

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

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

03/10/2005

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

TITLE: Implantation and Recovery of Archival Tags

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0338

EXPIRATION DATE: 03/31/2008

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	25	15	0
New	29	17	0
Difference	4	2	0
Program Change		0	0
Adjustment		2	0

TERMS OF CLEARANCE: None

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

# PAPERWORK REDUCTION ACT SUBMISSION

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

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

## 19. Certification for Paperwork Reduction Act Submissions

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

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

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

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

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

Signature of Senior Official or designee

Date

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

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
IMPLANTATION AND RECOVERY OF ARCHIVAL TAGS  
OMB CONTROL NO. 0648-0338**

**A. JUSTIFICATION**

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

The purpose of the collection of this information is to help comply with the Atlantic Tunas Convention Act of 1975 (ATCA, 16 U.S.C. 971), the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1812), and Federal regulations at 50 CFR 635. ATCA authorizes the promulgation of regulations to implement recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and collect information to support these recommendations (Attachment 1). Atlantic highly migratory species (HMS) such as tuna, shark, swordfish, and billfish are also managed under the authority of the Magnuson-Stevens Act, which gives NOAA Fisheries the authority to conduct and promote fisheries research, and requires that the United States cooperate with those international organizations involved in the conservation of highly migratory species (Attachments 2 & 3).

As a member of ICCAT, the United States takes part in the collection of HMS biological statistics for research purposes. The collection of information through the U.S. HMS archival tagging program provides essential stock assessment information for international and domestic fishery management. The tagging program has provided and continues to provide vital information regarding the movement and life history of bluefin tuna and billfish.

Archival tags are miniature data loggers that record the movements, geolocation, and behavior of individually tagged highly migratory species. The tags are returned to the agency by fishermen after a tagged fish is captured in a commercial or recreational fishery. Data from recovered tags is used to ascertain HMS life history information such as migratory patterns and spawning site fidelity. This information is vital for international and U.S. management of HMS fisheries. For example, data from this tagging program was recently presented at an ICCAT inter-sessional meeting reviewing bluefin tuna stock composition. Bluefin management has been based on a two stock hypothesis (Mediterranean and Gulf of Mexico stocks); however, there is some evidence that there may be only a single stock. A change in international management to a one-stock scenario would have tremendous implications for domestic and international bluefin tuna fishermen. Data from the archival tagging program will continue to be an integral part of this debate.

This Paperwork Reduction Act package renewal covers two reporting requirements associated with the archival tag program. Current NOAA Fisheries regulations (50 CFR §635.33, Attachment 4) allow fishermen to retain any HMS with an archival tag implanted or attached without regard to season or size limits, under the condition that the fisherman report the landing

to NOAA Fisheries along with certain information about the catch, and make the fish available to NOAA Fisheries for recovery of the tag.

NOAA Fisheries regulations also require that researchers using archival tags for HMS notify NOAA Fisheries in writing before and after project completion, including information such as the type and number of tags used, the species and approximate size of the tagged fish, and the location and method of capture of the tagged fish.

**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, explain how the collection complies with all applicable Information Quality Guidelines.**

As described above in question 1, there are two sets of reporting requirements. The information provided by HMS fishermen will include the archival tag, location of capture, and captured fish. As described above, this information will be used to analyze facets of the life history of tagged fish.

The information provided by researchers will include notification of project initiation, and a summary of project results. This information is needed to assist the agency in assessing the effectiveness of archival tag research and the impact of regulatory allowances for tag recovery, and to ensure that archival tag research does not lead to undue mortality, in addition to the information generated by the tagging program itself, as discussed above.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response # 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-55.

**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.**

Archival tags have been specifically designed for use on fish, sea turtles, and marine mammals. The archival tag stores environmental and behavioral data. Software provides graphical representation of all the data. Tags currently on the market weigh 25g in air, have up to one megabyte of memory, can retain data for 20 years, and have a lifetime of four to five years.

**4. Describe efforts to identify duplication.**

Reports submitted to NOAA Fisheries from researchers planning an archival tagging program for HMS will provide for coordination of tagging programs in order to ensure that duplication of tagging programs will not take place. Given the expense of this research, relatively few parties will be involved and a high level of coordination with the researchers will be maintained, which will provide an avenue to avoid any duplication of reporting requirements within NOAA. Other reporting within NOAA that could be required of researchers includes grant reports (if a NOAA grant is issued) or interim and final exempted fishing permit reports. If these other reports contain the necessary information and are available in the timeframe required under 50 CFR §635.33, they may be submitted to satisfy the reporting requirements approved under this collection.

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

There will be no significant impact on small businesses or entities.

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

The tagging program could not be conducted without the reporting requirements, since collecting tag returns are an integral part of a tagging program. If the tagging program were not conducted, domestic and international management of HMS would be compromised, and could be rendered ineffective because of the lack of necessary life history information.

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

The collection is consistent with the guidelines.

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

A Federal Register notice (Attachment 5) solicited public comment on this renewal. No comments were received.

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

A \$1,000 reward is offered for the recovery of an archival tag. Given the high cost of each tag and tag deployment, a reward to encourage recovery of the tags is warranted. Rewards in conventional tagging programs are common and have been found to enhance recovery numbers. The high value of an individual giant tuna on the export market (thousands of dollars) also calls for a reward as an incentive for reporting and providing the fish for sampling. Finally, tags may be recovered by fishermen outside the waters of the United States in the eastern Atlantic or the Mediterranean Sea, and a reward increases the likelihood that they will report.

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

Information submitted will be treated as confidential under the provisions of the Magnuson-Stevens Fishery Management and Conservation Act and NOAA Administrative Order 216-100.

**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 sensitive questions are asked.

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

Approximately 19 tags are recovered and reported upon per year. The estimated time for reporting on the fish is 30 minutes, which includes the time for making a toll-free call, making arrangements for the fish to be examined by a fishery biologist or to remove the tag, and processing fish samples as instructed. The burden for tag recovery is therefore:

$$19 \text{ respondents} \times 1 \text{ response} \times 30 \text{ minutes} = 9.5 \text{ hours}$$

The total number of persons implanting archival tags is estimated at 5 researchers, each providing a written notification and a written report.

$$5 \text{ respondents} \times 1 \text{ notification} \times 30 \text{ minutes/notification} = 2.5 \text{ hours}$$

$$5 \text{ respondents} \times 1 \text{ report} \times 1 \text{ hr/report} = 5 \text{ hours}$$

Collection totals are 24 respondents, 29 responses, and 17 hours.

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

There are no costs for those recovering tags, since the phone call is toll-free and a reward is given. Other than paper and postage costs, which are estimated to be \$20-\$50 per year, no incremental costs to researchers are anticipated for implantation reports.

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

The cost of the Archival Tagging Program is approximately \$1 million in research grants over a 3-year period. About 57 tags will be returned over the 3 years, with a reward of \$1,000 a tag, for a cost of \$57,000. The total Federal costs for 3 years is therefore approximately \$1,171,000, or \$390,333 a year.

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

The changes in total annual burden hours are adjustments reflecting a re-estimation of the numbers of respondents and responses.

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

Results will not be published. The data obtained may be used in reports and articles, which may be published.

**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.**

Not applicable.

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

No exceptions are requested.

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

This collection will not employ statistical methods.

TITLE 16--CONSERVATION

CHAPTER 16A--ATLANTIC TUNAS CONVENTION

Sec. 971d. Administration

- (a) Regulations; cooperation with other parties to Convention; utilization of personnel, services, and facilities for enforcement

The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the exclusive economic zone, or wherever found, with respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Director of the Office of Personnel Management.

- (b) Primary enforcement responsibility

Enforcement activities at sea under the provisions of this chapter for fishing vessels subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the

Convention.

(c) Regulations and other measures to carry out Commission recommendations

(1)(A) Upon favorable action by the Secretary of State under section 971c(a) of this title on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.

(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (A) submission of written data, views, or arguments, and (B) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(3) The regulations required to be promulgated under paragraph (1) of this subsection may--

(A) select for regulation one or more of the species covered by the Convention;

- (B) divide the Convention waters into areas;
- (C) establish one or more open or closed seasons as to each such area;
- (D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;
- (E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;
- (F) require records of operations to be kept by any master or other person in charge of any fishing vessel;
- (G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this chapter;
- (H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section;
- (I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;
- (J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and
- (K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to pursuant to a recommendation of the Commission.

(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit--

- (A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation

recommendations of the Commission; and

(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(6) Identification and notification.--

(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall--

(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

(iii) publish a list of those Nations identified under clause (i).

(B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

(7) Consultation.--Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the Government of that Nation for the purpose of obtaining an agreement that will--

(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

(C) result in the establishment, if necessary, by such Nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.

(d) Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish

(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section 3(16) \1\ of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1802(16)]) in the Convention area.

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\1\ See References in Text note below.

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(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.

CHAPTER 38--FISHERY CONSERVATION AND MANAGEMENT

SUBCHAPTER II--UNITED STATES RIGHTS AND AUTHORITY REGARDING  
FISH AND  
FISHERY RESOURCES

Sec. 1812. Highly migratory species

The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and shall promote the achievement of optimum yield of such species throughout their range, both within and beyond the exclusive economic zone.

SUBCHAPTER V--FISHERY MONITORING AND RESEARCH

Sec. 1881a. Information collection

(a) Council requests

If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) 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 (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) 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 subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(b) Confidentiality of information

(1) Any information submitted to the Secretary by any person in compliance with any requirement under this chapter shall be confidential and shall not be disclosed, except--

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

(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(C) when required by court order;

(D) when such information is used to verify catch under an individual fishing quota program;

(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-

specific bycatch information without vessel identification; or

(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 chapter.

(2) 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 chapter, 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 chapter or the use, release, or publication of bycatch information pursuant to paragraph (1)(E).

(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 chapter, 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 chapter or 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.

(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.

### § 635.33

requested; letters of acknowledgment shall be issued by NMFS as indicated under § 600.745(a) of this chapter.

(c) *Exempted fishing permits.* (1) For activities consistent with the purposes of this section and § 600.745(b)(1) of this chapter, other than scientific research conducted from a scientific research vessel, NMFS may issue exempted fishing permits. Application procedures shall be as indicated under § 600.745(b)(2) of this chapter, except that NMFS may consolidate requests for the purposes of obtaining public comment. In such cases, NMFS may file with the Office of the Federal Register for publication notification on an annual or, as necessary, more frequent basis to report on previously authorized exempted fishing activities and to solicit public comment on anticipated exempted fishing requests.

(2) Notwithstanding the provisions of § 600.745 of this chapter and other provisions of this part, a valid shark EFP is required to fish for, take, retain, or possess a shark in or from the Atlantic EEZ for the purposes of public display under the shark public display quota specified in § 635.27(b)(2). A valid shark EFP must be on board the harvesting vessel, must be available when the shark is landed, must be available when the shark is transported to the display facility, and must be presented for inspection upon request of an authorized officer. A shark EFP is valid for the specific time, area, gear, and species specified on it.

(3) To be eligible for a shark EFP, a person must provide all information concerning his or her identification, numbers by species of sharks to be collected, when and where they will be collected, vessel(s) and gear to be used, description of the facility where they will be displayed, and any other information that may be necessary for the issuance or administration of the permit, as requested by NMFS.

(4) Written reports on fishing activities and disposition of catch must be submitted to NMFS at an address designated by NMFS, for each fish collected within 5 days of the collection. An annual written summary report of all fishing activities and disposition of all fish collected under the permit must also be submitted to NMFS at an

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address designated by NMFS. NMFS will provide specific conditions and requirements, consistent with the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks in the EFP.

#### § 635.33 Archival tags.

(a) *Implantation report.* Any person affixing or implanting an archival tag into a regulated species must obtain written authorization from NMFS pursuant to § 635.32. Persons so authorized to conduct archival tag implantation must provide a written report to NMFS at an address designated by NMFS, indicating the type and number of tags, the species and approximate size of the fish as well as any additional information requested in the authorization.

(b) *Landing.* Notwithstanding other provisions of this part, persons may catch, possess, retain, and land an Atlantic HMS in which an archival tag has been implanted or affixed, provided such persons comply with the requirements of paragraph (c) of this section.

(c) *Landing report.* Persons that retain an Atlantic HMS that has an archival tag must contact NMFS, prior to or at the time of landing; furnish all requested information regarding the location and method of capture; and, as instructed, remove the archival tag and return it to NMFS or make the fish available for inspection and recovery of the tag by a NMFS scientist, enforcement agent, or other person designated in writing by NMFS.

(d) *Quota monitoring.* If an Atlantic HMS landed under the authority of paragraph (b) of this section is subject to a quota, the fish will be counted against the applicable quota for the species consistent with the fishing gear and activity which resulted in the catch. In the event such fishing gear or activity is otherwise prohibited under applicable provisions of this part, the fish shall be counted against the reserve quota established for that species.

#### § 635.34 Adjustment of management measures.

(a) NMFS may adjust the catch limits for BFT, as specified in § 635.23, and the quotas for BFT, shark, and swordfish, as specified in § 635.27.

port of offloading, and the date of offloading. The certificate must accompany the billfish to any dealer or processor who subsequently receives or possesses the billfish. A standard form is not currently required to document the necessary information. However, NOAA is considering a proposed rule that would require a standard form, and its submission to NOAA after the final sale of the billfish. This collection is necessary to implement the Atlantic Billfish Fishery Management Plan, whose objective is to reserve Atlantic billfish for the recreational fishery.

## II. Method of Collection

A paper form and recordkeeping are used.

## III. Data

*OMB Number:* 0648-0216.

*Form Number:* None.

*Type of Review:* Regular submission.

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

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

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

*Estimated Total Annual Burden Hours:* 43.3 hours.

*Estimated Total Annual Cost to Public:* \$0.

## IV. Request for Comments

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

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

Dated: March 26, 2004.

### Gwellnar Banks,

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

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

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 032904F]

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

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

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

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

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

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

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

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

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

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

## II. Method of Collection

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

## III. Data

*OMB Number:* 0648-0338.

*Form Number:* None.

*Type of Review:* Regular submission.

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

*Estimated Number of Respondents:* 20.

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

*Estimated Total Annual Burden Hours:* 15.

*Estimated Total Annual Cost to Public:* \$0.

## IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 26, 2004.

**Gwellnar Banks,**

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

[FR Doc. 04-7513 Filed 4-2-04; 8:45 am]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 112803C]

RIN 0648-AR74

**Fisheries of the Exclusive Economic Zone Off Alaska; Rebuilding Overfished Fisheries**

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

**ACTION:** Approval of a fishery management plan amendment.

**SUMMARY:** NMFS announces the approval of Amendment 17 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs (FMP). This amendment is necessary to implement a rebuilding plan for the overfished stock of Pribilof Islands blue king crab. This action is intended to ensure that conservation and management measures continue to be based on the best scientific information available and is intended to achieve, on a continuing basis, optimum yield from the affected crab fisheries.

**DATES:** The amendment was approved on March 18, 2004.

**ADDRESSES:** Copies of Amendment 17 to the FMP and the Environmental Assessment (EA) prepared for the amendment are available from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Harrington, 907-586-7228 or [gretchen.harrington@noaa.gov](mailto:gretchen.harrington@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS declared the Pribilof Islands stock of blue king crab (*Paralithodes platypus*) overfished because the spawning stock biomass was below the minimum stock size threshold defined in the FMP. On September 23, 2002, NMFS notified the Council that the Pribilof Islands blue king crab stock was overfished (67 FR 62212, October 4, 2002). The Council then developed a rebuilding plan within

1 year of notification as required by section 304(e)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In October 2003, the Council adopted Amendment 17, the rebuilding plan, to accomplish the purposes outlined in the national standard guidelines to rebuild the overfished stock.

Amendment 17 specifies a time period for rebuilding the stock intended to satisfy the requirements of the Magnuson-Stevens Act. Under the rebuilding plan, the Pribilof Islands blue king crab stock is estimated to rebuild, with a 50 percent probability, within 10 years. The stock will be considered "rebuilt" when it reaches the maximum sustainable yield stock size level in two consecutive years. This rebuilding time period is as short as possible and takes into account the status and biology of the stock, the needs of fishing communities, and the interaction of the overfished stock within the marine ecosystem, as required by the Magnuson-Stevens Act in section 304(e)(4)(A)(i).

The rebuilding harvest strategy, which closes the directed fishery until the stock is rebuilt, should result in more spawning biomass than allowing a fishery during the rebuilding period. With the directed fishery closed, more large male crab would be conserved and fewer juveniles and females would die due to incidental catch and discard mortality. More spawning biomass would be expected to produce larger year-classes when environmental conditions are favorable.

This conservative rebuilding plan is warranted at this time for this stock given the concerns regarding the rebuilding potential of this stock, the potential vulnerability to overfishing, and the poor precision of survey estimates. The other alternatives under consideration that would allow fishing prior to stock rebuilding would not provide sufficient safeguards for this vulnerable stock. The preferred alternative, while forgoing harvest in the short-term, is the strongest guarantee that stock abundance will increase and support a fishery in the long term. Once rebuilt, fishing communities would once again have opportunities (both fishing and processing) to participate in this fishery. As this rebuilding plan applies the same restrictions to all participants, the plan allocates the fishery restrictions fairly and equitably among sectors of the fishery. Likewise, the plan allocates all recovery benefits fairly and equitably among sectors of the fishery.

No additional habitat or bycatch measures are part of this rebuilding plan because neither habitat nor bycatch measures are expected to have a measurable impact in rebuilding. Habitat is thoroughly protected from fishing impacts by the existing Pribilof Islands Habitat Conservation Zone, which encompasses the majority of blue king crab habitat. Bycatch of blue king crab in both crab and groundfish fisheries is a negligible proportion of the total population abundance.

An EA was prepared for Amendment 17 that describes the management background, the purpose and need for action, the management alternatives, and the environmental and socioeconomic impacts of the alternatives. A copy of the EA can be obtained from the NMFS (see **ADDRESSES**).

A notice of availability for Amendment 17 to the FMP, which describes the proposed amendment and invited comments from the public, was published in the **Federal Register** on December 18, 2003 (68 FR 70484). Comments were invited through February 17, 2004.

**Response to Comments**

NMFS received one public comment on Amendment 17.

*Comment:* The comment expressed a concern that there is too much commercial overfishing and too many violations occurring in the crab fisheries. The comment raised the following five issues regarding crab fisheries management:

1. Let the public comment by email.
2. Immediately establish no fishing sanctuaries.
3. The 10-year rebuilding period is too long and NMFS should cut harvest levels by 50 percent this year and 10 percent each succeeding year.
4. Increase fines and jail violators of fishing regulations.
5. Establish enforcement at the dock to search for violations of fisheries regulations.

*Response:* 1. As of February 2, 2004, NMFS accepts public comments via email.

2. Existing closed areas protect blue king crab and their habitat from the effects of fishing. Trawl fishing is prohibited in the Pribilof Islands Habitat Conservation Zone established to protect crab habitat in the Pribilof Islands area. The State of Alaska established a no-fishing zone to protect blue king crab in state waters around the St. Matthews, Hall, and Pinnacles Islands.

3. The 10-year rebuilding time period is as short as possible and takes into