

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 08/21/2007

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 05/09/2007

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 200703-0648-012  
AGENCY ICR TRACKING NUMBER:  
TITLE: Atlantic Highly Migratory Species Vessel Chartering Permits  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0495

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: 08/31/2010

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	20	8	0
New	20	8	0
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official:

John F. Morrall III  
Acting Deputy Administrator,  
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Atlantic Highly Migratory Species Vessel Chartering Permits	NA	Highly Migratory Species Chartering Permit Application	

# 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  
ATLANTIC HIGHLY MIGRATORY SPECIES VESSEL CHARTERING PERMITS  
OMB CONTROL NO.: 0648-0495**

**A. JUSTIFICATION**

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

The National Marine Fisheries Service (NMFS) issues Atlantic Highly Migratory Species (HMS) Chartering Permits to applicable vessels to allow U.S. fishing vessels to fish for HMS within the Exclusive Economic Zone (EEZ) of other nations in a manner consistent with another country's regulations. The permits collect data consistent with an International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendation ([Recommendation 02-21](#)) that states that at the time of the chartering arrangement, the chartering and flag Contracting parties shall provide specific information concerning the charter to the ICCAT Executive Secretariat, including vessel details, target species, duration, and consent of the flag Contracting Party or Cooperating non-Contracting Party, Entity, or Fishing Entity. Current regulations require U.S. vessels, which are not bareboat charters, to submit information regarding their chartering arrangements, that such vessels have a fishing license issued by the chartering nation, and that the vessels are not on the ICCAT Illegal, Unreported, and Unregulated (IUU) list.

This supporting statement is submitted as part of a Paperwork Reduction Act (PRA) request for the renewal of the collection of information from U.S. vessels regarding their chartering arrangements that target tuna and tuna-like species. NMFS requires that vessel owners apply for and obtain an Atlantic HMS Chartering Permit before fishing under a chartering arrangement with a foreign entity. Under the Atlantic Tunas Conservation Act ([ATCA](#)), NMFS has the authority to promulgate regulations as may be necessary and appropriate to implement ICCAT recommendations. The measure that requires PRA approval is the submission of information to NMFS to apply for a chartering permit that would exempt the vessel from some domestic regulations as needed. All of the chartering permit holders would be reporting catch for these trips as part of reporting requirements already approved under Office of Management and Budget (OMB) Control No.: 0648-0371. Additionally, applicants are required to submit written notification upon termination of the chartering agreement.

**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 information collected from Chartering Permit applications is used to ensure that vessels entering into chartering agreements with other countries comply with ICCAT conservation and management measures. Specifically, NMFS uses information submitted from vessel owners in applications and notifications of the termination of chartering arrangements to monitor the activities and durations of such arrangements targeting HMS in the Atlantic Ocean. NMFS reports this information annually to the Executive Secretariat of ICCAT as a means of demonstrating compliance with ICCAT's conservation and management recommendations and to improve the reporting and monitoring of HMS fishing activities. In addition, chartering

arrangements ensure that chartered vessels have a fishing license issued by the chartering nation and are not be on the ICCAT IUU list as established by the *Recommendation by ICCAT to Establish a List of Vessels Presumed to Have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area* [02-23].

The required written submission includes the following data elements, as shown in the attached permit application form:

1. The name (in both native and Latin alphabets) and registration of the chartered vessel;
2. The name and address of the owner(s) of the vessel;
3. The description of the vessel, including the length, type of vessel and the gear description;
4. Species of fish covered by the charter and quota allocated to the chartering Party;
5. The duration of the chartering arrangement;
6. Copies of fishing licenses, permits, or other authorizations issued by the chartering Contracting Party for the vessel to fish under the arrangement, a copy of the High Seas Fishing Compliance Act Permit pursuant to 50 C.F.R. § 300.10 et seq., as well as documentation regarding the legal establishment of the chartering company; and
7. The measures adopted by the chartering country to implement ICCAT provisions.
8. Additionally, chartering permit holders are required to notify NMFS upon termination of the chartering arrangement. A brief note is all that is required for this; no form is specified.

During the past three years, NMFS has issued only one Chartering Permit. Because of this, the notification frequency is anticipated to be low. Technically, the reporting requirement could impact any vessel targeting HMS, but NMFS expects the primary focus to involve pelagic longline vessels of which there were 110 active in 2005. NMFS estimates that there would likely be fewer than 10 chartering arrangements applied for and reported, via logbooks, per year. If this information was not collected, NMFS would not be able to fulfill its obligations to ICCAT under the recommendation.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information and is needed for NMFS to be in compliance with ICCAT's conservation and management recommendations. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. 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.**

This collection of information involves the use of a submitted form and appropriate information. The application is available online on the HMS Management Division's website (<http://www.nmfs.noaa.gov/sfa/hms/>) in a screen-fillable format. The application can be filled

out electronically, printed out and mailed in to the address shown on the application or faxed to the fax number listed on the application (see attachment). These notification options offer the least amount of burden, as well as minimal incurred cost to users.

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

The HMS Management Division of NMFS is the sole collector of chartering data regarding U.S. vessels and HMS in Federal waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. NMFS, in turn, is then responsible for reporting information regarding HMS and chartering agreements to the ICCAT Executive Secretariat. Therefore, there is no duplication in the collection or reporting of data that occurs as a result of this data collection.

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

All HMS fishermen qualify as small businesses. No measures to minimize burden on small businesses are necessary. A written application and subsequent notification of termination would not have a significant impact on individuals, small businesses, organizations or government bodies. Reporting of this information would not require any significant incremental investment in information processing technology or infrastructure. The reporting process is expected to include an average burden of less than 40 minutes per application and 5 minutes per termination notice.

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

The establishment of a monitoring system for chartering arrangements is necessary in order to implement an ICCAT recommendation. If the collection is not conducted, NMFS will be unable to provide the necessary information to ICCAT to support ongoing conservation and management programs. Furthermore, if the United States is seen as non-compliant with ICCAT recommendations, its position within ICCAT could be weakened and restrictions could be placed on the United States or its vessels.

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

The collection of information would be made in a manner consistent with OMB guidelines.

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

A Federal Register notice requesting comments on this submission was published on December 29, 2006 (71 FR 250). No comments were received.



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

NMFS does not provide gifts or payment to individuals upon submitting reports.

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

The information collected is confidential under Title II, Section 203(b) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (P.L. 109-479). All data submitted are treated in accordance with NMFS Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No information of a sensitive nature is requested.

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

NMFS expects that there will be very few applications for chartering arrangements submitted. During the past three years, NMFS has issued only one Chartering Permit. Because of this, the notification frequency is anticipated to be low. In addition, the number of active pelagic longline fishing vessels since the inception of this Chartering Permit has declined (from 199 active vessels in 2004 to 110 vessels in 2005). Therefore, NMFS does not anticipate a high number of chartering arrangements.

Each of the anticipated 10 vessel owners would need to complete an application that includes the first seven items listed in response #2. Of these items, the first three items should require a minimal amount of time to answer (~ a total of 5 minutes). The next three items are items that should already be negotiated and discussed before the vessel determines it needs a chartering permit. Thus, these items should also require only a minimal amount of time for response (~ a total of 5 minutes). The seventh item on the list may take more time to answer (~ 30 minutes). Thus, NMFS estimates that it will take a vessel owner approximately 40 minutes to fill out an application. Additionally, chartering permit holders will be required to notify NMFS upon termination of the chartering arrangement. NMFS estimates that it will take vessel owners 5 minutes to notify NMFS of termination of the chartering arrangement. The total annual burden for the application and termination notice for each vessel is:

40 minutes/application/vessel + 5 minutes/termination notice/vessel = 45 minutes/vessel

Thus, the total annual burden for both the application and termination notification on an annual basis for the anticipated 10 vessels is:

45 minutes/vessel \* 10 vessels = 7.5 hours/year

Total annual burden estimate for 10 applications and 10 notifications (upon termination of chartering agreements), is less than 8 hours. All catch reports will be submitted with logbooks that are approved under OMB Control No.: 0648-0371.

**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).**

\$0.39\* 2 (one application; one termination notification) \* 10 vessels/year = \$7.80/year. Total annual cost burden estimate is \$7.80 per year.

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

There would be no significant costs to the Federal government. The cost associated with entering and processing the submitted reports is negligible.

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

The chartering arrangement application is an extension of a currently approved collection. There are no program changes or adjustments needed at this time.

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

The information from the submitted applications and logbook reports could be used for emergency and standard rulemaking, environmental impact statements, regulatory impact reviews, and other NMFS documents. The data will be presented in aggregate form, which will not lead to the identification of individuals.

**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.**

N/A.

**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 of information will not employ statistical methods.

**Highly Migratory Species Chartering Permit Application**

Complete and submit this form by mail or email to Margo Schulze-Haugen, Chief, Highly Migratory Species Management Division F/SF1, 1315 East-West Highway, Silver Spring, MD 20910 or by fax to the HMS Management Division, 301-713-1917.

Date (dd/mm/yy): \_\_\_\_\_

**Name and Addresses**

Applicant:

Owner(s) of the vessel:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Name and Registration of Chartered Vessel: \_\_\_\_\_

\*\*\*Please provide a copy of the vessel registration

**Description of the vessel**

Vessel Length: \_\_\_\_\_ Feet

Gear Description (include type, size, and amount of gear):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Species covered by Charter (Incidental and Directed Species - Common Name(s)): \_\_\_\_\_

Quota allocated to Chartering Party: \_\_\_\_\_

Duration of Chartering Arrangement (Please specify a beginning date and termination date): \_\_\_\_\_

\*\*\*Attach copies of fishing licenses, permits, or other authorizations issued by the chartering Contracting Party for the vessel to fish under the arrangement.

\*\*\*Attach a copy of the High Seas Fishing Compliance Act Permit pursuant to 50 C.F.R. § 300.10 et seq.

\*\*\* Attach documentation regarding the legal establishment of the chartering company.

\*\*\*Attach a list of measures adopted by the chartering country to implement ICCAT provisions or copy of regulations of the chartering country.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Certification: I certify that the information provided by me on this form is true to the best of my knowledge, and made in good faith. FALSE STATEMENT ON THIS FORM IS PUNISHABLE BY LAW.

PAPERWORK REDUCTION ACT NOTICE: Collection of information through an exempted fishing permit program provides essential information for the conservation and management of Atlantic tunas, swordfish, and billfish. Information on distribution and migratory patterns will be used for stock assessment and in developing international catch sharing agreements. Public reporting burden for this collection of information is estimated to average 40 minutes per response. 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. Reporting of chartering permit activity is required under the authority of the Atlantic Tunas Convention Act. It is NOAA policy to preserve the confidentiality of information submitted under this reporting requirement, except that NOAA Fisheries may release such information in aggregate or summary form, such that individual identifiers are not disclosed (NAO 216-100). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

**RECOMMENDATION BY ICCAT ON VESSEL CHARTERING**

*RECOGNIZING* that, under the ICCAT Convention, Contracting Parties shall cooperate in maintaining the populations of tuna and tuna-like fish at levels that will permit the maximum sustainable catch;

*RECALLING* that, according to Article 92 of the United Nations Convention on the Law of the Sea, of 10 December 1982, ships shall sail under the flag of one State only and shall be subject to its exclusive jurisdiction on the high seas except as otherwise provided in relevant international instruments,

*ACKNOWLEDGING* the needs and interests of all States to develop their fishing fleets so as to enable them to fully utilize the fishing opportunities available to them under relevant ICCAT recommendations;

*MINDFUL* that the practice of charter arrangements, whereby fishing vessels do not change their flag, might seriously undermine the effectiveness of conservation and management measures established by ICCAT unless properly regulated;

*REALIZING* that there is a need for ICCAT to regulate charter arrangements with due regard to all relevant factors;

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

The chartering of fishing vessels, other than bareboat chartering, shall observe the following provisions:

1. Charter arrangements may be allowed, predominantly as an initial step in the fishery development of the chartering nation. The period of the chartering arrangement shall be consistent with the development schedule of the chartering nation.
2. Chartering nations shall be Contracting Parties to the ICCAT Convention.
3. Fishing vessels to be chartered shall be registered to responsible Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities or by other responsible non-Contracting Parties, Entities or Fishing Entities, which explicitly agree to apply ICCAT conservation and management measures and enforce them on their vessels. All flag Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities concerned shall effectively exercise their duty to control their fishing vessels to ensure compliance with ICCAT conservation and management measures.
4. Both the chartering Contracting Party and the flag Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities shall ensure compliance by chartered vessels with relevant conservation and management measures established by ICCAT, in accordance with their rights, obligations and jurisdiction under international law.
5. Catches taken pursuant to the chartering arrangement of vessels that operate under these provisions shall be counted against the quota or fishing possibilities of the chartering Contracting Party.
6. All catches taken under the chartering arrangement shall be recorded by both the flag Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities and the chartering Contracting Party separately from catches taken by other vessels. The chartering Contracting Party shall report to ICCAT catches and other information required by SCRS.
7. Vessel Monitoring Systems (VMS) and, as appropriate, tools for differentiation of fishing areas, such as fish tags or marks, shall be used, according to the relevant ICCAT measures, for effective fishery management.
8. There shall be observers on board at least 10% of the chartered vessels, or during 10% of the fishing time of the chartered vessels.

9. The chartered vessels shall have a fishing license issued by the chartering nation, and shall not be on the ICCAT IUU list as established by the *Recommendation by ICCAT to Establish a List of Vessels Presumed to Have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area* [02-23].
10. When operating under charter arrangements, the chartered vessels shall not, to the extent possible, be authorized to use the quota or entitlement of the flag Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities. In no case, shall the vessel be authorized to fish under more than one chartering arrangement at the same time.
11. Unless specifically provided in the chartering arrangement, and consistent with relevant domestic law and regulation, the catches of the chartered vessels shall be unloaded exclusively in the Ports of the chartering Contracting Party or under its direct supervision in order to assure that the activities of the chartered vessels do not undermine ICCAT conservation and management measures. The chartering company must be legally established in the chartering Contracting Party.
12. Any transshipment at sea shall be consistent with the 1997 *Recommendation by ICCAT on Transshipments and Vessel Sightings* [97-11]. Any transshipment at sea shall also be previously and duly authorized by the chartering nation and shall occur only under the supervision of an observer on board.
13. a) At the time the chartering arrangement is made, the chartering Contracting Party shall provide the following information to the Executive Secretary:
  - i) the name (in both native and Latin alphabets) and registration of the chartered vessel;
  - ii) the name and address of the owner(s) of the vessel;
  - iii) the description of the vessel, including the length, type of vessel and the type of fishing method(s);
  - iv) species of fish covered by the charter and quota allocated to the chartering Party;
  - v) the duration of the chartering arrangement;
  - vi) the consent of the flag Contracting Party or Cooperating non-Contracting Party, Entity or Fishing Entity; and
  - vii) the measures adopted to implement these provisions.
- b) At the time the chartering arrangement is made, the flag Contracting Party or Cooperating non-Contracting Party, Entity or Fishing Entity shall provide the following information to the Executive Secretary:
  - i) its consent to the chartering arrangement; and
  - ii) the measures adopted to implement these provisions.
  - iii) its agreement to comply with ICCAT conservation and management measures.
- c) Both the chartering Contracting Party and the flag Contracting Party or Cooperating non-Contracting Party, Entity or Fishing Entity shall inform the Executive Secretary of the termination of the charter;
- d) The Executive Secretary of ICCAT shall circulate all the information without delay to all Contracting Parties.
14. The chartering Contracting Party shall report to the Executive Secretary of ICCAT by July 31 each year, and for the previous calendar year, the particulars of charter arrangements made and carried out under this recommendation, including information of catches taken and fishing effort deployed by the chartered vessels, in a manner consistent with confidentiality requirements.
15. Each year the Executive Secretary of ICCAT shall present a summary of all the chartering arrangements to the Commission which, at its annual meeting, shall review compliance with this recommendation.
16. Without prejudice to the annual review provided for in paragraph 15, the Commission, at its annual meeting in 2006, shall review and, as appropriate, revise this recommendation.

WAIS Document RetrievalFrom the U.S. Code Online via GPO Access  
[wais.access.gpo.gov]  
[Laws in effect as of January 20, 2004]  
[Document not affected by Public Laws enacted between  
January 20, 2004 and December 23, 2004]  
[CITE: 16USC971d]

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.

-----  
\1\ See References in Text note below.  
-----

(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.

(Pub. L. 94-70, Sec. 6, Aug. 5, 1975, 89 Stat. 387; 1978 Reorg. Plan No. 2, Sec. 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 101-627, title II, Secs. 206, 207, Nov. 28, 1990, 104 Stat. 4461; Pub. L. 104-43, title III, Secs. 303(3), 305, Nov. 3, 1995, 109 Stat. 384, 385; Pub. L. 105-384, title II, Sec. 202(b)(1)(C), (F), Nov. 13, 1998, 112 Stat. 3452, 3453.)

#### References in Text

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c)(1)(C), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (Sec. 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d)(1), was subsequently amended, and section 3(16) no longer defines the term ``large-scale driftnet fishing''. However, such term is defined elsewhere in that section.

#### Amendments

1998--Subsec. (c)(1)(C). Pub. L. 105-384, Sec. 202(b)(1)(F), substituted ``Magnuson-Stevens Fishery'' for ``Magnuson Fishery''.

Subsecs. (c)(6)(A)(iii), (B). Pub. L. 105-384, Sec. 202(b)(1)(C), substituted ``clause (i)'' for ``subparagraph (A)'' in cl. (iii), and redesignated last sentence of subpar. (A) as subpar. (B) and realigned margin.

Subsec. (d)(1). Pub. L. 105-384, Sec. 202(b)(1)(F), substituted ``Magnuson-Stevens Fishery'' for ``Magnuson Fishery''.

1995--Subsec. (a). Pub. L. 104-43, Sec. 303(3), substituted ``exclusive economic zone'' for ``fisheries zone'' after ``any vessel in the'' in third sentence.

Subsec. (c). Pub. L. 104-43, Sec. 305(1), inserted ``and other measures'' after ``Regulations'' in heading.

Subsec. (c)(3). Pub. L. 104-43, Sec. 305(2), inserted ``or fishing mortality level'' after ``quota of fish'' in concluding provisions.

Subsec. (c)(6), (7). Pub. L. 104-43, Sec. 305(3), added pars. (6) and (7).

1990--Subsec. (c)(1). Pub. L. 101-627, Sec. 206(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (c)(3). Pub. L. 101-627, Sec. 206(b), added subpars. (I) to (K) and concluding provisions and struck out former subpar. (I) which read as follows: ``impose such other requirements and provide for such other measures as the Secretary may deem necessary to implement any recommendation of the Commission.''

Subsec. (d). Pub. L. 101-627, Sec. 207, amended subsec. (d) generally, substituting provisions relating to recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish for provisions relating to Commission recommendations concerning bluefin tuna and issuance of regulations.

#### Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

``Director of the Office of Personnel Management'' substituted for ``Civil Service Commission'' in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, Sec. 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in the Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

#### Use of Aircraft in Atlantic Bluefin Tuna Fishing

Pub. L. 106-553, Sec. 1(a)(2) [title VI, Sec. 634], Dec. 21, 2000, 114 Stat. 2762, 2762A-114, provided that none of the funds of the Department of Commerce would be available to issue or renew, for any fishing vessel, any general or harpoon category fishing permit for Atlantic bluefin tuna that would allow the vessel to use an aircraft to locate, or otherwise assist in fishing for, catching, or possessing

Atlantic bluefin tuna, orto fish for, catch, or possess Atlantic bluefin tuna located by the use of an aircraft.

---

# H.R.5946

## Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Enrolled as Agreed to or Passed by Both House and Senate)

### SEC. 203. ACCESS TO CERTAIN INFORMATION.

(a) IN GENERAL- Section 402(b) (16 U.S.C. 1881a(b)) is amended--

(1) by redesignating paragraph (2) as paragraph (3) and resetting it 2 ems from the left margin;

(2) by striking all preceding paragraph (3), as redesignated, and inserting the following:

`(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.'; and

(3) by striking `(1)(E).' in paragraph (3), as redesignated, and inserting `(2)(A).'

(b) CONFORMING AMENDMENT- Section 404(c)(4) (16 U.S.C. 1881c(c)(4)) is amended by striking `under section 401'.

## **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.**

Title III (16 U.S.C. 1851 et seq.), as amended by section 119 of this Act, is further amended by adding at the end the following:

## **`SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.**

`(a) IN GENERAL- The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and educational institutions.

`(b) ELIGIBLE PROJECTS- The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.

`(c) FUNDING- In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

`(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.

`(2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.

`(3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.

`(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.

`(5) Projects designed to collect and compile economic and social data.

`(d) EXPERIMENTAL PERMITTING PROCESS- Not later than 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits.

`(e) GUIDELINES- The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant's catch history or unexpended days-at-sea as part of a limited entry system.

`(f) EXEMPTED PROJECTS- The procedures of this section shall not apply to research funded by quota set-asides in a fishery.'

## **SEC. 205. HERRING STUDY.**

Title III (16 U.S.C. 1851 et seq.), as amended by section 204, is further amended by adding at the end the following:

## **`SEC. 319. HERRING STUDY.**

`(a) IN GENERAL- The Secretary may conduct a cooperative research program to study the issues of abundance, distribution and the role of herring as forage fish for other commercially important fish stocks in the Northwest Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.

`(b) REPORT- The Secretary shall present the final results of this study to Congress within 3 months following the completion of the study, and an interim report at the end of fiscal year 2008.

`(c) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.'

## **SEC. 206. RESTORATION STUDY.**

Title III (16 U.S.C. 1851 et seq.), as amended by section 205, is further amended by adding at the end the following:

## **`SEC. 320. RESTORATION STUDY.**

`(a) IN GENERAL- The Secretary may conduct a study to update scientific information and protocols needed to improve restoration techniques for a variety of coast habitat types and synthesize the results in a

format easily understandable by restoration practitioners and local communities.

`(b) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$500,000 for fiscal year 2007 to conduct this study.'

## **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION PROJECTS.**

Section 111(b) of the Sustainable Fisheries Act (16 U.S.C. 1855 note) is amended--

- (1) by striking `and the Secretary of the Interior are' in paragraph (1) and inserting `is';
- (2) by striking `not less than three and not more than five' in paragraph (1); and
- (3) by striking paragraph (6) and inserting the following:

`(6) In this subsection the term `Western Pacific community' means a community eligible to participate under section 305(i)(2)(B)(i) through (iv) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(2)(B)(i) through (iv)).'.

## **SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT FUND.**

(a) IN GENERAL- The Secretary shall establish and maintain a fund, to be known as the `Fisheries Conservation and Management Fund', which shall consist of amounts retained and deposited into the Fund under subsection (c).

(b) PURPOSES- Subject to the allocation of funds described in subsection (d), amounts in the Fund shall be available to the Secretary of Commerce, without appropriation or fiscal year limitation, to disburse as described in subsection (e) for--

- (1) efforts to improve fishery harvest data collection including--
  - (A) expanding the use of electronic catch reporting programs and technology; and
  - (B) improvement of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems such as VMS on small vessels;
- (2) cooperative fishery research and analysis, in collaboration with fishery participants, academic institutions, community residents, and other interested parties;
- (3) development of methods or new technologies to improve the quality, health safety, and value of fish landed;
- (4) conducting analysis of fish and seafood for health benefits and risks, including levels of contaminants and, where feasible, the source of such contaminants;
- (5) marketing of sustainable United States fishery products, including consumer education regarding the health or other benefits of wild fishery products harvested by vessels of the United States;
- (6) improving data collection under the Marine Recreational Fishery Statistics Survey in accordance with section 401(g)(3) of the Magnuson-Stevens Fishery Conservation and

Management Act (16 U.S.C. 1881(g)(3)); and

(7) providing financial assistance to fishermen to offset the costs of modifying fishing practices and gear to meet the requirements of this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and other Federal laws in pari materia.

(c) Deposits to the Fund-

(1) QUOTA SET-ASIDES- Any amount generated through quota set-asides established by a Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and designated by the Council for inclusion in the Fishery Conservation and Management Fund, may be deposited in the Fund.

(2) OTHER FUNDS- In addition to amounts received pursuant to paragraph (1) of this subsection, the Fishery Conservation and Management Fund may also receive funds from--

(A) appropriations for the purposes of this section; and

(B) States or other public sources or private or non-profit organizations for purposes of this section.

(d) REGIONAL ALLOCATION- The Secretary shall, every 2 years, apportion monies from the Fund among the eight Council regions according to recommendations of the Councils, based on regional priorities identified through the Council process, except that no region shall receive less than 5 percent of the Fund in each allocation period.

(e) LIMITATION ON THE USE OF THE FUND- No amount made available from the Fund may be used to defray the costs of carrying out requirements of this Act or the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) other than those uses identified in this section.

## **SEC. 209. USE OF FISHERY FINANCE PROGRAM FOR SUSTAINABLE PURPOSES.**

Section 53706(a)(7) of title 46, United States Code, is amended to read as follows: `(7)

Financing or refinancing--

`(A) the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (including the reimbursement of obligors for expenditures previously made for such a purchase);

`(B) activities that assist in the transition to reduced fishing capacity; or

`(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety.'.

## **SEC. 210. REGIONAL ECOSYSTEM RESEARCH.**

Section 406 (16 U.S.C. 1882) is amended by adding at the end the following: `(f)



## REGIONAL ECOSYSTEM RESEARCH-

`(1) STUDY- Within 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall undertake and complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management. The study should build upon the recommendations of the advisory panel and include--

`(A) recommendations for scientific data, information and technology requirements for understanding ecosystem processes, and methods for integrating such information from a variety of federal, state, and regional sources;

`(B) recommendations for processes for incorporating broad stake holder participation;

`(C) recommendations for processes to account for effects of environmental variation on fish stocks and fisheries; and

`(D) a description of existing and developing council efforts to implement ecosystem approaches, including lessons learned by the councils.

`(2) AGENCY TECHNICAL ADVICE AND ASSISTANCE, REGIONAL PILOT PROGRAMS- The Secretary is authorized to provide necessary technical advice and assistance, including grants, to the Councils for the development and design of regional pilot programs that build upon the recommendations of the advisory panel and, when completed, the study.'.

## **SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.**

Title IV (16 U.S.C. 1881 et seq.) is amended by adding at the end the following:

## **`SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.**

`(a) IN GENERAL- The Secretary, in consultation with appropriate regional fishery management councils and in coordination with other federal agencies and educational institutions, shall, subject to the availability of appropriations, establish a program--

`(1) to identify existing research on, and known locations of, deep sea corals and submit such information to the appropriate Councils;

`(2) to locate and map locations of deep sea corals and submit such information to the Councils;

`(3) to monitor activity in locations where deep sea corals are known or likely to occur, based on best scientific information available, including through underwater or remote sensing technologies and submit such information to the appropriate Councils;

`(4) to conduct research, including cooperative research with fishing industry participants, on deep sea corals and related species, and on survey methods;

`(5) to develop technologies or methods designed to assist fishing industry participants in reducing interactions between fishing gear and deep sea corals; and

`(6) to prioritize program activities in areas where deep sea corals are known to occur, and in areas where scientific modeling or other methods predict deep sea corals are likely to be present.

(b) REPORTING- Beginning 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall submit biennial reports to Congress and the public on steps taken by the Secretary to identify, monitor, and protect deep sea coral areas, including summaries of the results of mapping, research, and data collection performed under the program.'

## **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON SHRIMPING.**

(a) IN GENERAL- The Undersecretary of Commerce for Oceans and Atmosphere shall execute an agreement with the National Academy of Sciences to conduct, jointly, a multi-year, comprehensive in-water study designed--

- (1) to measure accurately the efforts and effects of shrimp fishery efforts to utilize turtle excluder devices;
- (2) to analyze the impact of those efforts on sea turtle mortality, including interaction between turtles and shrimp trawlers in the inshore, nearshore, and offshore waters of the Gulf of Mexico and similar geographical locations in the waters of the Southeastern United States; and
- (3) to evaluate innovative technologies to increase shrimp retention in turtle excluder devices while ensuring the protection of endangered and threatened sea turtles.

(b) OBSERVERS- In conducting the study, the Undersecretary shall ensure that observers are placed onboard commercial shrimp fishing vessels where appropriate or necessary.

(c) INTERIM REPORTS- During the course of the study and until a final report is submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, the National Academy of Sciences shall transmit interim reports to the Committees biannually containing a summary of preliminary findings and conclusions from the study.

## **SEC. 213. HURRICANE EFFECTS ON COMMERCIAL AND RECREATION FISHERY HABITATS.**

(a) FISHERIES REPORT- Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on--

- (1) commercial and recreational fisheries in the States of Alabama, Louisiana, Florida, Mississippi, and Texas;
- (2) shrimp fishing vessels in those States; and
- (3) the oyster industry in those States.

(b) HABITAT REPORT- Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on habitat, including the habitat of shrimp and oysters in those States.

(c) HABITAT RESTORATION- The Secretary shall carry out activities to restore fishery habitats, including the shrimp and oyster habitats in Louisiana and Mississippi.

## **SEC. 214. NORTH PACIFIC FISHERIES CONVENTION.**

Section 313 (16 U.S.C. 1862) is amended--

(1) by striking `all fisheries under the Council's jurisdiction except salmon fisheries' in subsection (a) and inserting `any fishery under the Council's jurisdiction except a salmon fishery';

(2) by striking subsection (a)(2) and inserting the following:

`(2) establishes a system, or system, of fees, which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the plan.';

(3) by striking `observers' in subsection (b)(2)(A) and inserting `observers, or electronic monitoring systems,';

(4) by inserting `a fixed amount reflecting actual observer costs as described in subparagraph (A) or' in subsection (b)(2)(E) after `expressed as';

(5) by inserting `some or' in subsection (b)(2)(F) after `against';

(6) by inserting `or an electronic monitoring system' after `observer' in subsection (b)(2)(F);

(7) by striking `and' after the semicolon in subsection (b)(2)(H); and

(8) by redesignating subparagraph (I) of subsection (b)(2) as subparagraph (J) and inserting after subparagraph (H) the following:

`(I) provide that fees collected will be credited against any fee for stationing observers or electronic monitoring systems on board fishing vessels and United States fish processors and the actual cost of inputting collected data to which a fishing vessel or fish processor is subject under section 304(d) of this Act; and'.

## **SEC. 215. NEW ENGLAND GROUND FISH FISHERY.**

(a) REVIEW- The Secretary of Commerce shall conduct a unique, thorough examination of the potential impact on all affected and interested parties of Framework 42 to the Northeast Multispecies Fishery Management Plan.

(b) REPORT- The Secretary shall report the Secretary's findings under subsection (a) within 30 days after the date of enactment of this Act. The Secretary shall include in the report a detailed discussion of each of the following:

(1) The economic and social implications for affected parties within the fishery, including potential losses to infrastructure, expected from the imposition of Framework 42.

(2) The estimated average annual income generated by fishermen in New England, separated by State and vessel size, and the estimated annual income expected after the imposition of Framework 42.

(3) Whether the differential days-at-sea counting imposed by Framework 42 would result in a reduction in the number of small vessels actively participating in the New England Fishery.

- (4) The percentage and approximate number of vessels in the New England fishery, separated by State and vessel type, that are incapable of fishing outside the areas designated in Framework 42 for differential days-at-sea counting.
- (5) The percentage of the annual groundfish catch in the New England fishery that is harvested by small vessels.
- (6) The current monetary value of groundfish permits in the New England fishery and the actual impact that the potential imposition of Framework 42 is having on such value.
- (7) Whether permitting days-at-sea to be leased is altering the market value for groundfish permits or days-at-sea in New England.
- (8) Whether there is a substantially high probability that the biomass targets used as a basis for Amendment 13 remain achievable.
- (9) An identification of the year in which the biomass targets used as a basis for Amendment 13 were last evident or achieved, and the evidence used to determine such date.
- (10) Any separate or non-fishing factors, including environmental factors, that may be leading to a slower rebuilding of groundfish than previously anticipated.
- (11) The potential harm to the non-fishing environment and ecosystem from the reduction in fishing resulting from Framework 42 and the potential redevelopment of the coastal land for other purposes, including potential for increases in non-point source of pollution and other impacts.

## **SEC. 216. REPORT ON COUNCIL MANAGEMENT COORDINATION.**

The Mid-Atlantic Fishery Council, in consultation with the New England Fishery Council, shall submit a report to the Senate Committee on Commerce, Science, and Transportation within 9 months after the date of enactment of this Act--

- (1) describing the role of council liaisons between the Mid-Atlantic and New England Councils, including an explanation of council policies regarding the liaison's role in Council decision-making since 1996;
- (2) describing how management actions are taken regarding the operational aspects of current joint fishery management plans, and how such joint plans may undergo changes through amendment or framework processes;
- (3) evaluating the role of the New England Fishery Council and the Mid-Atlantic Fishery Council liaisons in the development and approval of management plans for fisheries in which the liaisons or members of the non-controlling Council have a demonstrated interest and significant current and historical landings of species managed by either Council;
- (4) evaluating the effectiveness of the various approaches developed by the Councils to improve representation for affected members of the non-controlling Council in Council decision-making, such as use of liaisons, joint management plans, and other policies, taking into account both the procedural and conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act; and

(5) analyzing characteristics of North Carolina and Florida that supported their inclusion as voting members of more than one Council and the extent to which those characteristics support Rhode Island's inclusion on a second Council (the Mid-Atlantic Council).

## **SEC. 217. STUDY OF SHORTAGE IN THE NUMBER OF INDIVIDUALS WITH POST-BACCALAUREATE DEGREES IN SUBJECTS RELATED TO FISHERY SCIENCE.**

(a) IN GENERAL- The Secretary of Commerce and the Secretary of Education shall collaborate to conduct a study of--

(1) whether there is a shortage in the number of individuals with post-baccalaureate degrees in subjects related to fishery science, including fishery oceanography, fishery ecology, and fishery anthropology, who have the ability to conduct high quality scientific research in fishery stock assessment, fishery population dynamics, and related fields, for government, non-profit, and private sector entities;

(2) what Federal programs are available to help facilitate the education of students hoping to pursue these degrees; and

(3) what institutions of higher education, the private sector, and the Congress could do to try to increase the number of individuals with such post-baccalaureate degrees.

(b) REPORT- Not later than 8 months after the date of enactment of this Act, the Secretaries of Commerce and Education shall transmit a report to each committee of Congress with jurisdiction over the programs referred to in subsection (a), detailing the findings and recommendations of the study under this section.

## **SEC. 218. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM.**

Section 802 of Public Law 108-199 (118 Stat. 110) is amended by striking `2 years' and inserting `5 years'.

### **TITLE III--OTHER FISHERIES STATUTES**

## **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT.**

(a) CIVIL PENALTIES- Section 8(a) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amended--

(1) by striking `\$25,000' and inserting `\$200,000';

(2) by striking `violation, the degree of culpability, and history of prior offenses, ability to pay,' in the fifth sentence and inserting `violation, the degree of culpability, any history of prior offenses,'; and

(3) by adding at the end the following: `In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.'.

(b) PERMIT SANCTIONS- Section 8 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f) is amended by adding at the end the following:

`(e) Revocation or Suspension of Permit-

`(1) IN GENERAL- The Secretary may take any action described in paragraph (2) in any case in which--

`(A) a vessel has been used in the commission of any act prohibited under section 7;

`(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 7; or

`(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.

`(2) PERMIT-RELATED ACTIONS- Under the circumstances described in paragraph (1) the Secretary may--

`(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

`(B) suspend such permit for a period of time considered by the Secretary to be appropriate;

`(C) deny such permit; or

`(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to any foreign fishing vessel, on the approved application of the foreign nation involved and on any permit issued under that application.

`(3) FACTORS TO BE CONSIDERED- In imposing a sanction under this subsection, the Secretary shall take into account--

`(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

`(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

`(4) TRANSFERS OF OWNERSHIP- Transfer of ownership of a vessel, a permit, or any interest in a permit, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership.

---

**Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006**

**Public Law 109-479**

**109th Congress (2nd Session)**

The following are excerpts, **highlighted in red**, from the final legislation and/or conference report which contain references to and studies for The National Academies. (Pound signs [##] between passages denote the deletion of unrelated text.)

HR5946 Pombo (R.-Calif.) 12/09/06  
Enrolled (finally passed both houses)

To amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

-----

**SEC. 113. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.**

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

**“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.**

“(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

“(b) PROGRAM COMPONENTS.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—

“(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure while ensuring that those projects will not result in an increase or replacement of fishing capacity;

“(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;

“(C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and

“(D) any other activities authorized under section 312 of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

“(2) JOB TRAINING.—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.

“(3) STATE PARTICIPATION OBLIGATION.—The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.

“(4) NO MATCHING REQUIRED.—The Secretary may waive the matching requirements of section 312 of this Act, section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107), and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—

“(A) no reasonable means are available through which applicants can meet the matching requirement; and

“(B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.

“(5) NET REVENUE LIMIT INAPPLICABLE.—Section 308(d)(3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d)(3)) shall not apply to assistance under this section.

“(c) REGIONAL IMPACT EVALUATION.—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region’s fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.

“(d) CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.—In this section the term ‘catastrophic regional fishery disaster’ means a natural disaster, including a hurricane or tsunami, or a regulatory closure (including regulatory closures resulting from judicial action) to protect human health or the marine environment, that—

“(1) results in economic losses to coastal or fishing communities;

“(2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and

“(3) is determined by the Secretary to be a commercial fishery failure under section 312(a) of this Act or a fishery resource disaster or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).”.

(b) SALMON PLAN AND STUDY.—

(1) RECOVERY PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary of Commerce shall complete a recovery plan for Klamath River Coho salmon and make it available to the public.

(2) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on—

(A) the actions taken under the recovery plan and other law relating to recovery of Klamath River Coho salmon, and how those actions are specifically contributing to its recovery;

(B) the progress made on the restoration of salmon spawning habitat, including water conditions as they relate to salmon health and recovery, with emphasis on the Klamath River and its tributaries below Iron Gate Dam;

(C) the status of other Klamath River anadromous fish populations, particularly Chinook salmon; and

(D) the actions taken by the Secretary to address the calendar year 2003 National Research Council recommendations regarding monitoring and research on Klamath River Basin salmon stocks.

(c) OREGON AND CALIFORNIA SALMON FISHERY.—Federally recognized Indian tribes and small businesses, including fishermen, fish processors, and related businesses serving the fishing industry, adversely affected by Federal closures and fishing restrictions in the Oregon and California 2006 fall Chinook salmon fishery are eligible to receive direct assistance under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) and section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)). The Secretary may use no more than 4 percent of any monetary assistance to pay for administrative costs.

#####

## **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

Section 401 (16 U.S.C. 1881) is amended by striking subsection (g) and inserting the following:

“(g) RECREATIONAL FISHERIES.—



“(1) FEDERAL PROGRAM.—The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee before January 1, 2011, shall provide for—

“(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

“(i) in the Exclusive Economic Zone;

“(ii) for anadromous species; or

“(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

“(B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.

“(2) STATE PROGRAMS.—The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary’s use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.

“(3) DATA COLLECTION.—

“(A) IMPROVEMENT OF THE MARINE RECREATIONAL FISHERY STATISTICS SURVEY.—Within 24 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery.

“(B) NRC REPORT RECOMMENDATIONS.—The program shall take into consideration and, to the extent feasible, implement the recommendations of the National Research Council in its report *Review of Recreational Fisheries Survey Methods (2006)*, including—

“(i) redesigning the Survey to improve the effectiveness and appropriateness of sampling and estimation procedures, its applicability to various kinds of management decisions, and its usefulness for social and economic analyses; and

“(ii) providing for ongoing technical evaluation and modification as needed to meet emerging management needs.

“(C) METHODOLOGY.—Unless the Secretary determines that alternate methods will achieve this goal efficiently and effectively, the program shall, to the extent possible, include—

“(i) an adequate number of intercepts to accurately estimate recreational catch and effort;

“(ii) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;

“(iii) collection and analysis of vessel trip report data from charter fishing vessels;

“(iv) development of a weather corrective factor that can be applied to recreational catch and effort estimates; and

“(v) an independent committee composed of recreational fishermen, fishery academics, persons with expertise in assessment and survey design, and other personnel from the National Marine Fisheries Service to evaluate the collection estimates, geographic, and other variables related to intercepts dockside and to identify deficiencies in recreational data collection, and possible correction measures.

“(D) DEADLINE.—The Secretary shall complete the program under this paragraph and implement the improved

Marine Recreational Fishery Statistics Survey not later than January 1, 2009.

“(4) REPORT.—Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.”.

## **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON SHRIMPING.**

(a) **IN GENERAL.**—The Undersecretary of Commerce for Oceans and Atmosphere shall execute an agreement with the National Academy of Sciences to conduct, jointly, a multi-year, comprehensive in-water study designed—

- (1) to measure accurately the efforts and effects of shrimp fishery efforts to utilize turtle excluder devices;
- (2) to analyze the impact of those efforts on sea turtle mortality, including interaction between turtles and shrimp trawlers in the inshore, nearshore, and offshore waters of the Gulf of Mexico and similar geographical locations in the waters of the Southeastern United States; and
- (3) to evaluate innovative technologies to increase shrimp retention in turtle excluder devices while ensuring the protection of endangered and threatened sea turtles.

(b) **OBSERVERS.**—In conducting the study, the Undersecretary shall ensure that observers are placed onboard commercial shrimp fishing vessels where appropriate or necessary.

(c) **INTERIM REPORTS.**—During the course of the study and until a final report is submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, the National Academy of Sciences shall transmit interim reports to the Committees biannually containing a summary of preliminary findings and conclusions from the study.

#####

## **SEC. 701. STUDY OF THE ACIDIFICATION OF THE OCEANS AND EFFECT ON FISHERIES.**

The Secretary of Commerce shall request the National Research Council to conduct a study of the acidification of the oceans and how this process affects the United States.

## **SEC. 804. TSUNAMI FORECASTING AND WARNING PROGRAM.**

(a) **In General.**—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall operate a program to provide tsunami detection, forecasting, and warnings for the Pacific and Arctic Ocean regions and for the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico region.

(b) **Components.**—The program under this section shall—

- (1) include the tsunami warning centers established under subsection (d);
- (2) utilize and maintain an array of robust tsunami detection technologies;
- (3) maintain detection equipment in operational condition to fulfill the detection, forecasting, and warning requirements of this title;
- (4) provide tsunami forecasting capability based on models and measurements, including tsunami inundation models and maps for use in increasing the preparedness of communities, including through the TsunamiReady program;
- (5) maintain data quality and management systems to support the requirements of the program;

(6) include a cooperative effort among the Administration, the United States Geological Survey, and the National Science Foundation under which the Geological Survey and the National Science Foundation shall provide rapid and reliable seismic information to the Administration from international and domestic seismic networks;

(7) provide a capability for the dissemination of warnings to at-risk States and tsunami communities through rapid and reliable notification to government officials and the public, including utilization of and coordination with existing Federal warning systems, including the National Oceanic and Atmospheric Administration Weather Radio All Hazards Program;

(8) allow, as practicable, for integration of tsunami detection technologies with other environmental observing technologies; and

(9) include any technology the Administrator considers appropriate to fulfill the objectives of the program under this section.

(c) System Areas.—The program under this section shall operate—

(1) a Pacific tsunami warning system capable of forecasting tsunami anywhere in the Pacific and Arctic Ocean regions and providing adequate warnings; and

(2) an Atlantic Ocean, Caribbean Sea, and Gulf of Mexico tsunami warning system capable of forecasting tsunami and providing adequate warnings in areas of the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico that are determined—

(A) to be geologically active, or to have significant potential for geological activity; and

(B) to pose significant risks of tsunami for States along the coastal areas of the Atlantic Ocean, Caribbean Sea, or Gulf of Mexico.

(d) Tsunami Warning Centers.—

(1) IN GENERAL.—The Administrator, through the National Weather Service, shall maintain or establish—

(A) a Pacific Tsunami Warning Center in Hawaii;

(B) a West Coast and Alaska Tsunami Warning Center in Alaska; and

(C) any additional forecast and warning centers determined by the National Weather Service to be necessary.

(2) RESPONSIBILITIES.—The responsibilities of each tsunami warning center shall include—

(A) continuously monitoring data from seismological, deep ocean, and tidal monitoring stations;

(B) evaluating earthquakes that have the potential to generate tsunami;

(C) evaluating deep ocean buoy data and tidal monitoring stations for indications of tsunami resulting from earthquakes and other sources;

(D) disseminating forecasts and tsunami warning bulletins to Federal, State, and local government officials and the public;

(E) coordinating with the tsunami hazard mitigation program described in section 805 to ensure ongoing sharing of information between forecasters and emergency management officials; and

(F) making data gathered under this title and post-warning analyses conducted by the National Weather Service or other relevant Administration offices available to researchers.

(e) Transfer of Technology; Maintenance and Upgrades.—

(1) IN GENERAL.—In carrying out this section, the National Weather Service, in consultation with other relevant Administration offices, shall—

(A) develop requirements for the equipment used to forecast tsunamis, which shall include provisions for multipurpose detection platforms, reliability and performance metrics, and to the maximum extent practicable how the equipment will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System;

(B) develop and execute a plan for the transfer of technology from ongoing research described in section 806 into the program under this section; and

(C) ensure that maintaining operational tsunami detection equipment is the highest priority within the program carried out under this title.

(2) REPORT TO CONGRESS.—

(A) Not later than 1 year after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit to Congress a report on how the tsunami forecast system under this section will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System.

(B) Not later than 3 years after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit a report to Congress on how technology developed under section 806 is being transferred into the program under this section.

(f) Federal Cooperation.—When deploying and maintaining tsunami detection technologies, the Administrator shall seek the assistance and assets of other appropriate Federal agencies.

(g) Annual Equipment Certification.—At the same time Congress receives the budget justification documents in support of the President's annual budget request for each fiscal year, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a certification that—

(1) identifies the tsunami detection equipment deployed pursuant to this title, as of December 31 of the preceding calendar year;

(2) certifies which equipment is operational as of December 31 of the preceding calendar year;

(3) in the case of any piece of such equipment that is not operational as of such date, identifies that equipment and describes the mitigation strategy that is in place—

(A) to repair or replace that piece of equipment within a reasonable period of time; or

(B) to otherwise ensure adequate tsunami detection coverage;

(4) identifies any equipment that is being developed or constructed to carry out this title but which has not yet been deployed, if the Administration has entered into a contract for that equipment prior to December 31 of the preceding calendar year, and provides a schedule for the deployment of that equipment; and

(5) certifies that the Administrator expects the equipment described in paragraph (4) to meet the requirements, cost, and schedule provided in that contract.

(h) Congressional Notifications.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives within 30 days of—

(1) impaired regional forecasting capabilities due to equipment or system failures; and

(2) significant contractor failures or delays in completing work associated with the tsunami forecasting and warning system.

(i) Report.—Not later than January 31, 2010, the Comptroller General of the United States shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that—

(1) evaluates the current status of the tsunami detection, forecasting, and warning system and the tsunami hazard mitigation program established under this title, including progress toward tsunami inundation mapping of all coastal areas vulnerable to tsunami and whether there has been any degradation of services as a result of the expansion of the program;

(2) evaluates the National Weather Service's ability to achieve continued improvements in the delivery of tsunami detection, forecasting, and warning services by assessing policies and plans for the evolution of modernization systems, models, and computational abilities (including the adoption of new technologies); and

(3) lists the contributions of funding or other resources to the program by other Federal agencies, particularly agencies participating in the program.

(j) External Review.—The Administrator shall enter into an arrangement with the National Academy of Sciences to review the tsunami detection, forecast, and warning program established under this title to assess further modernization and coverage needs, as well as long-term operational reliability issues, taking into account measures implemented under this title. The review shall also include an assessment of how well the forecast equipment has been integrated into other United States and global ocean and coastal observation systems and the global earth observing system of systems. Not later than 2 years after the date of enactment of this Act, the Administrator shall transmit a report containing the National Academy of Sciences' recommendations, the Administrator's responses to the recommendations, including those where the Administrator disagrees with the Academy, a timetable to implement the accepted recommendations, and the cost of implementing all the Academy's recommendations, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(k) Report.—Not later than 3 months after the date of enactment of this Act, the Administrator shall establish a process for monitoring and certifying contractor performance in carrying out the requirements of any contract to construct or deploy tsunami detection equipment, including procedures and penalties to be imposed in cases of significant contractor failure or negligence.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Dianne Stephan, Highly Migratory Species Division, Northeast Regional Office, at 978-281-9397, or [Dianne.Stephan@noaa.gov](mailto:Dianne.Stephan@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Marine Fisheries Service (NMFS) is responsible for management of the Nation's marine fisheries. NMFS must also comply with implementing the United States' international obligations as set forth in the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). NMFS must collect domestic landings data for Atlantic highly migratory species via dealer reports in order to provide information vital for fishery management. In addition, the United States must monitor the import, export, and re-export of bluefin tuna, frozen bigeye tuna and swordfish in order to comply with international obligations established through membership in the International Commission for the Conservation of Atlantic Tunas (ICCAT). ICCAT has implemented a trade monitoring program for bluefin tuna, frozen bigeye tuna and swordfish to discourage illegal, unregulated and unreported fishing activities as well as further understanding of catches and international trade for these species. Similar objectives are the basis for the Southern bluefin tuna trade monitoring program established by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT). Although the United States is not a member of the CCSBT, effective management of the Southern bluefin tuna resource is in the best interest of United States fish dealers involved in the commerce of this species. Thus, the United States has implemented the CCSBT trade monitoring program, along with the analogous ICCAT programs.

This collection serves as a family of forms for Atlantic highly migratory species dealer reporting requirements including the purchase of highly migratory species from fishermen and

the import, export, and/or re-export of highly migratory species.

**II. Method of Collection**

Information may be mailed or faxed.

**III. Data**

*OMB Number:* 0648-0040.

*Form Number:* None.

*Type of Review:* Regular submission.

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

*Estimated Number of Respondents:* 2,280.

*Estimated Time Per Response:* 5 minutes each for statistical documents and re-export certificates; 1 minute for tagging, 2 hours for validation; 15 minutes for HMS International Trade biweekly report; 15 minutes for Southeast Region HMS biweekly dealer report and Northeast Region trip tickets; 3 minutes for Southeast Region HMS biweekly dealer negative reporting; 15 minutes for Atlantic BFT biweekly dealer report; and 2 minutes for Atlantic bluefin tuna landing cards.

*Estimated Total Annual Burden Hours:* 46,427.

*Estimated Total Annual Cost to Public:* \$19,862.

**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: December 22, 2006.

**Gwellnar Banks,**

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

[FR Doc. E6-22336 Filed 12-28-06; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Vessel Chartering Permits**

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

**ACTION:** Notice.

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

**DATES:** Written comments must be submitted on or before February 27, 2007.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Karyl Brewster-Geisz, National Marine Fisheries Service at (301) 713-2347 or [Karyl.Brewster-Geisz@noaa.gov](mailto:Karyl.Brewster-Geisz@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The National Marine Fisheries Service (NMFS) issues Atlantic Highly Migratory Species (HMS) Chartering Permits to applicable vessels to allow U.S. fishing vessels to fish for HMS within the Exclusive Economic Zone (EEZ) of other nations in a manner consistent with another country's regulations. The permits collect data consistent with an International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendation that states that at the time of the chartering arrangement, the chartering and flag Contracting parties shall provide specific information concerning the charter to the ICCAT Executive Secretary, including vessel details, target species, duration, and consent of the flag Contracting Party or Cooperating non-Contracting Party, Entity, or Fishing Entity. Current regulations require U.S. vessels to

submit information regarding their chartering arrangements. The information collected from chartering permit applications will be used to ensure that vessels entering into chartering agreements comply with ICCAT conservation and management measures. The NMFS would use information submitted in applications for chartering arrangements, and other applicable notifications (such as termination notifications from the applicant indicating a desire to terminate their chartering agreement), to monitor the activities and durations of such arrangements targeting HMS in the Atlantic Ocean. NMFS would report this information annually to the Executive Secretary of ICCAT as a means of demonstrating compliance with ICCAT's conservation and management recommendations.

## II. Method of Collection

Information is submitted on forms or other written format, and may be submitted electronically by e-mail.

## III. Data

*OMB Number:* 0648-0495.

*Form Number:* None.

*Type of Review:* Regular submission.

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

*Estimated Number of Respondents:* 10.

*Estimated Time Per Response:* 40 minutes for a Chartering permit application; and 5 minutes for a termination notification.

*Estimated Total Annual Burden Hours:* 8.

*Estimated Total Annual Cost to Public:* \$8.

## 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: December 22, 2006.

### Gwellnar Banks,

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

[FR Doc. E6-22338 Filed 12-28-06; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 122106C]

#### Marine Mammals; File No. 555-1870

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that James T. Harvey, Ph.D., Moss Landing Marine Laboratories, 8272 Moss Landing Road, Moss Landing, CA 95039, has applied in due form for a permit to conduct scientific research on harbor seals (*Phoca vitulina*).

**DATES:** Written, telefaxed, or e-mail comments must be received on or before January 29, 2007.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: File No. 555-1870.

#### FOR FURTHER INFORMATION CONTACT:

Amy Sloan or Dr. Tammy Adams, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the

regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to examine the biology and ecology of harbor seals and monitor health and condition of coastal populations of harbor seals in California, Oregon, Washington, and Alaska over a 5-year period. The primary hypotheses are: (1) actual abundance can be determined using aerial surveys and a correction factor, and distinct stocks exist latitudinally; (2) seals are a major (>5%) source of natural mortality for nearshore fishes and cephalopods; (3) pollutants and anthropogenic inputs are compromising seal health; (4) human disturbance causes increased energetic costs and seals can have significant effects on fisheries; (5) dispersal of juvenile harbor seals increases survival; and (6) male harbor seals establish underwater territories and maintain hierarchies using underwater vocalizations and aggression. To test these hypotheses researchers will capture a maximum of 670 harbor seals annually. An additional 2,910 individuals may be taken annually via Level B harassment by incidental disturbance during capture or scat collection and exposure to playback of vocalizations. Animals captured would have some or all of the following procedures done: mass and morphometrics, blubber depth and biopsy, lavage/enema, flipper tagging and instrument application, blood sample, swabs, and skin and hair sampling. The applicant requests up to two incidental mortalities per year.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 427-2521; and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115-0700; phone (206) 526-6150; fax (206) 526-6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907) 586-7221; fax (907) 586-7249; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562) 980-4001; fax (562)980-4018.