific, financial and statistical standards.

If the information is "influential," that is, it is expected to have a genuinely clear and substantial impact on major public policy and private sector decisions, it is noted as such and it is presented with the highest degree of transparency. If influential information constitutes an assessment of risks to human health, safety or the environment, indicate whether the risk assessment was qualitative or quantitative, and describe which SDWA-adapted quality standards at page 9 of NOAA's Section 515 Information Quality Guidelines were applied to the information product.

Use of third party information in the product (information not collected or generated by NOAA) is only done when the information is of known quality and consistent with NOAA's Section 515 Guidelines; any limitations, assumptions, collection methods, or uncertainties concerning the information are taken into account and disclosed.

Specific Standards: Specific objectivity standards for categories of information products disseminated by NOAA are listed below. Document how the general and specific objectivity standards for the particular information product were met.

A. Original Data

Original Data are data in their most basic useful form. These are data from individual times and locations that have not been summarized or processed to higher levels of analysis. While these data are often derived from other direct measurements (e.g., spectral signatures from a chemical analyzer, electronic signals from current meters), they represent properties of the environment. These data can be disseminated in both real time and retrospectively. Examples of original data include buoy data, survey data (e.g., living marine resource and hydrographic surveys), biological and chemical properties, weather observations, and satellite data.

Objectivity of original data is achieved using sound quality control techniques.

Detail how the data collection methods, systems, instruments, training, and/or tools are appropriate to meet the requirements of the intended users.

Were the methods, systems, instruments, etc., validated before use?

Were standard operating procedures (SOPs) followed for time series data collections? If not, document the valid scientific reasons for the deviation.

Document the quality control techniques used, for example:

- Gross error checks for data that fall outside of physically realistic ranges (e.g., a minimum, maximum or maximum change)
- Comparisons made with other independent sources of the same measurement
- Examination of individual time series and statistical summaries
- Application of sensor drift coefficients determined by a comparison of pre- and post-deployment calibrations
- Visual inspection of data

Describe any evolution and/or improvements in survey techniques, instrument performance and/or data processing.

Have metadata record descriptions and explanations of the methods and quality controls to which original data are subjected been included in the disseminated product? If not, they must be made available upon request.

B. Synthesized Products

Synthesized Products are those that have been developed through analysis of original data. This includes analysis through statistical methods; model interpolations, extrapolations, and simulations; and combinations of multiple sets of original data.

While some scientific evaluation and judgment is needed, the methods of analysis are well documented and relatively routine.

Examples of synthesized products include summaries of fisheries landings statistics, weather statistics, model outputs, data display through Geographical Information System techniques, and satellite-derived maps.

The objectivity of synthesized products is achieved by using data of known quality, applying sound analytical techniques, and reviewing the products or processes used to create them before dissemination. For synthesized products, please document the following:

Identify data sources (preferred option) or be prepared to make them available upon request.

Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities?

Are the methods used to create the synthesized product published in standard methods manuals or generally accepted by the relevant scientific and technical communities? Are the methods documented in readily accessible formats by the disseminating office?

Describe the review process used to ensure the validity of the synthesized product or the procedures used to create them, e.g., statistical procedures, models, or other analysis tools.

If the synthesized product is unique or not regularly produced, was this product reviewed by internal and/or external experts?

If this is a routinely produced synthesized product, was the process for developing the product reviewed by internal and/or external experts?

Does the synthesized product include information about the methods used to create the product? If not, the methods must be made available upon request.

C. Interpreted Products

Interpreted Products are those that have been developed through interpretation of original data and synthesized products. In many cases, this information incorporates additional contextual and/or normative data, standards, or information that puts original data and synthesized products into larger spatial, temporal, or issue contexts. This information is subject to scientific interpretation, evaluation, and judgment. Examples of interpreted products include journal articles, scientific papers, technical reports, and production of and contributions to integrated assessments.

Objectivity of interpreted products is achieved by using data of known quality or from sources acceptable to the relevant scientific and technical communities and reliable supporting products, applying sound analytical techniques, presenting the information in the proper context, and reviewing the products before dissemination.

Are all data and information sources identified or properly referenced?

Are the methods used to create the interpreted product generally accepted by the relevant scientific and technical communities?

Is information concerning the quality and limitations of the interpreted product provided to help the user assess the suitability of the product for the user's application?

Describe the review process used to ensure that the product is valid, complete, unbiased, objective and relevant. For example, peer reviews, ranging from internal peer review by staff who were not involved in the development of the product to formal, independent, external peer review. The review should be conducted at a level commensurate with the importance of the interpreted product.

Does the interpreted product include a description of the methods used to create the product? If not, they must be made available upon

request.

D. Hydrometeorological, Hazardous Chemical Spill, and Space Weather

Warnings, Forecasts, and Advisories

Hydrometeorological, Hazardous Chemical Spill, and Space Weather Warnings, Forecasts, and Advisories are time-critical interpretations of original data and synthesized products, prepared under tight time constraints and covering relatively short, discrete time periods. As such, these warnings, forecasts, and advisories represent the best possible information in given circumstances. They are subject to scientific interpretation, evaluation, and judgment. Some products in this category, such as weather forecasts, are routinely prepared. Other products, such as tornado warnings, hazardous chemical spill trajectories, and solar flare alerts, are of an urgent nature and are prepared for unique circumstances.

Objectivity of information in this category is achieved by using reliable data collection methods and sound analytical techniques and systems to ensure the highest possible level of accuracy given the time critical nature of the products.

What is the source of the data or information used in the product? Are the data used of known quality or from sources acceptable to the relevant scientific and technical communities? Are the sources included in the information product? If not, they must be made available upon request. Are the methods used to create the product generally accepted by the relevant scientific and technical communities?

Please note if individual best judgment was used due to the time-critical nature of the product.

What mechanisms were used to evaluate the accuracy of the information product? Statistical analysis may be carried out for a subset of products for verification purposes.

E. Experimental Products

Experimental products are products that are experimental (in the sense that their quality has not yet been fully determined) in nature, or are products that are based in part on experimental capabilities or algorithms. Experimental products fall into two classes.

They are either (1) disseminated for experimental use, evaluation or feedback, or (2) used in cases where, in the view of qualified scientists who are operating in an urgent situation in which the timely flow of vital information is crucial to human health, safety, or the environment, the danger to human health, safety, or the environment will be lessened if every tool available is used. Examples of experimental products include imagery or data from non-NOAA sources, algorithms currently being tested and evaluated, experimental climate forecasts, and satellite imagery processed with developmental algorithms for urgent needs (e.g., wildfire detection).

Objectivity of experimental products is achieved by using the best science and supporting studies available, in accordance with sound and objective scientific practices, evaluated in the relevant scientific and technical communities, and peer-reviewed where feasible.

Describe the science and/or supporting studies used, the evaluation techniques used, and note any peer-review of the experimental product. Were the results of initial tests or evaluations made available where possible? Describe the review, by the appropriate NOAA unit, of the experimental products and capabilities documentation, along with any tests or evaluations.

Are explicit limitations provided concerning the quality of the experimental product? Is the degree of uncertainty indicated?

Describe the testing process used, e.g., the experimental product or capabilities are used only after careful testing, evaluation, and review by NOAA experts, and then are approved for provisional use only by selected field offices or other NOAA components. This process is repeated as needed to ensure an acceptable and reliable level of quality.

F. Natural Resource Plans

Natural Resource Plans are information products that are prescribed by law and have content, structure, and public review processes (where applicable) that will be based upon published standards, e.g., statutory or regulatory guidelines. Examples of such published standards include the National Standard Guidelines (50 CFR Part 600, Subpart D), Essential Fish Habitat Guidelines, and Operational Guidelines - Fishery Management Plan Process, all under the Magnuson-Stevens Fishery Conservation and Management Act; and the National Marine Sanctuary Management Plan Handbook (16 U.S.C. section 1434) under the National Marine Sanctuary Act. These Natural Resource Plans are a composite of several types of information (e.g., scientific, management, stakeholder input, and agency policy) from a variety of internal and external sources. Examples of Natural Resources Plans include fishery, protected resource, and sanctuary management plans and regulations, and natural resource restoration plans.

Objectivity of Natural Resource Plans will be achieved by adhering to published standards, using information of known quality or from sources acceptable to the relevant scientific and technical communities, presenting the information in the proper context, and reviewing the products before dissemination.

What published standard(s) governs the creation of the Natural Resource Plan? Does the Plan adhere to the published standards? (See the NOAA Sec. 515 Information Quality Guidelines, Section II(F) for links to the published standards for the Plans disseminated by NOAA.)

Was the Plan developed using the best information available? Please explain.

Have clear distinctions been drawn between policy choices and the supporting science upon which they are based? Have all supporting materials, information, data and analyses used within the Plan been properly referenced to ensure transparency?

Describe the review process of the Plan by technically qualified individuals to ensure that the Plan is valid, complete, unbiased, objective and relevant. For example, internal review by staff who were not involved in the development of the Plan to formal, independent, external peer review. The level of review should be commensurate with the importance of the Plan and the constraints imposed by legally enforceable deadlines.

G. Corporate and General Information

Corporate or general information includes all non-scientific, non-financial, non-statistical information. Examples include program and organizational descriptions, brochures, pamphlets, education and outreach materials, newsletters, and other general descriptions of NOAA operations and capabilities.

Corporate and general information disseminated by NOAA must be presented in a clear, complete, and unbiased manner, and in a context that enhances usability to the intended audience. To the extent possible, identify the sources of the disseminated information, consistent with confidentiality, privacy and security considerations and protections, and taking into account timely presentation, the medium of dissemination, and the importance of the information, balanced against the resources required and the time available.

Information disseminated by NOAA is reliable and accurate to an acceptable degree of error as determined by factors such as the importance of the information, the intended use, time sensitivity, expected degree of permanence, relation to the primary mission(s) of the disseminating office, and the context of the dissemination, balanced against the resources required and the time available.

For non-scientific, non-statistical information, has the information product been reasonably determined to be factually correct in the view of the disseminating office as of the time of dissemination?

Describe the review process for the information product. Review can be accomplished in a number of ways, including but not limited to combinations of the following:

- Active personal review of information by supervisory and management layers, either by reviewing each individual dissemination, or selected samples, or by any other reasonable method.
- Use of quality check lists, charts, statistics, or other means of tracking quality, completeness, and usefulness.
- Process design and monitoring to ensure that the process itself imposes checks on information quality .
- Review during information preparation.
- Use of management controls.
- Any other method, which serves to enhance the accuracy, reliability and objectivity of the information.

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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.

Administrative Management and Executive Secretariat

NAO 216-100

PROTECTION OF CONFIDENTIAL FISHERIES STATISTICS Eff: 7/18/94; Iss: 7/26/94

SECTION 1. PURPOSE.

. 01 This Order:

- a. prescribes policies and procedures for protecting the confidentiality of data submitted to and collected by the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) as authorized or required by law;
- b. informs authorized users of their obligations for maintaining the confidentiality of data received by NMFS;
- c. provides for operational safeguards to maintain the security of data; and
- d. states the penalties provided by law for disclosure of confidential data.

SECTION 2. SCOPE.

This Order covers all confidential data received, collected, maintained, or used by NMFS.

SECTION 3. DEFINITIONS.

. 01 **Access to data** means the freedom or ability to use data, conditioned by a statement of nondisclosure and penalties for unauthorized use.

. 02 **Aggregate or summary form** means data structured so that the identity of the submitter cannot be determined either from the present release of the data or in combination with other releases.

. 03 **Agreement** refers to all binding forms of mutual commitment under a stated set of conditions to achieve a specific objective.

. 04 **Assistant Administrator** means the Assistant Administrator for Fisheries, NOAA, or a designee authorized to have access to confidential data.

. 05 **Authorized Use/User.**

a. **Authorized use** is that specific use authorized under the governing statute, regulation, order, contract or agreement.

b. An **authorized user** is any person who, having the need to collect or use confidential data in the performance of an official activity, has read this Order and has signed a statement of nondisclosure affirming the user's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and disclosure.

. 06 **Confidential data** means data that are identifiable with any person, accepted by the Secretary, and prohibited by law from being disclosed to the public. The term "as used" does not convey data sensitivity for national security purposes [See Executive Order (E.O.) 12356 dated April 2, 1982].

. 07 **Data** refers to information used as a basis for reasoning, discussion, or calculation that a person may submit, either voluntarily or as required by statute or regulation.

. 08 **GC** means the Office of General Counsel, NOAA.

. 09 **Person** means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of such governments, including Regional Fishery Management Councils (Councils).

. 10 **Public** means any person who is not an authorized user.

. 11 **Region** means NMFS Regional field offices, Fisheries Science Centers, and associated laboratories.

. 12 **Source document** means the document, paper, or electronic format on which data are originally recorded.

. 13 **State employee** means any member of a State agency responsible for developing and monitoring the State's program for fisheries or Marine Mammal Protection Act (MMPA) program.

. 14 **Submitter** means any person or the agent of any person who provides data to NMFS either

voluntarily or as required by statute or regulation.

SECTION 4. POLICY.

For data subject to this Order, it is NMFS policy that:

- a. confidential data shall only be disclosed to the public if required by the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, or by court order. Disclosure of data pursuant to a subpoena issued by an agency of competent jurisdiction is a lawful disclosure. Disclosure pursuant to a subpoena must be approved by GC;
- b. individual identifiers shall be retained with data, unless the permanent deletion is consistent with the needs of NMFS and good scientific practice [See Section 6.02c]; and
- c. a notice is required on all report forms requesting data and must comply with 5 U.S.C. 552a(e)(3) and Paperwork Reduction Act requirements in NAO 216-8, Information Collections and Requirements Needing Office of Management and Budget Clearance. [See E.O. 12600 of June 23, 1987, for additional information regarding the rights of submitters to designate commercial confidential data at the time of submission.]

SECTION 5. OPERATIONAL RESPONSIBILITIES.

. 01 The Regional Director of each region (or, in the case of headquarters, each Office Director) has the responsibility to maintain the confidentiality of all data collected, maintained, and disclosed by the respective region.

. 02 Each region shall submit to the Assistant Administrator specific procedures governing the collection, maintenance, and disclosure of confidential data. These documents shall be compiled as regional handbooks following the guidelines and standards:

- a. handbooks are to be developed in detail to ensure the maintenance of confidential data on a functional basis in each region; and
- b. handbooks shall be coordinated through the National Data Management Committee (a NMFS group established by the Assistant Administrator to develop data management policies and procedures) and reviewed annually. The regional handbooks will address, at minimum, the contents of Sections 6-7.

SECTION 6. PROCEDURES.

. 01 **Data Collection.** To collect data, the Secretary may use Federal employees, contractor employees, or, pursuant to an agreement, State employees.

a. General Requirements.

1. Personnel authorized to collect Federal data must maintain all documents containing confidential data in secure facilities; and
2. may not disclose confidential data, whether recorded or not, to anyone not authorized to receive and handle such data.

b. Specific Requirements.

1. Each Federal or contractor employee collecting or processing confidential data will be required to read, date, and sign a statement of nondisclosure, that affirms the employee's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and disclosure of the data. Upon signature, the employee's name will be placed on record as an "authorized user," and the employee will be issued certification.
2. Data collected by a contractor must be transferred timely to authorized Federal employees; no copies of these data may be retained by the contractor. NMFS may permit contractors to retain aggregated data. A data return clause shall be included in the agreement. All procedures applicable to Federal employees must be followed by contractor employees collecting data with Federal authority.
3. Under agreements with the State, each State data collector collecting confidential data will sign a statement at least as protective as the one signed by Federal employees, which affirms that the signer understands the applicable procedures and regulations and the penalties for unauthorized disclosure.

.02 Maintenance.

- a. Maintenance is defined as the procedures required to keep confidential data secure from the time the source documents are received by NMFS to their ultimate disposition, regardless of format. [See National Institute of Standards and Technology "Computer Security Publications, List 91" for guidance.]
- b. Specific procedures in regional handbooks must deal with the following minimum security requirements, as well as any others that may be necessary because of the specific data, equipment, or physical facilities:
 1. the establishment of an office or person responsible for evaluating requests for access to data;

2. the identifications of all persons certified as authorized users. These lists shall be kept current and reviewed on an annual basis;
 3. the issuance of employee security rules that emphasize the confidential status of certain data and the consequences of unauthorized removal or disclosure;
 4. the description of the security procedures used to prevent unauthorized access to and/or removal of confidential data;
 5. the development of a catalog/inventory system of all confidential data received including: the type of source document; the authority under which each item of data was collected; any statutory or regulatory restriction(s) which may apply; and routing from the time of receipt until final disposition; and
 6. The development of an appropriate coding system for each set of confidential data so that access to data that identifies, or could be used to identify, the person or business of the submitter is controlled by the use of one or more coding system(s). Lists that contain the codes shall be kept secure.
- c. The permanent deletion of individual identifiers from a database shall be addressed on a case-by-case basis. Identifiers may only be deleted after:
1. future uses of data have thoroughly been evaluated, e.g., the need for individual landings records for allocating shares under an individual transferable quota program;
 2. consultation with the agency(s) collecting data (if other than NMFS), the relevant Council(s), and NMFS Senior Scientist; and
 3. concurrence by the Assistant Administrator has been received prior to deletion.

.03 Access to Data Subject to This Order.

- a. **General Requirements.** In determining whether to grant a request for access to confidential data, the following information shall be taken into consideration:

1. the specific types of data required;
2. the relevance of the data to the intended uses;
3. whether access will be continuous, infrequent, or one-time;
4. an evaluation of the requester's statement of why aggregate or nonconfidential summaries of data would not satisfy the requested needs; and
5. the legal framework for the disclosure, in accordance with GC and this Order.

- b. **Within NMFS.** NMFS employees requesting confidential data must have certification as being authorized users for the particular type of data requested.

- b. **Councils.** Upon written request by the Council Executive Director:

1. "authorized user" status for confidential data collected under the Magnuson Fishery Conservation and Management Act (Magnuson Act) may be granted to a Council for use by the Council for conservation and management purposes consistent with the approval of the Assistant Administrator as described in 50 CFR 603.5;
2. "authorized user" status for confidential data, collected under the Magnuson Act and MMPA, will be granted to Council employees who are responsible for Fishery Management Plan development and monitoring; and
3. Councils that request access to confidential data must submit, on an annual basis, a copy of their procedures for ensuring the confidentiality of data to the region, or in the case of intercouncil fisheries, regions. The procedures will be evaluated for their effectiveness and, if necessary, changes may be recommended. As part of this procedure, an updated statement of nondisclosure will be included for each employee and member who requires access to confidential data.

d. **States.**

1. Requests from States for confidential data shall be directed in writing to the NMFS office that maintains the source data.
2. Each request will be processed in accordance with any agreement NMFS may have with the State:
 - (a) confidential data collected **solely** under Federal authority will be provided to a State by NMFS only if the Assistant Administrator finds that the State has authority to protect the confidentiality of the data comparable to, or more stringent than, NMFS' requirements; and
 - (b) the State will exercise its authority to limit subsequent access and use of the data to those uses allowed by authorities under which the data was collected.

3. If the State has no agreement with NMFS for the collection and exchange of confidential data, the request shall be treated as a public request and disclosure may be denied subject to FOIA or the Privacy Act.

4. Where a State has entered into a cooperative exchange agreement with another State(s), NMFS will facilitate transfer or exchange of State collected data in its possession if:

- (a) NMFS has written authorization for data transfer from the head of the collecting State agency; and
- (b) the collecting State has provided NMFS a list of authorized users in the recipient State(s); and
- (c) the collecting State agrees to hold the United States Government harmless for any suit that may arise from the misuse of the data.

e. Contractors.

1. Pursuant to an agreement with NMFS, a NMFS contractor (including universities, Sea Grant investigators, etc.) may be granted "authorized user" status consistent with this Order if the use furthers the mission of NMFS.

2. The region will notify the contractor of its decision on access in writing within 30 calendar days after receipt of the request.

3. Contingent upon approval, the contractor will be provided with details regarding conditions of data access, any costs involved, formats, timing, and security procedures. If the request is denied, the reason(s) for denial will be given by the NMFS office involved. The denial will not preclude NMFS consideration of future requests from the contractor.

4. If access is granted, language in the agreement specifically dealing with confidentiality of data will be required. The language shall include all of the relevant portions of this Order and shall prohibit the further disclosure of the data. No data may be retained beyond the termination date of the agreement; and any disclosure of data derived from the accessed confidential data must be approved by NMFS.

5. Each agreement shall be reviewed by GC prior to its execution, and shall, to the extent possible, be consistent with the model agreement contained in Appendix D (Not included --WebEd).

f. Submitters. The Privacy Act allows for data to be released back to the submitter upon receipt and verification of a written request stating the data required.

04. Requests for Confidential Data. NMFS is authorized to collect data under various statutes [See Appendix A (Not include --WebEd)]. Two types of statutes govern the disclosure of confidential data collected by the Federal Government, those that contain specific and non-discretionary language within the Act, and those that provide overall guidance to the Federal Government. Sections of these Acts that deal with exceptions to disclosure may be found in Appendix B (Not included -- WebEd).

a. Magnuson Act and MMPA.

1. Data collected under 16 U.S.C. 1853 (a) or (b), and 16 U.S.C. 1383a (c),(d),(e),(f),or (h) will be handled in the following manner:

(a) data will only be disclosed to Federal employees and Council employees who are responsible for management plan development and monitoring; State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person; a Council for conservation and management purposes [not applicable for MMPA data] or when required by court order. [See 50 CFR 229.10 and part 603];

(b) Council advisory groups are not permitted access to such confidential data [See 50 CFR 601.27(b)];

(c) requests from States that do not have an agreement with the Secretary will be processed in accordance with the Privacy Act or FOIA; and

(d) data collected by an observer under 16 U.S.C. 1853 (a) or (b) are not considered to have been "submitted to the Secretary by any person," and therefore are not confidential under Section 6.04.a of this Order. Data collected by an observer may be withheld from disclosure under the Privacy Act, or subsections (b)(3),(4),(5),(6), or (7) of FOIA.

2. Confidential data submitted to the Secretary under other Sections of the Magnuson Act or MMPA may only be disclosed in accordance with the Privacy Act or FOIA. Types of data and the collection authority may include among others:

(a) Processed Product Data -- 16 U.S.C. 1854(e);

(b) Fish Meal and Oil, Monthly -- 16 U.S.C. 1854(e);

(c) Data Collected Under State Authority and Provided to NMFS -- 16 U.S.C. 1854(e); and

(d) Tuna-Dolphin Observer Program -- 16 U.S.C. 1361 et seq.

b. **South Pacific Tuna Act.** Data collected under South Pacific Tuna Act 16 U.S.C. 973j is protected from disclosure to the public in accordance with section 973j(b).

c. **Other Statutes.** Confidential data collected under other NMFS programs as authorized by statutes other than South Pacific Tuna Act (16 U.S.C 973j), MMPA (16 U.S.C. 1361 et seq.), and Magnuson Act (16 U.S.C. 1801 et seq.), may only be disclosed to the public in accordance with the Privacy Act and FOIA. Types of data and the collection authority may include among others:

- (1) Monthly Cold Storage Fish Report -- 16 U.S.C. 742(a);
- (2) Market News Data -- 16 U.S.C. 742(a); and
- (3) Seafood Inspection Data -- 7 U.S.C. 1621 et seq.

d. Special Procedures.

1. **Cold Storage Summary Reports.** NMFS publishes monthly cold storage holdings of fishery products. Advance knowledge of the content of these reports could give those who trade in the products an opportunity to gain competitive advantage. Therefore, in addition to the confidential protection provided to individual reports, the monthly summary report will not be disclosed to the public until 3:00 p.m. Eastern Time of the official release date. Release dates for these data are published 1 year in advance in November, and can be obtained from the NMFS Fisheries Statistics Division.

2. **Surplus commodity purchases by USDA.** NMFS and the Department of Agriculture (USDA) have an interagency agreement relating to the purchase of surplus fishery products. NMFS is responsible for providing confidential data and recommendations to the USDA regarding these purchases. Advance knowledge of these data could cause a competitive advantage or disadvantage to the general public, fishing industry, and the program. Therefore, all NMFS personnel engaged in the surplus commodity purchase program will be required to sign a specific "USDA Responsibility Statement." A copy will be maintained in the Office of Trade Services.

3. **Agreements for Disclosure of Confidential Data.** A letter of agreement may authorize the disclosure of confidential data when both the Government and the submitter agree to disclosure of the data. The need to provide security for the data will vary depending on the type of data collected and the form of the disclosure. Disclosure can be undertaken if all the following conditions are met:

- (a) the person has agreed in writing to the disclosure and is aware that disclosure is irrevocable;
- (b) the recipient has been informed in writing of the sensitivity of the data; and
- (c) the wording of the agreement has been approved by GC.

.05 Disposal. NAO 205-1, NOAA Records Management Program, shall govern the disposition of records covered under this Order.

SECTION 7. PENALTIES.

.01 **Civil and Criminal.** Persons who make unauthorized disclosure of confidential data may be subject to civil penalties or criminal prosecution under:

- a. Trade Secrets Act (18 U.S.C. 1905);
- b. Privacy Act (5 U.S.C. 552a(i)(1));
- c. Magnuson Act (16 U.S.C. 1858); and
- d. MMPA (16 U.S.C. 1375).

.02 **Conflict of Interest.** Employees are prohibited by Department of Commerce employee conduct regulations [15 CFR part 0] and by ethics regulations applicable to the Executive Branch [5 CFR 2635.703] from using nonpublic information subject to this Order for personal gain, whether or not there is a disclosure to a third party.

.03 **Disciplinary Action.** Persons may be subject to disciplinary action, including removal, for failure to comply with this Order. Prohibited activities include, but are not limited to, unlawful disclosure or use of the data, and failure to comply with implementing regulations or statutory prohibitions relating to the collection, maintenance, use and disclosure of data covered by this Order.

SECTION 8. EFFECT ON OTHER ISSUANCES. None.