

[Add items ac through aj to read as follows:]

ac. Mailer refusing to accept delivery of the parcel on return.

ad. Mail not bearing the complete names and addresses of the sender and addressee, or not deliverable to either the addressee or sender.

ae. Event tickets (e.g., nonrefundable tickets for concert, theater, sport, or similar events) received after the event and, for insurance purposes, insured for loss, not for delay or receipt after the event for which they were purchased.

af. Software installed onto computers that have been lost or damaged.

ag. Personal check remitted to the mailer for a COD article and not honored or otherwise payable by the financial institution upon which it is drawn. If the personal check is lost in transit, it is the mailer's responsibility to obtain a replacement check from the addressee. Indemnity to the mailer is limited to stop payment charges incurred by the addressee for the issuance of a replacement check, if the mailer establishes that the addressee incurred the charge and was reimbursed by the mailer for this amount.

ah. Damaged articles not claimed within the prescribed time limits set forth in *Postal Operations Manual* 147.3.

ai. Personal time used to make handmade, hobby, craft, or similar items.

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3.0 PAYMENT

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3.3 Dual Claim

[Revise 3.3 to read as follows:]

If the sender and the addressee both claim insurance and cannot agree on which one should receive the payment, any payment due is made to the sender unless the claim has already been paid to the addressee upon presentation of the mailing receipt.

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4.0 ADJUDICATION

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4.2 Appeal

[Revise 4.2 to read as follows:]

A customer may appeal a claim decision by filing a written appeal within 60 days of the date of the original decision. Except for an unnumbered, insured article, the customer must send the appeal directly to Claims Appeals (see G043 for address). For an unnumbered, insured article, the customer must send the appeal to the post office where the claim was filed.

That post office forwards the appeal to the manager of Claims Appeal at the St. Louis ASC.

4.3 Final USPS Decision

[Revise 4.3 to read as follows:]

If the manager of Claims Appeals at the St. Louis ASC sustains the denial of a claim, then the customer may submit an additional appeal within 60 days for final review and decision to the Consumer Advocate, Postal Service Headquarters, who may waive standards in S010 in favor of the customer.

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S900 Special Postal Services

S910 Security and Accountability

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S913 Insured Mail

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2.0 MAILING

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[Revise 2.7 to read as follows:]

2.7 Receipt

For each insured article mailed, the mailer receives the appropriate postmarked receipt:

a. Form 3813 when the insurance coverage is \$50 or less.

b. Form 3813-P when the insurance coverage is more than \$50.

c. Form 3877 when multiple accountable mail articles are mailed at one time.

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S920 Convenience

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S921 Collect on Delivery (COD) Mail

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3.0 MAILING

\* \* \* \* \*

3.4 Indelible Ink, Mailer Errors

[Revise 3.4 to read as follows:]

The particulars required on the form must be filled in by hand with ink, typewritten, or computer printed. The Postal Service is not responsible for errors that a mailer makes in stating charges to be collected. The mailer can not stipulate "CASH ONLY". The recipient has the option to pay the charges by cash or personal check.

\* \* \* \* \*

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,  
Chief Counsel, Legislative.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 021113274-2274-01; I.D. 031501A]

RIN 0648-AO79

Atlantic Highly Migratory Species; Exempted Fishing Activities

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule in accordance with framework procedures for adjusting the management measures of the Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (HMS FMP), and Amendment 1 to the Atlantic Billfish Fishery Management Plan (Billfish FMP). This proposed rule would modify existing regulations for Atlantic highly migratory species (HMS) exempted fishing activities. The intent of the changes is to improve monitoring of exempted fishing activities for Atlantic HMS. NMFS will hold a public hearing to receive comments from fishing participants and other members of the public regarding the proposed exempted fishing specifications.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on January 6, 2003.

The public hearing date is December 16, 2002, 7 p.m.—9 p.m.

ADDRESSES: Written comments on the proposed rule should be submitted to Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301-713-1917. Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to the Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer). Comments will not be accepted if submitted via e-mail or the internet.

The public hearing location is: Sea World Adventure Park, Ports of Call

Building, 7007 Sea World Drive, Orlando, Florida, 32821.

**FOR FURTHER INFORMATION CONTACT:** Sari Kiraly at 301-713-2347, fax 301-713-1917, e-mail [Sari.Kiraly@noaa.gov](mailto:Sari.Kiraly@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Under 50 CFR 635.32, and consistent with 50 CFR 600.745, NMFS may authorize for limited testing, public display, and scientific data collection purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. Exempted fishing may not be conducted unless authorized by an Exempted Fishing Permit (EFP) or a Scientific Research Permit (SRP) issued by NMFS in accordance with criteria and procedures specified in those sections. As necessary, an EFP or SRP would exempt the named party(ies) from otherwise applicable regulations under 50 CFR part 635. Such exemptions could address fishery closures, possession of prohibited species, commercial permitting requirements, and retention and minimum size limits.

This proposed action was developed in response to ongoing concerns related to past EFPs for the purpose of capturing regulated HMS, particularly sharks collected for public display, and is intended to strengthen the existing regulations that govern such EFP related activities. The proposed rule is in accordance with framework procedures for adjusting management measures provided in the Final HMS FMP, and Amendment 1 to the Billfish FMP.

### Exempted Fishing Operations

With respect to exempted fishing activities, NMFS proposes the following new requirements:

(1) Collectors of HMS for display purposes would be required to notify the local NMFS Office for Law Enforcement 72 hours prior to departing on a collection trip in federal or state waters as to collection plans and location, and number of animals to be collected. Also, at the end of each collection trip, upon return to port the collector would be required to call the local NMFS Office for Law Enforcement to report the conclusion of the trip and whether any regulated HMS were collected. In addition, in cases of HMS being shipped to other locations, the collector would be required to notify the local NMFS Office for Law Enforcement 48 hours prior to shipment.

(2) In lieu of the conventional dart tags currently supplied to collectors by NMFS, all live HMS collected for the purpose of public display would be required to have microchip Passive

Integrated Transponder (PIT) tags, which will be supplied by NMFS, implanted by the collector. The use of PIT tags is intended to eliminate problems that frequently occur following implantation of the conventional dart tags. Collectors would not be required to obtain PIT tag readers, but are advised to do so in order to verify that the PIT tag is properly implanted and can be read, and also to have available should law enforcement authorities other than NMFS Enforcement board the fishing vessel. If a NMFS law enforcement officer is unable to detect with the NMFS reader a PIT tag in a HMS collected for display, the collection will be deemed unauthorized.

(3) To minimize mortality associated with the live capture of HMS, permit conditions regarding fishing activities, such as gear deployment, monitoring, or soak time, would be specified on a case-by-case basis. If such measures are not effective in limiting mortalities, other restrictions, such as allowing the use of only certain types of gear for the live capture of HMS for display, could be instituted to minimize the possibility of dead discards.

(4) NMFS would reserve the right to place on-board an authorized collection vessel a fisheries observer to monitor activities governed by an EFP.

(5) The proposed rule also modifies EFP requirements for swordfish offloading. For the directed swordfish fishery, if vessel monitoring systems (VMS) are installed on vessels, separate EFPs to allow delayed offloading would no longer be required.

### Reporting Requirements

NMFS proposes to enhance data collection and reporting by requiring the following:

(1) To reinforce the importance of the year-end report to NMFS concerning the activities conducted under the EFP, in addition to the information currently required for submission, all applications for permit renewals would also be required to include the year-end report from the previous year in order to be considered complete. Renewal applications would not be deemed complete until the year-end report containing all the specified information, is submitted.

(2) In addition to reporting the retention of live HMS, all dead HMS caught and discarded under the permit would have to be reported - these dead discards will be counted against appropriate annual quotas. Additionally, any HMS collected under state-issued permits by persons issued federal EFPs would have to be reported

to NMFS within 5 days of collection. Reporting of HMS collected under state permits will provide important information as to the actual numbers of animals that are being removed from the stocks. If no HMS are collected in either federal or state waters in any given month, a "no-catch" report would have to be submitted to NMFS within 5 days of the last day of that month.

(3) Several prohibitions are proposed to be added or modified to address a) submission of false information on permit applications or activity reports, and b) violations of any of the terms and conditions of the EFP. These prohibitions are needed to facilitate enforcement of EFP application and reporting requirements. Essentially, they extend the permitting, record-keeping, and reporting requirements otherwise applicable to vessels and dealers to those persons issued EFPs.

### Request for Comments

In addition to the changes proposed in this proposed rule, comments are requested on the below-listed potential regulatory requirements. These measures are not being proposed at this time. If, after receiving comments, NMFS decides to issue regulations to implement any of these provisions, NMFS will publish a proposed rule.

(1) To qualify for an EFP for the live collection of HMS for public display purposes, the applicant would be required to demonstrate that holding facilities adequate for animal husbandry are maintained. NMFS will consider accreditation in the American Zoo and Aquarium Association (AZA), or equivalent standards, as meeting these requirements.

(2) Based on available information on disease or mortalities while in captivity, NMFS could limit the issuance of EFPs for the collection of HMS species that are not likely to survive well in captivity, until such time that the best available new information indicates otherwise. This measure could potentially reduce mortality of HMS held in captivity.

(3) EFPs for the purpose of collecting live animals for public display could be issued only to aquariums and other display facilities that meet the AZA standards for such facilities - third party collectors would no longer be issued EFPs, but would be allowed to collect HMS as a third party contractor to the authorized institution.

(4) Public display facilities, including aquariums that are not otherwise authorized by a collection permit, would be required to obtain from NMFS a display permit in order to maintain HMS in captivity. To qualify for this

permit, applicants would need to demonstrate the adequacy of the facility for animal husbandry. NMFS would consider accreditation in the AZA, or equivalent standards, as meeting these requirements.

#### Classification

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

For the purposes of NOAA Administrative Order (NAO) 216-6, the AA has preliminarily determined that this action would not have a significant effect, individually or cumulatively, on the human environment, that it has been sufficiently analyzed in a prior 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 proposed 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 OMB Control Number.

This proposed 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 submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 5 minutes per notification phone call at the beginning and completion of a collection trip and upon shipment of any animals. 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 tag to a HMS captured for display is estimated to take 2 minutes.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency; whether the information shall have practical utility; the accuracy of

the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and OMB (*see ADDRESSES*).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel of Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows. Most of the entities that would be affected by this proposed rule would be considered small entities. The cost to EFP applicants is minimal, estimated at \$3.75 per applicant for the letter, information card, and telephone calls needed to apply, report, and notify. The cost of PIT tags will be incurred by NMFS, which will supply the tags to each permittee. If NMFS decided to select a vessel governed by an EFP for observer coverage, pursuant to 50 CFR 645.7, there would be no significant economic impact. NMFS would provide the observer, and the vessel operator would only be required to provide accommodations and food for the observer equivalent to those provided to the crew. Thus, there would be no significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis was not prepared for this proposed rule.

The proposed action would not significantly change the operations of any HMS fishery and is not expected to increase threats to endangered or threatened species listed under the Endangered Species Act. A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of sea turtle species under NMFS jurisdiction. NMFS has implemented the reasonable and prudent alternative specified in the BiOp in a final rule July 9, 2002 (67 FR 45393). The measures proposed would not have any additional impact on sea turtles as these actions would not likely increase or decrease pelagic longline effort, nor are they expected to shift effort into other fishing areas. No irreversible and irretrievable commitment are expected from this proposed action that would have the effect of foreclosing the implementation of the requirements of the BiOp.

It is not anticipated that this proposed action would have any impacts on

essential fish habitat and, therefore, no consultation is required.

The AA has determined that this action would have no impacts on the enforceable policies of those Atlantic, Gulf of Mexico, and Caribbean coastal states that have approved coastal zone management plans under the Coastal Zone Management Act. Accordingly, NMFS has submitted consistency determinations to those states with a request for concurrence.

#### List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing Vessels, Foreign Relations, Intergovernmental Relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: December 2, 2002.

#### Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be 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 § 635.28, 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 longline. However, 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 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. 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 days before the effective date. Changes in the incidental catch limits will be based upon the length of the directed fishery closure and the estimated rate of

catch by vessels fishing under the incidental catch quota.

\* \* \* \* \*

3. In § 635.32, paragraphs (c)(1) and (c)(4) are revised, and paragraphs (c)(3)(i) through (c)(3)(iv) are added to read as follows:

**§ 635.32 Specifically authorized activities.**

\* \* \* \* \*

(c) *Exempted fishing permits.* (1) For activities consistent with the purposes of this section and § 600.745(b)(1) of this chapter, other than scientific research conducted from a scientific research vessel, NMFS may issue exempted fishing permits. Application procedures shall be as indicated under § 600.745(b)(2) of this chapter, except that NMFS may consolidate requests for the purposes of obtaining public comment. In such cases, NMFS may file with the Office of the **Federal Register** for publication notification on an annual or, as necessary, more frequent basis to report on previously authorized exempted fishing activities and to solicit public comment on anticipated exempted fishing requests. Applications for permit renewals are required to include the year-end report from the previous year in order to be considered complete. Renewal applications will be deemed incomplete unless a complete package, including the year-end report containing all the specified information is submitted.

\* \* \* \* \*

(3) \* \* \*

(i) Collectors of HMS for display purposes must notify the local NMFS Office for Law Enforcement 72 hours, excluding weekends and holidays, prior to departing on a collection trip in federal or state waters as to collection

plans and location, and the number of animals to be collected. Also, at the end of each collection trip, upon return to port the collector must call the local NMFS Office for Law Enforcement to report the conclusion of the trip and whether any regulated HMS were collected. In addition, in the case of HMS being shipped to other locations, the collector must notify the local NMFS Office for Law Enforcement 48 hours prior to shipment.

(ii) All live HMS collected for the purpose of public display are required to have microchip Passive Integrated Transponder (PIT) tags, which will be supplied by NMFS, implanted by the collector. Collectors are not required to obtain PIT tag readers, but are advised to do so in order to verify that the PIT tag is properly implanted and can be read. If a NMFS law enforcement officer is unable to detect a PIT tag in a HMS collected for display with the NMFS reader, the collection will be deemed unauthorized.

(iii) Permit conditions regarding fishing activities, such as gear deployment, monitoring, or soak time, will be specified on a case-by-case basis. If such measures are not effective in limiting mortalities, other restrictions, such as allowing the use of only certain types of gear for the live capture of HMS for display, may be instituted to minimize the possibility of dead discards.

(iv) NMFS reserves the right to place on-board an authorized collection vessel a fisheries observer to monitor activities governed by an EFP.

(4) Written reports on fishing activities and disposition of catch for each fish collected under the permit must be submitted to NMFS, at an address designated by NMFS, within 5

days of the collection. An annual written summary report of all fishing activities and disposition of all fish collected under the permit must also be submitted to NMFS at an address designated by NMFS. NMFS will provide specific conditions and requirements consistent with the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks in the EFP. In addition, all dead HMS caught and discarded under the permit must be reported. Also, any HMS collected under state-issued permits by persons issued federal EFPs must be reported to NMFS within 5 days of collection. If no HMS are collected in either federal or state waters in any given month, a "no-catch" report must be submitted to NMFS within 5 days of the last day of that month.

4. In § 635.71, paragraphs (a)(6) and (a)(26) are revised to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(6) Falsify or fail to record, report, or maintain information required to be recorded, reported, or maintained, as specified in § 635.5 or in the terms and conditions of a permit issued under § 635.4 or an exempted fishing permit or scientific research permit issued under the authority of § 635.32.

\* \* \* \* \*

(26) Violate the terms and conditions or any provision of a permit issued under § 635.4, or an exempted fishing permit or scientific research permit issued under the authority of § 635.32.

\* \* \* \* \*

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