

least 24 hours prior to departing on a collection trip as to collection plans and location, and number of animals to be collected. This requirement is included so that the local NMFS Office for Law Enforcement can be aware of and monitor exempted collection activities within its jurisdiction. Additionally, this information can be made available by NMFS to state level enforcement agencies.

(2) Collectors of HMS for public display have the option of using conventional dart tags or microchip Passive Integrated Transponder (PIT) tags. Both types of tags will be supplied by NMFS. Unless PIT tags are specifically requested in the EFP application, conventional dart tags will be issued. Terms and conditions associated with the use of the tags issued will be specified in the EFP on a case-by-case basis.

(3) To minimize mortality of targeted animals as well as incidental bycatch potentially associated with the live capture of HMS, NMFS may specify permit conditions regarding fishing activities, such as gear deployment, monitoring, or soak time, if warranted, on a case-by-case basis.

(4) NMFS may select for at-sea observer coverage any vessel issued an EFP or SRP under this section. Selected vessels must comply with requirements specified under 50 CFR 635.7, 600.725, and 600.746. This requirement will be used to verify reports and monitor the takes of HMS and protected species resulting from fishing activities.

(5) This final rule also modifies EFP requirements for swordfish offloading. For the pelagic longline directed swordfish fishery, as vessel monitoring systems (VMS) are now required to be installed and operating on vessels, EFPs to allow delayed offloading after a closure are no longer required.

Reporting Requirements

To enhance data collection and reporting, NMFS finalizes the following reporting requirements:

(1) Applications for EFP and SRP renewals are required to include all reports specified in the applicant's previous permit, including the year-end report, all delinquent reports for permits issued in prior years, and all other specified information, in order for the renewal application to be considered complete. An EFP or SRP will not be issued for incomplete applications. This new requirement will reinforce the importance to NMFS of specified reports on the activities conducted under the permit.

(2) Fishing activities and disposition of all HMS either retained, discarded

alive or dead, or tagged and released under an EFP or SRP must be reported within 5 days of the fishing activity, or as specified in the permit, without regard to whether the fishing activity occurs in or outside the Exclusive Economic Zone (EEZ). Dead discards will be counted against appropriate annual quotas. Also, an annual written summary report must be submitted to NMFS within 30 days after the expiration date of the permit. Reporting of such HMS fishing activity will provide important information as to the actual numbers of any animals that are removed from the stocks. If an individual issued a Federal EFP or SRP captures no HMS in any given month, either in or outside the EEZ, that individual must submit a "no-catch" report to NMFS within 5 days of the last day of that month.

(3) Several prohibitions are also 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 or SRP. These prohibitions are needed to facilitate enforcement of EFP and SRP 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 and SRPs.

Comments and Responses

NMFS received a number of comments on the proposed rule during the comment period. In addition to the provisions contained in the proposed rule, comments were requested on several other potential regulatory provisions. Major comments received are summarized here together with responses.

Exempted Fishing Operations

Comment 1: The 72-hour pre-departure notification for collecting HMS may be problematic. NMFS should consider a more reasonable time frame of 24 - 48 hours.

Response: NMFS has modified the final rule to require a notification time of at least 24 hours. This time frame will still allow sufficient time for the local NMFS Office for Law Enforcement to respond and notify local officials as necessary.

Comment 2: Commenters generally disagreed with notification to the NMFS Office for Law Enforcement upon completion of a collection trip and 48 hours prior to shipping animals for display as being unreasonable. One commenter supported the provision.

Response: While notification upon completion of a trip and prior to shipping animals would serve to better track collection activities, NMFS has not included these provisions in the final rule because commenters objected on the grounds that: 1) it is unnecessary, since catch reports are submitted; and 2) such notification may be logistically difficult because transport times are not always predictable, as they are based on animal acclimation and health, transport staff, and equipment availability.

Comment 3: Commenters generally objected to the use of PIT tags on the grounds that there is insufficient information on the use of PIT tags in fishes, particularly sharks, and there are potential problems associated with their use. These commenters noted that given these uncertainties, a requirement at this time that PIT tags be used for HMS collected for display is not warranted. One commenter supported the use of PIT tags.

Response: The requirement to use PIT tags was included in the proposed rule in response to commercial collectors who objected to the use of the conventional dart tags because of their experience with infections and scarring in the animals and requested an alternative means of tagging. PIT tags were selected because aquariums and scientific researchers have used them to identify HMS. The final rule reflects the concerns associated with the use of PIT tags by not requiring collectors to use PIT tags, but by specifying that they may be used as an alternative to dart tags. NMFS will provide PIT tags upon request.

Comment 4: Commenters generally disagreed with the provision that would allow NMFS to specify fishing practices for collecting HMS for display in order to minimize mortalities. Specifically, commenters felt that NMFS should leave this determination to the collection professionals, as it is in their best interest to minimize or eliminate mortalities by using the most effective and efficient fishing gear and associated practices. One commenter supported the provision.

Response: It is in the best interest of collectors to minimize mortalities of the fish they collect. However, it is NMFS' responsibility to manage the HMS fisheries and minimize unnecessary mortalities of the target species and other species, such as sea turtles and seabirds, that may interact with fishing gear. Thus, the language in the final rule has been modified to more accurately reflect NMFS intent that NMFS may specify collection conditions in the permit as necessary.