

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 110104B]

**Magnuson-Stevens Act Provisions; Atlantic Highly Migratory Species; Exempted Fishing, Scientific Research, Display, and Chartering Permits**

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

**ACTION:** Issuance of 2005 Exempted Fishing, Scientific Research, Display, and Chartering Permits; request for comments.

**SUMMARY:** NMFS announces the intent to issue Exempted Fishing Permits (EFPs), Scientific Research Permits (SRPs), Display, and Chartering Permits for the collection of Atlantic highly migratory species (HMS). The Permits would authorize collections of a limited number of tunas, swordfish, billfishes, and sharks from Federal waters in the Atlantic Ocean and Gulf of Mexico for the purposes of scientific data collection and public display. Generally, these permits will be valid through December 31, 2005. NMFS also announces the intent to consider issuing permits upon receiving applications from U.S. fishermen whose vessels fish for Atlantic HMS while operating under chartering arrangements within the Exclusive Economic Zone (EEZ) of other nations to collect data consistent with the International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations and to ensure consistency with another country's regulations without violating U.S. regulations.

**DATES:** Written comments on these collection, research and fishing activities will be considered by NMFS in issuing such EFPs/SRPs/Display/Chartering Permits if received on or before December 13, 2004.

**ADDRESSES:** You may submit comments by any of the following methods:

- Email: [ID110104B@noaa.gov](mailto:ID110104B@noaa.gov). Include in the subject line the following identifier: I.D.110104B.

- Mail: Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

- Fax: (301)713-1917.

**FOR FURTHER INFORMATION CONTACT:** Heather Stirratt or Sari Kiraly, by phone: 301-713-2347 or fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** EFPs, SRPs, Display, and Chartering Permits

are requested and issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, chartering arrangements, and exempted educational activity with respect to Atlantic HMS.

Issuance of EFPs, SRPs, Display, and Chartering Permits may be necessary for the collection of scientific data and for public display because the possession of certain shark species is prohibited, possession of billfishes on board commercial fishing vessels is prohibited, and because the commercial fisheries for bluefin tuna, swordfish, and large coastal sharks may be closed for extended periods, during which time the collection of live animals and/or biological samples would otherwise be prohibited. In addition, NMFS regulations at 50 CFR 635.32 regarding the implantation or attachment of archival tags in Atlantic HMS require prior authorization and a report on implantation activities.

NMFS seeks public comment on its intention to issue EFPs for the purpose of collecting biological samples under at-sea fisheries observer programs. NMFS intends to issue EFPs to any NMFS employee or NMFS-approved contractor/observer to bring onboard and possess (for scientific research purposes, biological sampling, measurement, etc.) any Atlantic swordfish, Atlantic shark, or Atlantic billfish, provided the fish is a recaptured tagged fish, dead prior to being brought onboard, or specifically authorized for sampling by the Director of NMFS' Office of Sustainable Fisheries at the request of the Southeast Fisheries Science Center or the Northeast Fisheries Science Center. On average, several hundred swordfish and sharks are collected by at-sea observers under such EFPs in any given year.

Collection of bluefin tuna may be authorized for scientific research, age and growth, genetic, and spawning studies. In 2003, a total of eleven permits, which authorized collection of 485 bluefin tuna for the purposes of archival tagging and research were issued.

NMFS is also seeking public comment on its intention to issue Display Permits for the collection of restricted species of sharks for the purpose of public display. In the Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (HMS FMP), NMFS established a public display and research quota of 60 metric tons wet weight for this purpose.

NMFS has preliminarily determined that, based on average weight of sharks landed, approximately 3,000 sharks could be taken with this current quota. The actual number of sharks that would be taken depends on the species and size of the sharks. NMFS believes that harvesting this amount for public display will have a minimal impact on the stock. In 2004, nine Display Permits, which authorized the collection of 373 large coastal, 133 small coastal, 96 prohibited sharks for display purposes were issued. The total number reported as actually taken will not be known until early 2005. However, of the 433 large coastal, 144 small coastal, and 102 prohibited sharks authorized for collection in nine Display Permits issued during 2003, only one small coastal shark was reported taken from Federal waters.

Generally, the authorized collections or exemptions would involve activities otherwise prohibited by regulations implementing the HMS FMP and Amendment 1 to the Atlantic Billfish Fishery Management Plan. The EFPs, if issued, may authorize recipients to fish for and possess tunas, billfishes, swordfish, and sharks outside the applicable Federal commercial seasons, size limits and/or retention limits, or to fish for and possess prohibited species.

NMFS has undertaken a restructuring of the exempted fishing application and reporting procedures for Atlantic HMS. To that effect, on November 10, 2003, NMFS published a final rule (68 FR 63738), effective on December 10, 2003, that modified the existing regulations with the intent of improving monitoring of these fishing activities, particularly those conducted to collect sharks for public display and those undertaken for scientific research.

Specifically, the final rule contains the following provisions: (1) EFP holders must notify the local NMFS Office for Law Enforcement at least 24 hours prior to departure for all fishing trips conducted to collect HMS for the purpose of public display; (2) all live HMS retained for the purpose of public display must be tagged while still on board the fishing vessel with either a conventional dart tag or a microchip Passive Integrated Transponder (PIT) tag, both of which will be supplied by NMFS; (3) if warranted, NMFS may specify conditions for conducting fishing activities to collect HMS for public display in order to minimize mortalities of either targeted or bycatch species; (4) NMFS reserves the right to place an at-sea observer on board an authorized HMS collection vessel; (5) EFP and SRP holders must report all HMS collection activities regardless of

whether they occur inside or outside the EEZ; (6) negative reports must be submitted for months when no HMS are collected; (7) applicants for EFP and SRP renewals must include with the application the previous year's year-end report and any delinquent reports for permits issued in prior years to obtain the new permit; and (8) prohibitions concerning the submission of false information and violations of the terms and conditions of EFPs and SRPs. Although unrelated to these provisions, the rule also addresses EFPs for the pelagic longline directed swordfish fishery, in that EFPs would no longer be required for vessels to delay offloading of swordfish when an approved vessel monitoring system (VMS) is operating on board the vessel.

In December 2003, NMFS published the Final Rule (68 FR 74747) implementing the Final Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks. While the rule focuses primarily on shark management measures, the issuance of EFPs and SRPs is also addressed where a separate display permitting system for HMS is to be developed apart from EFPs and SRPs issued for other purposes. This is an administrative change only, and current quotas as well as application and reporting requirements remain as established under the existing system.

Comments are also requested for the issuance of Chartering Permits to vessels fishing for HMS while operating under chartering arrangements within the EEZ of other nations. In November 2004, NMFS published the Final Rule requiring prior notification and approval from NMFS, via issuance of a Chartering Permit, before a vessel begins to fish under a chartering arrangement. These Chartering Permits would allow a U.S. fishing vessel to fish in a manner consistent with another country's regulations without violating U.S. regulations, and would ensure that such vessels report to the proper authorities, consistent with ICCAT recommendations. To date, NMFS has only received applications from and issued one of these Chartering Permits, which includes one pelagic longline vessel in a fleet of many thousands.

Final decisions on the issuance of any EFPs/SRPs/Display/Chartering Permits will depend on the submission of all required information about the proposed activities, NMFS' review of public comments received on this notice, consistency with conclusions in the Final Environmental Impact Statement (EIS) contained in the Final HMS FMP (64 FR 13575; March 19, 1999), Environmental Assessments

(EAs) or EISs, and any consultations with appropriate Regional Fishery Management Councils, states, or Federal agencies. NMFS does not anticipate any environmental impacts from the issuance of these EFPs other than impacts already assessed in the Final HMS FMP.

All requests for EFPs/SRPs/Display/Chartering Permits of a type or nature not addressed in this **Federal Register** Notice will have a separate Notice filed and separate public comment period.

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

Dated: November 5, 2004.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 110404E]

#### Endangered Species; File No. 1260

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

**ACTION:** Issuance of permit modification.

**SUMMARY:** Notice is hereby given that the NMFS Southeast Fisheries Science Center (SEFSC) has been issued a modification to scientific research Permit No. 1260.

**ADDRESSES:** The modification and related documents are available for review upon written request or by appointment in the following office(s): 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)713-0376; and Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432; phone (727)570-5301; fax (727)570-5320.

**FOR FURTHER INFORMATION CONTACT:**

Patrick Opay or Ruth Johnson, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** Notices were published in the Federal Register on July 15, 2004 (69 FR 42426) and July 19, 2004 (69 FR 42970) that modifications of Permit No. 1260, issued June 29, 2001 (66 FR 34621), had been requested by the above-named organization. The requested modification has been granted under the authority of the Endangered Species Act

of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The modification to Permit No. 1260 authorizes the SEFSC to attach conventional or pop-up archival tag (PAT) satellite transmitters to the pygal region of up to 15 leatherback sea turtles (*Dermochelys coriacea*) that may be boated during the Pelagic Longline Fishery Observers project. Additionally, the SEFSC is authorized to handle, flipper and passive integrated transponder (PIT) tag, tissue sample and blood sample all turtles on all projects under Permit No. 1260 and now has the option of deploying either PAT or conventional satellite tags via a tether attachment to the 20 loggerhead sea turtles (*Caretta caretta*) for which satellite tagging was already authorized under the existing Pelagic Longline Fishery Observers project.

The modification also authorizes the annual hoop netting or dip netting, measuring, weighing, flipper and PIT tagging, tissue biopsying, blood sampling and release of an additional 100 leatherback, 120 loggerhead, 100 green (*Chelonia mydas*), 50 hawksbill (*Eretmochelys imbricata*), 50 Kemp's ridley (*Lepidochelys kempii*) and 20 olive ridley (*Lepidochelys olivacea*) sea turtles. A subset of 20 of the leatherbacks, 20 of the loggerheads, 20 of the greens, 20 of the hawksbills, 20 of the Kemp's ridleys and 5 of the olive ridleys captured annually will have satellite transmitters attached to them. None of the activities authorized under this modification are expected to result in mortality. The research will be conducted in waters of the Atlantic Ocean (including the Caribbean) and Gulf of Mexico during the remainder of the permit which expires June 30, 2006. The purpose of the research is to gather the necessary information to implement NMFS management activities as required by the ESA and implementing regulations.

Issuance of this modification, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered and threatened species which are the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.