

**SUPPORTING STATEMENT
ATLANTIC HIGHLY MIGRATORY SPECIES OBSERVER NOTIFICATION
REQUIREMENTS
OMB CONTROL NO. 0648-0374**

A. JUSTIFICATION

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

This Supporting Statement is submitted as part of a Paperwork Reduction Act (PRA) information collection for the mandatory observer program of permitted vessels in Atlantic Highly Migratory Species (HMS) fisheries. A proportion of permitted vessels in the Atlantic sharks, swordfish, and tunas fisheries would be selected for at-sea observer coverage. Additionally, the National Marine Fisheries Service (NMFS) would select a proportion of vessels annually for observer coverage in the recreational fisheries for HMS.

This collection is an extension of a currently approved collection (OMB Control No. 0648-0374) which includes observer notification requirements for swordfish, shark, tuna, and billfish vessels. Therefore, this collection is a comprehensive and consolidated collection for observer notification requirements for all HMS fisheries.

NMFS has management authority over Atlantic HMS for United States Atlantic, Gulf of Mexico, and Caribbean waters. The Secretary of Commerce (Secretary) is responsible for managing domestic HMS fisheries under the [Magnuson-Stevens Fishery Conservation and Management Act](#) (Magnuson-Stevens Act; 16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 et seq.). ATCA implements recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), of which the United States (U.S.) is a member. [Section 971 d\(c\)\(3\) of ATCA](#) provides the statutory authority to require the collection of information necessary to implement the recommendations of ICCAT.

Under ATCA and as a contracting party of ICCAT, the U.S. is required to take part in the collection of biological, catch, and effort statistics for research and management purposes. In addition to this requirement, the United States must abide by the specific quotas assigned to it by ICCAT. Congress reauthorized the Magnuson-Stevens Act in October 1996 by passing the [Sustainable Fisheries Act](#) (SFA). Section 304(e) of the Magnuson-Stevens Act, as amended by the SFA and as amended and reauthorized in 2007, requires the Secretary to report annually to Congress and the Regional Fishery Management Councils on the status of the fisheries and to identify those fisheries that are overfished or are approaching an overfished condition. Specific reference to mandatory observer program coverage are included under [50 CFR Part 600](#) and [635](#), and selected vessels must meet safety requirements as specified under [§ 600.746](#).

Thus, collection of observer information serves three purposes: (1) it provides stock assessment and research information, (2) it monitors the catch so as not to exceed the allocated quotas domestically or internationally, and (3) it monitors the fishing techniques of the fishery. Of particular interest is the documentation of bycatch statistics, including discard mortality. Besides quotas, other conservation measures include the time/area closures of spawning and nursery areas for several species in the Atlantic and Gulf of Mexico. Management measures to

the shark fishery will establish a shark research fishery of approximately 10 boats, with 100 percent coverage, to gather more information on the stock status of the large coastal shark complex. Additionally, in order to better monitor incidental landings of bluefin tuna in the Gulf of Mexico during bluefin tuna spawning season, pelagic longline vessels fishing in the Gulf are subject to 100 percent observer coverage from March 9–June 9 (41 vessels).

One of the major responsibilities of NMFS is to allocate HMS quotas assigned to the U.S. by ICCAT among numerous and competing user groups, and to generally monitor HMS covered by ICCAT. As management falls under the Magnuson-Stevens Act as well as ATCA, and the National Environmental Protection Act (NEPA), data and analyses on the catch of the U.S. HMS fisheries constitute an integral part of the basis for rulemaking, particularly in preparing the mandatory Regulatory Impact Reviews (RIR), Environmental Assessments/Impact Statements (EA/EIS), and other documentation associated with management.

In addition to collecting information necessary for monitoring HMS quotas, observers will be documenting the use of sea turtle handling and release equipment implemented in a July 2004 rulemaking in compliance with a Biological Opinion issued under Section 7 of the Endangered Species Act (ESA). Observers may document fishing techniques and patterns as part of the background information on the fishery itself. Thus, the observer program will provide essential information for management of HMS fisheries in the United States, particularly in terms of total quota and allocation decisions which follow ICCAT recommendations and legal requirements (consider traditional fishing patterns and the participation of various user groups). For non-ICCAT managed species such as Atlantic sharks, catch and effort information, bycatch, and other fishery statistics must also be collected in order to ensure appropriate monitoring and allocation of quotas in compliance with domestic regulations.

The overall purpose of the collection of information contained in the observer program for HMS fisheries is thus to comply with the requirements of the Magnuson-Stevens Act, [ESA](#) and [NEPA](#), as well as with the U.S.'s international obligations under ATCA.

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 in the observer program will be used by NMFS to monitor U.S. fishing activities in relation to the appropriate quotas, thereby ensuring that the U.S. complies with its domestic obligations under the Magnuson-Stevens Act and international obligations under ICCAT. Other provisions of the domestic regulations can be monitored through this collection of information, such as compliance with time/area closures, fishing seasons, bycatch restrictions, and subquotas by gear type and/or user group. This information will also provide detailed catch and effort data which may be used to assess the status of the HMS stocks. Assessments of tunas, swordfish, billfish, and some sharks are conducted and presented to ICCAT every few years. Assessments of most species of sharks are conducted by NMFS every few years. These data provide the basis for domestic shark quotas and ICCAT management

recommendations which become binding on member nations. In addition, the observer program will provide essential information for domestic management policy and rulemaking.

The observer program operates as follows: All vessels fishing for, or incidentally taking Atlantic HMS, both commercial and recreational, will be eligible for selection. If NMFS determines that vessels targeting a certain species, size class and/or area should be studied via an observer program, a statistically-based sample of the fishing vessels would be selected by NMFS scientists, and selected vessels would need to notify NMFS by telephone or in writing of the time and place of departure for future fishing trips. After this notification, NMFS will decide whether an observer is available to accompany the vessel for that fishing trip. If an observer is dispatched to the vessel, the observer will collect information to characterize the vessel, nature of the fishing trip and type of fishing gear, and fishing location; will record effort and catch data during the course of the trip; and will note offloading information after the trip. As information collected by observers is not subject to approval under the PRA, public burden for this request thus consists only of the initial notification of a planned fishing trip.

The shark research fishery operates as follows: Vessels must apply to participate in the fishery and selections are made by NMFS staff. If approved, these vessels will be subject to 100 percent observer coverage and must notify NMFS via telephone or in writing of the time and place of departure for future fishing trips. An observer must be available for a research fishery participant to fish under the provisions of the shark research fishery. However, research fishery participants may be required to fish at times specified by the observer program coordinator. If an observer is dispatched to the vessel, the observer will collect information to characterize the vessel, nature of the fishing trip and type of fishing gear, and fishing location; will record effort and catch data during the course of the trip; and will note offloading information after the trip. Public burden for this request thus consists only of the initial notification of a planned fishing trip.

As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of the Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. There is no plan to disseminate this information, but if dissemination is warranted, 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 does not lend itself to the use of automated, electronic, mechanical, or other technological techniques. The notification form is mailed as a hard copy to selected participants in the various HMS fisheries. This form must be mailed back to the observer program coordinator or a phone call may be placed to the coordinator notifying them of a pending trip.

4. Describe efforts to identify duplication.

There is no duplication with other collections.

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

Nearly all vessels in the HMS fisheries are categorized as small businesses. The collection will not have a significant impact on small businesses, and no special modifications of the requirements were considered necessary to accommodate the needs of small businesses.

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

If the collection were not conducted or were conducted less frequently, the accuracy of stock assessments, total fishing effort, landings, and estimates of bycatch would be diminished. For example, Biological Opinions issued in 2003 and 2004 for HMS fisheries require estimates of sea turtle interactions that can only be accurately estimated through collection of observer information. Observer coverage and/or notification less than that required for a specified level of statistical precision will render expanded estimates of total effort, catch and bycatch less reliable. Notification prior to every trip for a selected vessel is essential for NMFS to maintain sampling proportions which are representative of the fleet at large.

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

The collection would not be conducted in a manner inconsistent with Office of Management and Budget (OMB) guidelines, except that notification could be more frequent than quarterly because NMFS needs to be informed of all trips in order to coordinate observer placement.

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

A Federal Register Notice published on April 7, 2008 (73 FR 18781) solicited public comments on this collection. There were no comments received on this collection.

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

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

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

It is Agency policy not to release confidential data, other than in aggregate form, as section 402(b) of the Magnuson-Stevens Fisheries Conservation and Management Act protects (in perpetuity) the confidentiality of those submitting data. An assurance of confidentiality is on the notification form. Whenever data are requested, the Agency ensures that information identifying the pecuniary business activity and personal information of a particular vessel operator is not identified.

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

No information of a sensitive nature is requested.

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

Tuna

As of October 2007, there were approximately 3,873 commercial permit holders (purse seine, handline, and harpoon categories) in the Atlantic tuna fishery. Approximately one percent of the total number of permitted vessels in the tuna fishery is selected annually for observer coverage (39 vessels). It is estimated that the average number of trips for all gear types in the commercial tuna fishery would be 50 trips annually. The total number of trips requiring notification in the commercial tuna fishery would be $39 \times 50 = 1,950$ trips. If a vessel is selected for observer coverage, NMFS must be notified before commencing any fishing trip that may result in the harvest of Atlantic HMS. Notification time is estimated at 2 minutes (.033 hours) per response. **Therefore, in the commercial Atlantic tuna fishery, the total number of respondents would be 39, the total number of responses would be 1,950, and the total burden would be $1,950 \times 2 \text{ minutes}/60 \text{ minutes} = 65 \text{ hours}$.**

Swordfish

As of October 2007, the total number of vessels permitted to fish for swordfish in the U.S. exclusive economic zone (EEZ) was estimated at approximately 180. Due to possible protected species interactions in the swordfish fishery, a biological opinion (BiOp) issued in 2004 under section 7 of the Endangered Species Act requires a minimum of 8 percent observer coverage in the pelagic longline fishery. Additionally, there will be 100 percent observer coverage in the Gulf of Mexico for one quarter (March 9-June 9). NMFS anticipates selecting approximately 10 percent of swordfish vessels, when the Gulf of Mexico 100 percent coverage is not active, for a total of 18 vessels annually. The selection of an additional 2 percent of vessels is to compensate for vessels that may not be fishing or may not be eligible for observer placement if safety requirements are not met. It is estimated that the average number of trips for swordfish vessels would be 3 trips annually, or 2.25 (2) trips over the three quarters covered, for a total of 36 trips ($18 \times 2 = 36$).

From March 9 through June 9, during the Gulf of Mexico 100 percent observer coverage, 139 vessels fishing outside the Gulf of Mexico will be selected for 10 percent observer coverage which is estimated at a total of 14 vessels and trips. ($0.10 \times 0.75 \text{ trips per quarter} \times 1$).

Forty-one vessels will be selected for 100 percent observer coverage in the Gulf of Mexico from March 9 to June 9 and it is estimated that each vessel will take 3 trips during the coverage period: $41 \times 3 = 123$ trips.

Notification time is estimated at 2 minutes per response. **Therefore, for all observations in the swordfish fishery, the total number of respondents would be 73 (18 + 14 + 41), the total number of responses would be 173 (36 + 14 + 123), and the total burden would be 173×2 minutes/60 minutes = 5.8 (6) hours.**

Shark

Due to management measures to the shark fishery, a 10 vessel shark research fishery has been established. NMFS will use 100 percent observer coverage for this research fishery, and vessels are expected to take an average of 10 trips annually. The total number of annual trips would be $10 \times 10 = 100$ trips. Notification time is estimated at 2 minutes per response. **Therefore, in the shark research fishery, the total number of respondents would be 10, the total number of responses would be 100, and the total burden would be 100×2 minutes/60 minutes = 3.33 (3) hours.**

The shark gillnet fishery, consisting of 5 vessels, receives 100 percent observer coverage when the season is open from April 15-November 15. One hundred percent observer coverage is used in the gillnet to adequately monitor marine mammal and other protected resource interactions with gillnet gear. During this time it is estimated that gillnet vessels will take 2 trips each. The total number of trips will be 10 trips for the monitoring period ($5 \times 2 = 10$). Notification time is estimated at 2 minutes per response. **Therefore, in the shark gillnet fishery, the total number of respondents would be 5, the total number of responses would be 10, and the total burden would be 10×2 minutes/60 minutes = 0.33 (0.3) hours.**

As of October 2007, the total number of vessels permitted to target sharks in the U.S. EEZ was estimated at 231. Due to the shark research fishery and shark gillnet fishery observation requirement, the pool of vessels for observation outside of these fisheries is 216. NMFS anticipates selecting approximately 15 percent of shark vessels annually for a total of 32 vessels annually (216×0.15). It is estimated that the average number of trips in the commercial shark fisheries would be 3 trips per season. The total number of trips would be $32 \times 3 = 96$ trips. Notification time is estimated at 2 minutes per response. **Therefore, in the commercial Atlantic shark fishery, the total number of respondents would be 32, the total number of responses would be 96, and the total burden would be 96×2 minutes/60 minutes = 3.2 (3) hours.**

Total respondents are 47 (10+5+32), total responses are 107 (10 + 1+ 96) and total hours are 6.3 (3+ 0.3 + 3).

Charter/headboat or Angling

Additionally, NMFS would select approximately 50 HMS charter/headboat or angling category vessels, annually out of 28,115 (0.2%), for observer coverage in the Atlantic HMS recreational fisheries. It is estimated that the average number of trips for all gear types in the recreational

HMS fishery would be 50 trips annually. The total number of trips requiring notification in the recreational HMS fishery would be $50 \times 50 = 2,500$ trips. **Therefore, in the recreational HMS fishery, the total number of respondents would be 50, the total number of responses would be 2,500, and the total burden would be $2,500 \times 2/60$ minutes = 83.3 (83) hours.**

For all HMS fisheries, the annual burden for observer notification is estimated at 160.3 (160) hours for 4,829 responses by 209 respondents. Vessels operating in other HMS fisheries are not observed currently but are subject to observer coverage under the regulations.

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

There will be no start-up costs for respondents as a result of this collection. Notification costs by phone, fax or letter are estimated at \$0.50 per response x 4,829 responses, a total of \$2,415 per year.

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

There is no cost to the Federal Government associated with notification.

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

There is a net decrease in hours and costs. Adjustments downward reflect the current number of vessels, which has declined in recent years. However, the net decrease includes the effect of increases in burden and costs, due to percentage of vessels selected for certain swordfish and shark fisheries, based on new requirements. Response times are unchanged.

Note: the decrease in cost shown in ROCIS is based on the rounded off current cost; the exact current cost is \$4,260, not \$4,000.

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

The results will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The expiration date will be posted on any forms.

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

No exceptions are requested.