

notification. Also, the proposed requirements to notify the NMFS Office for Law Enforcement upon returning from a collection trip and 48 hours prior to shipping HMS to other locations have been eliminated.

(2) The proposed mandatory use of PIT tags in lieu of conventional dart tags for HMS collected for public display has been changed so that collectors will have the option of using either PIT tags or the conventional dart tags that NMFS currently issues. NMFS will supply PIT tags only upon request by EFP applicants, otherwise dart tags will be issued.

(3) The proposed provision that NMFS will specify permit conditions regarding HMS collection activities on a case-by-case-basis has been clarified to state that permit conditions may be specified by NMFS if warranted.

(4) The regulatory text has been reorganized to clarify the regulations and the requirements for SRPs versus EFPs. In addition, NMFS revised § 635.32 to simplify the text to state that the notification and reporting requirements apply to individuals with EFPs or SRPs regardless of where the fishing activity occurs.

Classification

This final rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq.*

For the purposes of NOAA Administrative Order (NAO) 216–6, the Assistant Administrator for Fisheries (AA) has determined that this action would not have a significant effect, individually or cumulatively, on the human environment, that it is consistent with the environmental impact statement for the FMP, and that it involves only minor technical additions, corrections or changes to the regulations. Accordingly, under sections 5.05 and 6.03a3(b) of NAO 216–6, this action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

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 (PRA), unless that collection of information displays a currently valid Office of Management and Budget Control Number.

This final rule contains a new collection-of-information requirement subject to review and approval by OMB under the PRA. The requirement for exempted fishing activity reporting has been cleared by OMB under Control Number 0648–0471. The public reporting burden for this collection of information is estimated to average 5 minutes per notification phone call at the beginning of a collection trip. The estimated time to prepare a catch report required by an EFP issued for display collection is 5 minutes, and to prepare a “no-catch” report the estimated time is 2 minutes. The estimated application preparation and year-end report preparation times for display EFPs are 30 minutes each. Application of a PIT or dart tag to a HMS collected for public display is estimated to take 2 minutes. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of these data collections, including suggestions for reducing the burden, to NMFS (see **FOR FURTHER INFORMATION CONTACT**), and by e-mail to David_Rostker@omb.eop.gov, or fax to 202–395–7285.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel of Advocacy of the Small Business Administration that the proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. No comments were received on the economic impact of this rule. Accordingly, neither an initial regulatory flexibility analysis nor a final regulatory flexibility analysis was prepared for this final rule.

The AA has determined that this action will have no impacts on the enforceable policies of those Atlantic, Gulf of Mexico, and Caribbean coastal states/territories that have approved coastal zone management plans under the Coastal Zone Management Act. NMFS submitted requests for consistency determinations to affected states/territories with the proposed rule. Nine states/territories replied that the proposed action was consistent with their respective coastal zone management programs. Six states/territories did not respond within the allowed time frame; therefore, their concurrence is presumed.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing Vessels, Foreign Relations, Imports, Penalties,

Reporting and recordkeeping requirements, Treaties.

Dated: November 3, 2003.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.7, paragraph (a) is revised to read as follows:

§ 635.7 At-sea observer coverage.

(a) *Applicability.* NMFS may select for at-sea observer coverage any vessel that has an Atlantic HMS, tunas, shark or swordfish permit issued under § 635.4 or § 635.32. Vessels permitted in the HMS Charter/Headboat and Angling categories will be requested to take observers on a voluntary basis. When selected, vessels issued any other permit under § 635.4 or § 635.32 are required to take observers on a mandatory basis.

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■ 3. In § 635.28, paragraph (c)(1)(i)(A) is revised to read as follows:

§ 635.28 Closures.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) No more than 15 swordfish per trip may be possessed in or from the Atlantic Ocean north of 5 N. lat. or landed in an Atlantic coastal state on a vessel using or having on board a pelagic longline. However, North Atlantic swordfish legally taken prior to the effective date of the closure may be possessed in the Atlantic Ocean north of 5 N. lat. or landed in an Atlantic coastal state on a vessel with a pelagic longline on board, provided the harvesting vessel does no fishing after the closure in the Atlantic Ocean north of 5 N. lat., and reports positions with a vessel monitoring system, as specified in § 635.69. Additionally, legally taken swordfish from the South Atlantic swordfish stock may be possessed or landed north of 5 N. lat. provided the harvesting vessel does no fishing on that trip north of 5 N. lat., and reports positions with a vessel monitoring system as specified in § 635.69. NMFS may adjust the incidental catch retention limit by filing with the Office of the **Federal Register** for publication notification of the change at least 14