

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 11/19/2009

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 06/12/2009

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200905-0648-007
AGENCY ICR TRACKING NUMBER:
TITLE: Highly Migratory Species Tournament Registration and Reporting
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0323

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: 11/30/2012

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	600	110	92
New	600	110	192
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	100
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
Highly Migratory Species Tournament Registration	NA	HMS Tournament Registration Form	
Highly Migratory Species Tournament Reporting	NA, NA	Billfish Tournament Summary Report form, All Species Tournament Summary	

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.

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

19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
HIGHLY MIGRATORY SPECIES TOURNAMENT REGISTRATION
AND REPORTING
OMB CONTROL NO. 0648-0323**

A. JUSTIFICATION

This request is for renewal of this information collection.

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

The Secretary of Commerce is authorized to regulate fisheries for Atlantic Highly Migratory Species (HMS) under the Magnuson-Stevens Fishery Conservation and Management Act, and the Atlantic Tunas Convention Act, as amended. Under this authorization, the National Marine Fisheries Service (NMFS) proposes to renew tournament registration and reporting requirements for HMS.

Tournament registration and reporting is necessary because it provides an important source of information used to assess HMS fish stocks and to estimate the annual catch of Atlantic HMS. The information allows NMFS, in the course of developing fishery management plans, to evaluate the social and economic impact of tournament angling in relation to other types of angling (e.g., commercial, non-tournament recreational), potential impacts on tournament operations, and the relative effect of tournament angling on populations of various regulated HMS. Finally, the information is essential for the United States to meet its reporting obligations to the International Commission for the Conservation of Atlantic Tunas (ICCAT).

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.

The tournament registration and reporting procedures involve: (1) mandatory registration of HMS tournaments; and, (2) for selected tournaments, mandatory reporting of tournament results, including the documentation of all instances of landing an Atlantic HMS during a tournament. To do this, NMFS will require that tournament operators (the person or entity responsible for maintaining records of participants and results) register their tournament, including the date, location, and purpose of the tournament, at least four weeks prior to the commencement of the tournament. The tournament operator will collect the following data from all boats on all HMS encountered: whether the fish were kept, released, or lost; condition of the fish; whether the fish were tagged; and, the weight and length of all boated fish. This information is already routinely collected during tournament operations, which makes the reporting burden solely one of transcribing existing information onto a single form. For reporting of tournament results, NMFS is submitting two different reporting forms for Paperwork Reduction Act (PRA) approval. One form is primarily to be used for tournaments targeting billfish. The other form is to be used for tournaments targeting all HMS. The tournament operator will be required to complete only one of the forms depending on the target species of the tournament. The completed reporting form is to be returned to NMFS no later than 7 days after the conclusion of the tournament.

The information obtained from each tournament operator on the Atlantic HMS Tournament Registration Form includes:

- a. The name, date, and location of the tournament.
- b. The Director/Operator's name, address, phone number, fax number, e-mail address (if applicable), and signature.
- c. Whether the tournament has operated in previous years.
- d. Identification of HMS for which points or prizes will be awarded.
- e. Voluntary authorization to release tournament information (tournament name, date(s), city, state, & target species) to the public.

NMFS uses this registration information to plan for the assignment of tournament observers to assist in catch/effort data compilation and to obtain biological data and samples from landed fish (length/weight, stomach contents, injuries, parasites, hard and soft tissue samples for age determination, genetic analysis, spawning condition, fecundity, etc.). The registration information also allows NMFS, in the course of developing fishery management plans, to evaluate potential impacts on tournament operations. Additionally, with an accurate tournament registration database, NMFS may better assess the practicality of using tournaments for angler educational outreach efforts including distribution of written informational materials, notification of public hearings, and explanation of HMS regulations. A voluntary authorization from the operator to release tournament information to the public would assist potential tournament anglers in determining participation in upcoming events.

The reporting information obtained from each tournament operator on the Atlantic HMS Tournament Summary Report includes:

- a. The name, date, location, and fishing club affiliation (if applicable) of the tournament.
- b. The total number of boats fishing, hours fished, recorder's name and phone number.
- c. The numbers of fish kept and the size (weight in pounds, length in inches) and each of the following: the numbers of fish that were released alive, released alive with a tag, released dead, and lost.

This information is identical to what tournament operators already collect to determine a tournament winner. Tournaments that normally use radio logs or catch certificates to log catch and effort are being requested to submit copies of those along with the report form supplied by NMFS. The only additional time or cost burden would be for transcribing the reporting information on to the form, photocopying and mailing the form. As mentioned above, the collected information is used by NMFS to assess total annual tournament catch and the relative effect of tournament angling on populations of regulated HMS.

HMS tournament information does have utility. The collected information will be disseminated to the public or used to support publicly disseminated information. See responses to Questions 10 and 16 of this Supporting Statement for more information on data dissemination and use. 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 (16 U.S.C. 1881a). A voluntary authorization from the operator to release tournament information to the public would

assist potential tournament anglers in determining participation in upcoming tournaments. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

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.

Tournament operators are being asked to register tournaments and to report tournament results on a NMFS form in order to standardize the data collected. The blank tournament registration form is available electronically on the Internet at www.nmfspermits.com and fillable versions of the tournament registration and summary report forms are available at http://www.nmfs.noaa.gov/sfa/hms/Linkpages/reporting_forms.htm. The forms are also available by fax upon request. The completed registration form may be e-mailed, faxed or mailed back to NMFS. NMFS continues to consider the possibility of making the tournament registration and reporting data systems available on the Internet for direct data entry by tournament operators, and to provide some access to the tournament registration information (tournament name, date(s), city, state, and target species) as a service to publicize tournaments and to inform potential tournament anglers of upcoming events.

4. Describe efforts to identify duplication.

This collection does not duplicate or overlap with any other collection of information. Mandatory reporting of recreational non-tournament Atlantic billfish and swordfish landings and recreational Atlantic bluefin tuna landings occurs under a separately approved collection (Office of Management and Budget (OMB) Control No.0648-0328 - Atlantic Highly Migratory Species Recreational Landings Reports). Although these collections could document similar activities, NMFS is cognizant of possible duplication and is actively making efforts to avoid it. For example, tournament landings are exempt from the Atlantic billfish and swordfish recreational call-in requirement. In addition, two other separate approved information collections including the Large Pelagic Fishing Survey (OMB Control No. 0648-0380) and the Marine Recreational Fisheries Statistics Survey (OMB Control No. 0648-0052) complement tournament registration and reporting. The Large Pelagic Fishing Survey and the Marine Recreational Fisheries Statistics Survey include telephone surveys and dockside interviews with recreational anglers. These surveys actively identify and attempt to segregate tournament landings from other non-tournament recreational landings.

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

This information collection will not have a significant impact on small entities. Both the registration and reporting requirements require minimal time.

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

If the collection of tournament information were not conducted, NMFS would be less able to comply with international obligations, such as ICCAT landings limits and reporting requirements. NMFS must have tournament information to evaluate the relative impact of various types of angling on HMS. If NMFS is unable to obtain this information, then the agency would be unable to fully assess the costs, benefits and likely impacts of subsequent regulations and rules regarding either HMS or HMS tournament angling, as required by the Magnuson-Stevens Act. Also, fishing tournaments provide a unique opportunity for biologists to obtain an abundance of fishery information in a relatively short time period. It is both efficient and essential to gather this information, as it is already being collected by operators of HMS angling tournaments (catch and effort data, landings, etc.), so that it can be incorporated into the formulation of HMS fishery management policies.

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

The information collection requiring that tournament summary reports be submitted within 7 days after the tournament is concluded is inconsistent with OMB guidelines. The shorter reporting time frame is due to international obligations of NMFS to monitor the catch of certain HMS species according to agreed international quotas or agreed reductions in landings to ensure the sustainability of such species.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice soliciting public comment on this proposed collection of information was published on December 18, 2008 (73 FR 77008).

One comment was received. The commenter stated that HMS tournaments should be shut down because the tournaments result in the murder of wildlife. The commenter also stated that the information submitted by HMS tournaments is not accurate and thus, the tax dollars spent on this data collection do not produce anything that helps America. The agency has not taken any action in response to this comment because, first of all, this action is a renewal of a data collection requirement and it is not within the scope of this renewal to consider whether or not HMS tournaments may operate. Secondly, data collected from HMS tournaments under this renewal is identical to the information collected by tournament operators to determine tournament winners. Because tournament stakes, both social and economic, are high, the data collected by tournament operators are typically accurate and scrutinized by tournament officials at the time of tournament operation. Reporting of this same information to NMFS is anticipated to be accurate and this anticipation is bolstered by the public display of tournament results that often occurs when newspapers, sportfishing magazines, and tournament websites publish tournament results that

may be viewed periodically by NMFS personnel. The information collected from HMS tournaments is important to the United States to meet international ICCAT reporting obligations and to aid in evaluating the biological, social, and economic impact of tournament angling.

NMFS routinely consults with outside parties to obtain the public's view on the availability of fishery data, frequency of data collection, clarity of instructions and recordkeeping requests, disclosure of information, reporting format, and the data elements to be recorded, disclosed, or reported. These consultations occur in the context of HMS Advisory Panel meetings, public hearings, written correspondence, telephone conversations, and conversations with tournament anglers and tournament operators.

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

No payment or gifts will be provided to respondents.

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

There is a PRA statement, addressing confidentiality, printed on public notification materials, including the tournament registration and reporting forms. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NOAA Administrative Order (NAO) 216-100). Information such as the number of registered tournaments or the states in which they occurred is often provided in the annual Stock Assessment and Fishery Evaluation (SAFE) Report, in Fishery Management Plan (FMP) regulatory amendments, and in supporting documents made available to the public upon request. A checkbox has been included on the tournament registration form, whereby operators may voluntarily authorize NMFS to release tournament information (tournament name, date(s), city, state, & target species) as a service to publicize tournaments and to inform potential tournament anglers of upcoming events. Otherwise, without voluntary consent from the tournament operator, information submitted under this reporting requirement remains confidential, or is released only in aggregate or summary form such that individual identifiers are not disclosed.

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 questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private are included in this information collection.

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

Approximately 300 tournament operators are expected to respond to the tournament registration form. With this number of respondents, and an approximate response time of 2 minutes per tournament registration form, we expect a total of 10 burden hours.

Tournament Registration: 300 respondents x 2 minutes = 10 hours

Up to 300 tournaments may be selected for reporting. With an approximate response time of 20 minutes, we expect a total of 100 burden hours for tournament reporting.

Tournament Reporting: 300 respondents x 20 minutes = 100 hours

Total Burden for Registration and Reporting: 10 hours + 100 hours = 110 hours.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

The only costs associated with this collection would be for mailing or faxing the forms to NMFS. For registration, given 300 respondents and assuming that half will mail (\$0.44/postage) and half will fax (\$0.20/ minute x 1 minute) the registration forms, it is estimated that the total annual cost to the respondents for registration will be approximately \$96.

To mail registration form: 150 respondents x \$0.44 = \$66
To fax registration form: 150 respondents x \$0.20 = \$30
Total Cost for Registration \$96

Similarly, for tournament reporting, given 300 respondents and assuming that half will mail (\$0.44/postage) and half will fax (\$0.20/ minute x 1 minute) the reporting forms, it is estimated that the total annual cost to the respondents for registration will be approximately \$96.

To mail reporting form: 150 respondents x \$0.44 = \$66
To fax reporting form: 150 respondents x \$0.20 = \$30
Total Cost for Reporting \$96

Therefore, the total annual cost burden to the respondents associated with this collection is expected to be approximately \$192 (\$96 + \$96).

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

Costs for printing and supplying the forms are expected to be minimal. A blank Registration Form is annually mailed to operators who have previously registered tournaments, along with a reminder to register tournaments for the upcoming year. The Registration Form is also available on the Internet and may be downloaded by respondents. In addition, NMFS provides a fax copy to respondents upon request. The registration form could be photocopied and used by respondents as needed. No new equipment or overhead costs will be incurred by NMFS, because existing equipment and staff will be used to collect and enter the data.

For mailing the registration form to tournament operators who have previously registered tournaments, given 300 tournaments at \$0.44/postage, it is estimated that the annual cost to the Federal government will be approximately \$132.

The Atlantic HMS Tournament Summary Report form is mailed to tournaments that are selected for reporting and, given 300 tournaments (as calculated in the response to Question 12) at

\$0.44/postage, it is estimated that the annual cost to the Federal government will be approximately \$132.

The total cost to the Federal government to mail registration and reporting forms to tournaments is expected to be approximately \$264 (\$132 + \$132).

15. Explain the reasons for any program changes or adjustments.

An adjustment and a correction were made in this renewal. An adjustment of the annual cost burden to respondents is due to the increase in postage from \$0.39 to \$0.44, so that the total costs increased from \$177 to \$192. Second, it appears that the cost in a March 2008 change request had been calculated incorrectly, as \$92 rather than \$177. Therefore, the estimated cost has actually increased from \$177 to \$192, although in the OMB inventory, it will appear that it has increased from \$92 to \$192.

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

These data are not being collected for the purpose of publication in raw form. The aggregate information may be publicly distributed in scientific stock assessments for individual species, in the annually published Stock Assessment and Fishery Evaluation (SAFE) Report, in FMP amendments, or on a NMFS Internet site. This could include information on the aggregate number of registered tournaments, the number of tournaments by state, and total landings by species and state. As a result, tournament information should be considered as one component, among many, factoring into fishery policy and management decisions.

Tournament information (tournament name, date(s), city, state, and target species) from operators who voluntarily authorize NMFS to release such information may be provided as a service to publicize tournaments and to inform potential tournament anglers of upcoming events.

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.

NA.

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

NA.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

(If your collection does not employ statistical methods, just say that and delete the following five questions from the format.)

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g. establishments, State and local governmental units, households, or persons) in the universe and the corresponding sample are to be provided in tabular form. The tabulation must also include expected response rates for the collection as a whole. If the collection has been conducted before, provide the actual response rate achieved.

All HMS tournaments (approximately 300: 210 targeting billfish and 90 targeting only tuna and/or sharks) are required to be registered and all 300 tournaments are targeted for reporting (i.e. a census).

2. Describe the procedures for the collection, including: the statistical methodology for stratification and sample selection; the estimation procedure; the degree of accuracy needed for the purpose described in the justification; any unusual problems requiring specialized sampling procedures; and any use of periodic (less frequent than annual) data collection cycles to reduce burden.

As stated above, all HMS tournaments will be selected for reporting (*i.e.* a census). By employing a census scheme, NMFS will obtain reliable, long-term fishery-dependent data in an efficient manner.

3. Describe the methods used to maximize response rates and to deal with nonresponse. The accuracy and reliability of the information collected must be shown to be adequate for the intended uses. For collections based on sampling, a special justification must be provided if they will not yield "reliable" data that can be generalized to the universe studied.

Tournaments that are selected for reporting are required by law to submit a completed tournament summary form along with a copy of tournament rules to NMFS within seven days after the completion of tournament fishing (50 CFR 635.5(d)). The reporting form and selection notice are provided to tournament operators. The required information is identical to what tournament operators already collect to determine a tournament winner. Because the information is readily available to tournament operators, it is possible to complete the reporting summary form quickly and easily. The only additional time or cost burden associated with the collection would be for transcribing, photocopying and mailing/faxing. Because of the mandatory requirement and because the reporting form summarizes information that tournament operators already have, NMFS anticipates a high response rate. In recent years, response rates have varied from 82 – 94%. To further encourage a high response rate, NMFS conducts an outreach program (brochures, mailings, e-mail network, etc.) to inform tournament operators of the registration and reporting requirements, and to indicate the importance of reliable tournament information for stock assessment purposes and social/economic analysis of potential management measures. Information obtained is analyzed for reliability before it is incorporated into stock assessments.

4. Describe any tests of procedures or methods to be undertaken. Tests are encouraged as effective means to refine collections, but if ten or more test respondents are involved OMB must give prior approval.

The information obtained from HMS tournament reports may be incorporated into stock assessment documents prepared by NOAA fishery scientists, if the data is considered reliable. The stock assessment documents are then discussed and peer-reviewed by domestic and international experts before any policy-related agreements or decisions are made. The peer review process may suggest any possible modifications to the information collection, if deemed necessary.

5. Provide the name and telephone number of individuals consulted on the statistical aspects of the design, and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

For HMS Tournament Registration: Russell Dunn/Richard Pearson/Greg Fairclough/Randy Blankinship
NMFS/HMS Management Division
263 13th Avenue South
St. Petersburg, FL 33701
(727) 824-5399

For HMS Tournament Reporting: Arietta Venizelos
NMFS/Southeast Fisheries Science Center
75 Virginia Beach Drive
Miami, FL 33149
(305) 361-4214

Anna Avrigian
NMFS/Southeast Fisheries Science Center
Panama City Laboratory
3500 Delwood Beach Road
Panama City, FL 32408
(850) 234-6541

Lisa Natanson
NMFS/Northeast Fisheries Science Center
Narragansett Laboratory
28 Tarzwell Drive
Narragansett, RI 02882
(401) 782-3320

ATLANTIC HIGHLY MIGRATORY SPECIES (HMS) TOURNAMENT REGISTRATION



Thank you for registering your Atlantic HMS fishing tournament with the National Marine Fisheries Service (NMFS). Please send the completed form (also available at www.nmfs.noaa.gov/sfa/hms or www.nmfspermits.com) via mail to: **HMS Tournament Registration, National Marine Fisheries Service, 263 13th Avenue S., St. Petersburg, FL, 33701** or FAX to (727) 824-5398.

Tournament Name _____

Tournament Location _____ **Date(s):** _____
City State

Tournament Mailing Address _____
Street/P.O. Box

City State Zip

Phone (_____) _____ - _____ **FAX** (_____) _____ - _____

E-mail Address (if applicable) _____

Has this tournament operated in previous years? _____ (Y/N); **Most recent year** _____

What name(s) have been used for this event? _____

Please check the HMS box below for which points or prizes are awarded for either fish released or landed.

- Billfish**
- White Marlin.....
 - Blue Marlin.....
 - Sailfish.....
 - Longbill Spearfish.....

Swordfish.....

- Sharks**
- Large Coastal Sharks:
 - Ridgeback Sharks.....
 - Non-Ridgeback Sharks.....
 - Small Coastal Sharks.....
 - Pelagic Sharks.....

- Tunas**
- Bluefin Tuna.....
 - Yellowfin Tuna.....
 - Bigeye Tuna.....
 - Albacore.....
 - Skipjack Tuna.....

I authorize NMFS to release information to the public regarding tournament name, date(s), city, state, and target species.

Check if you wish to have Atlantic HMS regulation booklets and other outreach materials sent to you. Please provide the number of people you expect to distribute this information to: _____

Director/Operator Name _____

Director/Operator Signature _____

Date

(Please See Reverse Side)

This information will be used to estimate tournament fishing effort and landings of HMS for stock assessments and national statistical reports.

If available, please send a copy of the tournament brochure and rules

Thank you for helping NMFS track HMS recreational activities. For more information about HMS or for current regulations, call the following phone numbers:

- Billfish, Swordfish, and HMS Tournament Registration: 727-824-5399
- Sharks: 301-713-2347
- Tunas: 978-281-9260

PAPERWORK REDUCTION ACT NOTICE: Collection of information through tournament registration and reporting provides essential information for the conservation and management of highly migratory species. This information will be used to estimate recreational landings of these species through tournaments and may be used to estimate fishing effort. Public reporting burden for this collection of information is estimated to average 2 minutes per response (tournament registration), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to NOAA Fisheries, Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910. Registering and, if selected, reporting, of tournaments is required under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO-216-100). Tournament operators may voluntarily elect for NMFS to release information to the public regarding tournament name, date(s), city, state, and target species. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

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**HMS Tournament Registration
National Marine Fisheries Service
263 13th Avenue South
St. Petersburg, FL 33701**



Atlantic Highly Migratory Species Tournament Summary Report



OMB Control No.: 0648-0323, Expiration Date: 06/30/2009

Tournament Name: _____ Fishing Date(s): _____

Tournament Location (City and State): _____

Fishing Club Affiliation: _____ Is Tournament Catch and Release Only? (Y/N) _____

Total Boats Fishing or # of Boats Fishing per Day: _____

Hours Fished (lines in-lines out): _____ Recorder's Name: _____

Phone: _____ E-mail Address: _____

ATLANTIC BILLFISHES					OTHER SPECIES						
	No. Kept	Number Released			Size of Fish Kept (lbs.)		No. Kept	Number Released			Size of Fish Kept (lbs.)
		Alive No tag	Alive tag	Dead				= Total	Alive No tag	Alive tag	
Blue Marlin						Swordfish					
White Marlin						OTHER					
Sailfish											
Spearfish											

ATLANTIC PELAGIC SHARKS					ATLANTIC COASTAL SHARKS						
	No. Kept	Number Released			Size of Fish Kept (lbs.)		No. Kept	Number Released			Size of Fish Kept (lbs.)
		Alive No tag	Alive tag	Dead				= Total	Alive No tag	Alive tag	
Blue						Bignose					
Longfin Mako						Blacktip					
Shortfin Mako						Dusky					
Oceanic Whitetip						Great Hammerhead					
Common Thresher						Scalloped Hammerhead					
Bigeye Thresher						Smooth Hammerhead					
Porbeagle						Night					
OTHER						Sandbar					
						Silky					
						Spinner					
						Tiger					
						White					
						OTHER					

ATLANTIC TUNAS											
	No. Kept	Number Released			Size of Fish Kept (lbs.)		No. Kept	Number Released			Size of Fish Kept (lbs.)
		Alive No tag	Alive tag	Dead				= Total	Alive No tag	Alive tag	
Yellowfin Tuna						Albacore Tuna					
Bluefin Tuna						OTHER TUNA					
Skipjack Tuna											
Bigeye Tuna											

N/A – Not Applicable (Retention of this species is prohibited)

PAPERWORK REDUCTION ACT NOTICE: Atlantic Highly Migratory Species tournament information is required by NOAA Fisheries under authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act, as amended. Catch and effort information will be used in stock assessments, to monitor total catch of species under quota management, and in reports to international commissions with respect to catch sharing agreements. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NMFS may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Upon request, some individual responses, stripped of personal identifiers, may be released to the public. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Public reporting burden for this collection of information is estimated to average 22 minutes per respondent (registration and reporting of selected tournaments), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to the Highly Migratory Species Management Division, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

Under Federal Regulations at 50 CFR part 644, persons conducting fishing tournaments for Atlantic highly migratory species are **REQUIRED** to do the following:

1. All Atlantic Highly Migratory Species Tournaments **MUST** register using form (OMB # 0648-0323) at least four weeks prior to commencement of the tournament;
2. If selected, tournament operators **MUST** submit an Atlantic Highly Migratory Species Tournament Summary Report (OMB # 0648-0323) postmarked not later than the seventh day after the final day of tournament fishing;
3. If selected, billfish tournament operators **MUST** submit radio logs or catch certificates containing detailed capture information including: tournament dates, fishing hours, name of each boat fishing that day, bait types and fight times for all billfish captured or released, and weight, length, and sex of each billfish brought ashore.

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INSTRUCTIONS - Atlantic Highly Migratory Species Tournament Summary Report OMB#0648-0323

Tournament Name: Record the entire name of the fishing tournament as it was reported on the tournament registration form.

Fishing Date(s): Record the actual fishing dates of the tournament (don't include days or days canceled due to bad weather).

Tournament Location (city & state): Record the city and state of the fishing tournament.

Fishing Club Affiliation: Record name of fishing club affiliated with the tournament, if any.

Is Tournament Catch and Release Only?: Indicate if points or prizes are only awarded for catch and release fishing.

Total Boats Fishing: Record the number of boats fishing (Please note if this number changes each day).

Hours Fished (Lines in-Lines Out): Record tournament start times and ending times (please note if different days have different hours).

Recorder's Name: Record the name of the person who completes this form.

Phone: Record the phone number of the recorder.

No. Kept: Record the total number of fish kept for each species.

Number Released:

- **Alive, No Tag:** Record the total number of fish released alive (no tag) for each species.
- **Alive, Tag:** Record the total number of fish released (with tags) for each species.
- **Dead:** Record the total number of fish thrown back dead for each species.
- **Total:** Record the total number of fish released for each species.

Size of Fish Kept (lbs.): Record the weights (lbs.) of each individual fish kept for each species (if you need more space, please attach additional pages).

No. of Fish Lost: Record total number of fish hooked but lost on an additional page, if identification is available.

----- Attach Forms, Tri-Fold Here and Mail -----

Affix
Sufficient
Postage

**NOAA Fisheries
Southeast Fisheries Science Center
75 Virginia Beach Drive
Miami, FL 33149**

Attn: Atlantic HMS Tournament Reporting

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INSTRUCTIONS FOR ATLANTIC HIGHLY MIGRATORY SPECIES TOURNAMENT SUMMARY REPORT (OMB Control No.: 0648-0323, Expiration Date: 06/30/2009)

Tournament Name: Record the entire name of the fishing tournament as it was reported on the tournament registration form.

Fishing Date(s): Record the actual fishing dates of the tournament (do not include lay days or days canceled due to bad weather).

Tournament Location (city and state): Record the city and state of the fishing tournament.

Fishing Club Affiliation: Record the name of the fishing club that the tournament is affiliated with, if any.

Is Tournament Catch and Release Only (Y/N)?: Indicate if points or prizes are only awarded for catch and release fishing (billfish are not boated).

Total Boats Fishing or # of Boats Fishing per Day: Record the number of boats fishing or number per day (please note if this number changes each day).

Hours Fished (lines in-lines out): Record tournament start times and ending times (please note if different days have different hours).

Recorder's Name, Phone, and E-mail: Record the name of the person who completes this form, the phone number of the recorder, and e-mail address if available.

No. Kept: Record the total number of fish kept for each species.

No. Lost: Record the total number of fish hooked but lost when positive species identification is possible

Number Released:

- **Alive, No Tag:** Record the total number of fish released alive (no tag) for each species.
- **Alive, Tag:** Record the total number of fish released (with tags) for each species.
- **Dead:** Record the total number of fish thrown back dead for each species.
- **Total:** Add the "Alive, No Tag", "Alive, Tag", and "Dead" numbers and record the total number of fish released or not weighed in for each species.

Size of Fish Kept: Record the length (lower jaw fork length for billfish) in inches and the weight (lbs.) of each individual fish kept for each species (if you need more space, please attach additional pages).

ADDITIONAL BILLFISH and TUNAS: Blank spaces can be used for additional billfish or tunas.

Note: If the tournament keeps radio logs or catch certificates, operators are requested to submit those logs or certificates containing detailed capture information that is not necessarily included on the Tournament Summary Report. To obtain a sample radio log form please call (305) 361-4214 or fax request to (305) 361-4562.

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-----Attach Forms, Fold Here, and Mail-----

Affix
Sufficient
Postage

**NOAA Fisheries
75 Virginia Beach Drive
Miami, FL 33149**

ATTN: ATLANTIC HMS TOURNAMENT REPORTING

Staple Here

-CITE-

16 USC Sec. 971i

01/03/2007

-EXPCITE-

TITLE 16 - CONSERVATION
CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971i. Research on Atlantic highly migratory species

-STATUTE-

(a) Omitted

(b) Highly migratory species research and monitoring

(1) Within 6 months after November 3, 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the "Commission") and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall -

(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

(B) provide for appropriate participation by nations which are members of the Commission.

(2) The program shall provide for, but not be limited to -

(A) statistically designed cooperative tagging studies;

(B) genetic and biochemical stock analyses;

(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

(G) integration of data from all sources and the preparation of data bases to support management decisions;

(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and

(I) other research as necessary.

(3) In developing a program under this section, the Secretary shall -

(A) ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments and monitoring of highly migratory species that occur in the region;

(B) provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act of 1975 applies with respect to effort and species composition of catch and discards;

(C) consult with relevant Federal and State agencies, scientific and technical experts, commercial and recreational fishermen, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan; and

(D) through the Secretary of State, encourage other member nations to adopt a similar program.

-SOURCE-

(Pub. L. 96-339, Sec. 3, Sept. 4, 1980, 94 Stat. 1070; Pub. L. 104-43, title III, Sec. 302(b), Nov. 3, 1995, 109 Stat. 382; Pub. L. 105-384, title II, Sec. 202(b)(2), Nov. 13, 1998, 112 Stat. 3453; Pub. L. 109-479, title IV, Sec. 405(b), Jan. 12, 2007, 120 Stat. 3633.)

-REFTEXT-

REFERENCES IN TEXT

The Atlantic Tunas Convention Act of 1975, referred to in subsec. (b)(3)(B), is Pub. L. 94-70, Aug. 5, 1975, 89 Stat. 385, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

-COD-

CODIFICATION

Subsection (a), which required the Secretary of Commerce to prepare and submit to Congress a biennial report on the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas, the status of bluefin tuna stocks within the Convention area and the trends in their population level, and related information resulting from implementation of the observer program under section 1827 of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 50 of House Document No. 103-7.

Section was not enacted as part of the Atlantic Tunas Convention Act of 1975 which comprises this chapter.

-MISC1-

AMENDMENTS

2007 - Subsec. (b)(2)(H), (I). Pub. L. 109-479 added subpar. (H) and redesignated former subpar. (H) as (I).

1998 - Subsec. (b)(3)(B). Pub. L. 105-384 inserted "of 1975" after "Act".

1995 - Pub. L. 104-43 amended section catchline generally, designated existing provisions as subsec. (a), inserted heading, struck out last sentence which read as follows: "There are authorized to be appropriated such sums as may be necessary to carry out this section.", and added subsec. (b).

-End-

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

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

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

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

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

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

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

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

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

(4) assess and specify—

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

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

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

109-479

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

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

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

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

109-479

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

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

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

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

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

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

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

16 U.S.C. 1853
MSA § 303

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

109-479

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

109-479

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

109-479

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

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

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

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

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

(B) the operator of any such vessel; or

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

109-479

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

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

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

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

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

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

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

109-479

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

109-479

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

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

16 U.S.C. 1853
MSA § 303

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

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

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

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

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

109-479

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

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

97-453, 104-297

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

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

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

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

109-479

SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

16 U.S.C. 1853a
MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) **REVIEW OF PLANS.**—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

104-297

SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

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

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

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

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

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

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

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

(D) when required by court order;

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

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

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

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

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

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

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

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

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

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

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

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

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

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

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

Title 50: Wildlife and Fisheries

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

Subpart A—General

§ 635.5 Recordkeeping and reporting.

Information on HMS vessel and dealer reporting requirements may be obtained from the Division Chief or where otherwise stated in this part.

(a) *Vessels*—(1) *Logbooks*. If an owner of an HMS charter/headboat vessel, an Atlantic tunas vessel, a shark vessel, or a swordfish vessel, for which a permit has been issued under §635.4(b), (d), (e), or (f), is selected for logbook reporting in writing by NMFS, he or she must maintain and submit a fishing record on a logbook form specified by NMFS. Entries are required regarding the vessel's fishing effort and the number of fish landed and discarded. Entries on a day's fishing activities must be entered on the logbook form within 48 hours of completing that day's activities or before offloading, whichever is sooner. The owner or operator of the vessel must submit the logbook form(s) postmarked within 7 days of offloading all Atlantic HMS. If no fishing occurred during a calendar month, a no-fishing form so stating must be submitted postmarked no later than 7 days after the end of that month. If an owner of an HMS charter/headboat vessel, Atlantic tunas vessel, shark vessel, or swordfish vessel, permitted under §635.4(b), (d), (e), or (f), is selected in writing by NMFS to complete the cost-earnings portion of the logbook(s), the owner or operator must maintain and submit the cost-earnings portion of the logbook postmarked no later than 30 days after completing the offloading for each trip fishing for Atlantic HMS during that calendar year, and submit the Atlantic Highly Migratory Species Annual Expenditures form(s) postmarked no later than the date specified on the form of the following year.

(2) *Weightout slips*. If an owner of a permitted vessel is required to maintain and submit logbooks under paragraph (a)(1) of this section, and Atlantic HMS harvested on a trip are sold, the owner or operator must obtain and submit copies of weightout slips for those fish. Each weightout slip must show the dealer to whom the fish were transferred, the date they were transferred, and the carcass weight of each fish for which individual weights are normally recorded. For fish that are not individually weighed, a weightout slip must record total weights by species and market category. A weightout slip for sharks prior to or as part of a commercial transaction involving shark carcasses or fins must record the weights of carcasses and any detached fins. The owner or operator must also submit copies of weightout slips with the logbook forms required to be submitted under paragraph (a)(1) of this section.

(3) *BFT not sold*. If a person who catches and lands a large medium or giant BFT from a vessel issued a permit in any of the commercial categories for Atlantic tunas does not sell or otherwise transfer the BFT to a dealer who has a dealer permit for Atlantic tunas, the person must contact a NMFS enforcement agent, at a number designated by NMFS, immediately upon landing such BFT, provide the information needed for the reports required under paragraph (b)(2)(i) of this section, and, if requested, make the tuna available so that a NMFS enforcement agent or authorized officer may inspect the fish and attach a tag to it. Alternatively, such reporting requirement may be fulfilled if a dealer who has a dealer permit for Atlantic tunas affixes a dealer tag as required under paragraph (b)(2)(ii) of this section and reports the BFT as being landed but not sold on the reports required under paragraph (b)(2)(i) of this section. If a vessel is placed on a trailer, the person must contact a NMFS enforcement agent, or the BFT must have a dealer tag affixed to it by a permitted Atlantic tunas dealer, immediately upon the vessel being removed from the water. All BFT landed but not sold will be applied to the quota category according to the permit category of the vessel from which it was landed.

(4) *Shark gillnet whale reporting*. The vessel operators of vessels that are shark gillnetting, as defined by 50 CFR 229.2, and that have been issued, or are required to have, shark directed or incidental limited access permits for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico are required to contact the NOAA Fisheries Southeast Regional Office, at a number designated by NOAA Fisheries, if a listed whale is taken, in addition to submitting all other reporting forms required by this part and 50 CFR part 229.

(5) *Chartering arrangements*. (i) For the purposes of this section, a chartering arrangement means any contract, agreement, or commitment between a U.S. vessel owner and a foreign entity (e.g., government, company, person) by which the control, use, possession, or services of a vessel are secured, for a period of time for fishing targeting Atlantic HMS. Chartering arrangements under this part do not include bareboat charters under which a vessel enters into a fishing agreement with a foreign entity, changes registration to fish under another country's registration then, once the agreed-upon fishing is completed, reverts back to the vessel's original registration.

(ii) Before fishing under a chartering arrangement, the owner of a fishing vessel subject to U.S. jurisdiction must apply for, and obtain, a chartering permit as specified in §635.32 (e) and (f). If a chartering permit is obtained, the vessel owner must submit catch information as specified in the terms and conditions of that permit. All catches will be recorded and counted against the applicable quota of the Contracting Party to which the chartering foreign entity is a member and, unless otherwise provided in the chartering permit, must be offloaded in the ports of the chartering foreign entity or offloaded under the direct supervision of the chartering foreign entity.

(iii) If the chartering arrangement terminates before the expiration of the charter permit, the vessel owner must notify NMFS immediately and in writing, upon termination of the chartering arrangement. Such notification requirements shall also apply to situations where the chartering arrangement is temporarily suspended and during intermittent periods where the vessel may be fishing under U.S. quotas for Atlantic HMS.

(b) *Dealers*. Persons who have been issued a dealer permit under §635.4 must submit reports to NMFS, to an address designated by NMFS, and maintain records as follows:

(1) *Atlantic HMS*. (i) Dealers that have been issued or should have been issued an Atlantic tunas, swordfish, and/or sharks dealer permit under §635.4 must submit to NMFS all reports required under this section. All reports must be species-specific, must include information about all HMS landed, regardless of where harvested or whether the vessel is federally permitted under §635.4 and, for sharks, must specify the total shark fin weight separately from the weight of the shark carcass. As stated in §635.4(a)(6), failure to comply with these recordkeeping and reporting requirements may result in the existing dealer permit being revoked, suspended, or modified, and in the denial of any permit applications.

(ii) Reports of Atlantic tunas, swordfish, and/or sharks received by dealers from U.S. vessels, as defined under §600.10 of this chapter, on the first through the 15th of each month, must be received by NMFS not later than the 25th of that month. Reports of Atlantic tunas, swordfish, and/or sharks received on the 16th through the last day of each month must be received by NMFS not later than the 10th of the following month. If a dealer issued an Atlantic tunas, swordfish, or sharks dealer permit under §635.4 has not received any Atlantic HMS from U.S. vessels during a reporting period as specified in this section, he or she must still submit the report required under paragraph (b)(1)(i) of this section stating that no Atlantic HMS were received. This negative report must be received by NMFS for the applicable reporting period as specified in this section. This negative reporting requirement does not apply for bluefin tuna.

(iii) The reporting requirement of paragraph (b)(1)(i) of this section may be satisfied by a dealer if he or she provides a copy of each appropriate weightout slip or sales record, provided such weightout slip or sales record by itself or combined with the form available from NMFS includes all of the required information and identifies each fish by species.

(iv) The dealer may mail or fax such report to an address designated by NMFS or may hand-deliver such report to a state or Federal fishery port agent designated by NMFS. If the dealer hand-delivers the report to a port agent, the dealer must deliver such report for Atlantic tunas, swordfish, or sharks no later than the prescribed received-by date for the reporting period, as required in paragraphs (b)(1)(i) and (ii) of this section.

(2) *Requirements for bluefin tuna*—(A) *Dealer reports*—(A) *Landing reports*. Each dealer with a valid Atlantic tunas permit issued under §635.4 must submit a completed landing report on a form available from NMFS for each BFT received from a U.S. fishing vessel. Such report must be submitted by electronic facsimile (fax) or, once available, via the Internet, to a number or a web address designated by NMFS not later than 24 hours after receipt of the BFT. A landing report must indicate the name and permit number of the vessel that landed the BFT and must be signed by the permitted vessel's owner or operator immediately upon transfer of the BFT. The dealer must inspect the vessel's permit to verify that the required vessel name and vessel permit number as listed on the permit are correctly recorded on the landing report and to verify that the vessel permit has not expired.

(B) *Bi-weekly reports*. Each dealer with a valid Atlantic tunas permit under §635.4 must submit a complete bi-weekly report on forms available from NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the 1st through the 15th of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, not later than the 25th of that month. Reports of BFT received on the 16th through the last day of each month must be received by NMFS not later than the 10th of the following month.

(ii) *Dealer tags*. NMFS will issue numbered dealer tags to each person issued a dealer permit for Atlantic tunas under §635.4. A dealer tag is not transferable and is usable only by the dealer to whom it is issued. Dealer tags may not be reused once affixed to a tuna or recorded on a package, container, or report.

(A) *Affixing dealer tags*. A dealer or a dealer's agent must affix a dealer tag to each BFT purchased or received from a U.S. vessel immediately upon offloading the BFT. If a vessel is placed on a trailer, the dealer or dealer's agent must affix the dealer tag to the BFT immediately upon the vessel being removed from the water. The dealer tag must be affixed to the BFT between the fifth dorsal finlet and the caudal keel.

(B) *Removal of dealer tags*. A dealer tag affixed to any BFT under paragraph (b)(2)(ii)(A) of this section or a BSD tag affixed to an imported bluefin tuna must remain on the fish until it is cut into portions. If the bluefin tuna or bluefin tuna parts subsequently are packaged for transport for domestic commercial use or for export, the number of the dealer tag or the BSD tag must be written legibly and indelibly on the outside of any package containing the tuna. Such tag number also must be recorded on any document accompanying the shipment of bluefin tuna for commercial use or export.

(3) *Recordkeeping*. Dealers must retain at their place of business a copy of each report required under paragraphs (b)(1)(i), (b)(1)(ii), and (b)(2)(i) of this section for a period of 2 years from the date on which each report was required to be submitted.

(c) *Anglers*. All bluefin tuna, billfish, and North Atlantic swordfish non-tournament landings must be reported as specified under paragraphs (c)(1) or (c)(2) of this section, unless an alternative recreational catch reporting system has been established as specified under paragraph (c)(3) of this section. Tournament landings must be reported as specified under paragraph (d) of this section.

(1) *Bluefin tuna*. The owner of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all BFT landings under the Angling category quota designated at §635.27(a) through the NMFS automated catch reporting system within 24 hours of the landing. Such reports may be made by calling 1-888-872-8862 or by submitting the required information over the Internet at: www.nmfspermits.com.

(2) The owner, or the owner(s) designee, of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, and Atlantic sailfish, and all non-tournament and non-commercial landings of North Atlantic swordfish to NMFS by telephone to a number designated by NMFS, or electronically via the internet to an internet website designated by NMFS, or by other means as specified by NMFS, within 24 hours of that landing. For telephone landing reports, the owner, or the owner(s) designee, must provide a contact phone number so that a NMFS designee can call the vessel owner, or the owner(s) designee, for follow up questions and to confirm the reported landing. Regardless of how submitted, landing reports submitted to NMFS are not complete unless the vessel owner, or the owner(s) designee, has received a confirmation number from NMFS or a NMFS designee.

(3) *Alternative recreational catch reporting*. Alternative recreational catch reporting procedures may be established by NMFS with cooperation from states which may include such methodologies as telephone, dockside or mail surveys, mail in or phone-in reports, tagging programs, catch cards, or mandatory check-in stations. A census or a statistical sample of persons fishing under the recreational fishing regulations of this part may be used for these alternative reporting programs (after the programs have received Paperwork Reduction Act approval from OMB). Persons or vessel owners selected for reporting will be notified by NMFS or by the cooperating state agency of the requirements and procedures for reporting recreational catch. Each person so notified must comply with those requirements and procedures. Additionally, NMFS may determine that recreational landing reporting systems implemented by the states, if mandatory, at least as restrictive, and effectively enforced, are sufficient for recreational landing monitoring as required under this part. In such case, NMFS will file with the Office of the Federal Register for publication notification indicating that compliance with the state system satisfies the reporting requirements of paragraph (c) of this section.

(d) *Tournament operators*. For all tournaments that are conducted from a port in an Atlantic coastal state, including the U.S. Virgin Islands and Puerto Rico, a tournament operator must register with the NMFS' HMS Management Division, at least 4 weeks prior to commencement of the tournament by submitting information on the purpose, dates, and location of the tournament to NMFS. A tournament is not registered unless the tournament operator has received a confirmation number from the NMFS' HMS Management Division. NMFS will notify the tournament operator in writing when a tournament has been selected for reporting. Tournament operators that are selected to report must maintain and submit to NMFS a record of catch and effort on forms available from NMFS. Tournament operators must submit the completed forms to NMFS, at an address designated by NMFS, postmarked no later than the 7th day after the conclusion of the tournament, and must attach a copy of the tournament rules.

(e) *Inspection*. Any person authorized to carry out enforcement activities under the regulations in this part has the authority, without warrant or other process, to inspect, at any reasonable time, catch on board a vessel or on the premises of a dealer, logbooks, catch reports, statistical records, sales receipts, or other records and reports required by this part to be made, kept, or furnished. An owner or operator of a fishing vessel that has been issued a permit under §635.4 or §635.32 must allow NMFS or an authorized person to inspect and copy any required reports and the records, in any form, on which the completed reports are based, wherever they exist. An agent of a person issued a permit under this part, or anyone responsible for offloading, storing, packing, or selling regulated HMS for such permittee, shall be subject to the inspection provisions of this section.

(f) *Additional data and inspection*. Additional data on fishing effort directed at Atlantic HMS or on catch of Atlantic HMS, regardless of whether retained, may be collected by contractors and statistical reporting agents, as designees of NMFS, and by authorized officers. A person issued a permit under §635.4 is required to provide requested information about fishing activity, and a person, regardless of whether issued a permit under §635.4, who possesses an Atlantic HMS is required to make such fish or parts thereof available for inspection by NMFS or its designees upon request.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999; 66 FR 30653, June 7, 2001; 66 FR 42804, Aug. 15, 2001; 67 FR 45400, July 9, 2002; 67 FR 77437, Dec. 18, 2002; 68 FR 714, Jan. 7, 2003; 68 FR 37773, June 25, 2003; 68 FR 74784, Dec. 24, 2003; 69 FR 67284, Nov. 17, 2004; 69 FR 70399, Dec. 6, 2004; 71 FR 58165, Oct. 2, 2006; 72 FR 56932, Oct. 5, 2007; 73 FR 31389, June 2, 2008; 73 FR 40707, July 15, 2008]

Editorial Note: At 73 FR 47851, Aug. 15, 2008, an amendment published announcing an effective date of Sept. 24, 2008 for information collection and recordkeeping requirements in §635.5(b), amended at 73 FR 35827, June 24, 2008. However, the effectiveness of that amendment was June 24, 2008, and therefore cannot be changed by August 15, 2008 announcement of effectiveness.

dispersion has a solids content of greater than 59 percent (this category is limited to aqueous dispersions of these polymers and does *not* include aqueous dispersions of polychloroprenes that contain comonomers other than 2,3-dichlorobutadiene-1,3); and (3) solid polychloroprenes that are dipolymers of chloroprene and 2,3-dichlorobutadiene-1,3 having a 2,3-dichlorobutadiene-1,3 content of 15 percent or greater (this category is limited to polychloroprenes in solid form and does not include aqueous dispersions).

In addition, the following types of polychloroprene rubber are excluded from the scope: 1) solid polychloroprenes that are dipolymers of chloroprene and methacrylic acid having methacrylic acid comonomer content in the 0.2 percent to 5.0 percent range (this category does not include aqueous chloroprene/methacrylic acid dipolymer dispersion products or solvent solutions of chloroprene/methacrylic acid dipolymers),² and 2) aqueous dispersions of 2-chlorobutadiene-1,3 homopolymers, where the polymer content of the dispersion is between 55 weight percent and 61 weight percent and the dispersed homopolymer contains less than 10 weight percent of a tetrahydrofuran-insoluble fraction.

Final Results of Review: Partial Revocation of Antidumping Duty Finding

The affirmative statement of no interest by the petitioner concerning certain polychloroprene rubber from Japan, as described herein, constitutes changed circumstances sufficient to warrant revocation of the AD finding in part. Therefore, the Department is revoking, in part, the AD finding on polychloroprene rubber from Japan with regard to products which meet the specifications detailed above, in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.216(d) and 351.222(g). We will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of entries of certain polychloroprene rubber, meeting the specifications indicated above, entered, or withdrawn from warehouse, for consumption on or after the date of publication in the **Federal Register** of the final results of this changed circumstances review, in accordance with 19 CFR 351.222. Entries of subject

merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply is a violation of the APO which may be subject to sanctions.

The Department is issuing this changed circumstances review, partial revocation of the AD finding, and this notice in accordance with sections 751(b) and (d), 777(i), and 782(h) of the Act and 19 CFR 351.216(e) and 351.222(g).

Dated: December 11, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E8-30113 Filed 12-17-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Highly Migratory Species Tournament Registration and Reporting

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

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

DATES: Written comments must be submitted on or before February 17, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should

be directed to Randy Blankinship, (727) 824-5399 or Randy.Blankinship@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the authorization of the Magnuson-Stevens Fishery Management and Conservation Act, National Marine Fisheries Service (NMFS) would like to renew its requirement that operators of fishing tournaments involving Highly Migratory Species (HMS), specifically Atlantic tunas, swordfish, billfish, and sharks, provide advance identification of the tournament date(s), location, operator, and target species. Also, after the tournament, provide information on the HMS that are caught, whether they were kept or released, the length and weight of the fish, and other information. Most of the data required for post-tournament reporting are already collected in the course of routine tournament operations. The data collected are needed by NMFS to estimate the total annual catch of these species and to evaluate the impact of tournament fishing in relation to other types of fishing.

II. Method of Collection

Completed paper forms are returned to NMFS, at an address or FAX number designated by NMFS on the forms.

III. Data

OMB Control Number: 0648-0323.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 300.

Estimated Time per Response: 2 minutes for a registration form; and 20 minutes for a tournament summary report.

Estimated Total Annual Burden Hours: 83.

Estimated Total Annual Cost to Public: \$161.20 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information

² See *Polychloroprene Rubber from Japan: Final Results of Changed Circumstances Review and Determination to Revoke Antidumping Duty Finding in Part*, 73 FR 64914 (October 31, 2008).

on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: December 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-30089 Filed 12-17-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XM24

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of applications for scientific research permits; request for comments.

SUMMARY: Notice is hereby given that NMFS has received applications for scientific research from Natural Resource Scientists, Incorporated (NRS), in Red Bluff, CA (14077), and from the U.S. Geological Services (USGS) in Sacramento, CA (14150). These permits would affect the federally endangered Sacramento River winter-run Chinook salmon and the threatened Central Valley spring-run Chinook salmon Evolutionarily Significant Units (ESUs), the federally threatened Central Valley steelhead Distinct Population Segment (DPS), and the federally threatened southern Distinct Population of North American green sturgeon (southern DPS of green sturgeon). This document serves to notify the public of the availability of the permit applications for review and comment.

DATES: Written comments on the permit applications must be received no later than 5 p.m. Pacific Standard Time on January 20, 2009.

ADDRESSES: Comments submitted by e-mail must be sent to the following address FRNpermitsSAC@noaa.gov. The applications and related documents are available for review by appointment, for permits: Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8-300,

Sacramento, CA 95814 (ph: 916-930-3600, fax: 916-930-3629).

FOR FURTHER INFORMATION CONTACT: Shirley Witalis telephone 916-930-3606, or e-mail: Shirley.Witalis@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531 1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to federally-listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) ESU, threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*) ESU, threatened Central Valley steelhead (*O. mykiss*) DPS, threatened Central California Coast steelhead (*O. mykiss*), and threatened southern DPS of North American green sturgeon (*Acipenser medirostris*).

Applications Received

NRS requests a 2-year permit (14077) for take of juvenile Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and southern DPS of green sturgeon to conduct site-specific research at three irrigation diversion sites off the Sacramento River, California. This research is part of an on-going investigation into developing criteria for prioritizing fish screening projects, and will correlate fish

entrainment with the physical, hydraulic, and habitat variables at each diversion site. All fish will be identified as to species/race, enumerated, measured for length, and placed back into the canals; all entrained live fish will be returned to the river. Sampling at each diversion site will be performed daily from April 1 through October 31, 2009, and April 1 through October 31, 2010. NRS requests authorization for an estimated annual non-lethal take of 1,466 juvenile Sacramento River winter-run Chinook salmon, 1,307 Central Valley juvenile spring-run Chinook salmon, and 155 Central Valley juvenile steelhead, for a total of 2,928 salmonids per year. NRS estimates the annual non-lethal take of 184 juvenile southern DPS of green sturgeon. Estimates of take for the two year study are 5,856 salmonids and 368 green sturgeon.

USGS, in co-sponsorship with the California Department of Water Resources, California Bay-Delta Authority, and the U.S. Bureau of Reclamation, requests a 5-year permit (14150) for take of juvenile Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon associated with researching the mechanisms that control out-migration pathways and survival of endangered juvenile salmon in the Sacramento-San Joaquin Delta, California (Delta) from the interaction between seasonal timescale variations in upstream hydrology and strong tidal forcing effects from water management actions. The goals of the study are two-fold: (1) to determine the factors (channel geometry, velocity structure, and behavior) that control entrainment in the Delta Cross Channel and Georgiana Slough; and (2) to determine routes and survival of out-migrating juvenile salmon throughout the north, west and central Delta. The primary source of study fish will be 5500 Central Valley late-fall subyearling Chinook salmon (*O. tshawytscha*) from Coleman National Fish Hatchery (CNFH). To investigate differences of behavioral response between hatchery and wild fish, an admixture of 250 juvenile winter-, spring-, fall- and late fall-run Chinook salmon will be collected from

U.S. Fish and Wildlife Service or California Department of Fish and Game rotary screw trap monitoring efforts in the Sacramento River at river mile (RM) 242 and RM 205 and transported directly to a shoreline research location or the California-Nevada Fish Health Center at the CNFH complex and held prior to being transported to shoreline research locations for surgical insertion of acoustic transmitters; a tissue sample will be collected from wild juvenile