

requests are processed. Because these rule changes affect only rules of agency organization, procedures, or practice, notice and comment procedures are not required and are not provided here. 5 U.S.C. 553(b)(B).

List of Subjects

49 CFR Part 801

Freedom of information, Information, Public availability.

49 CFR Part 837

Administrative practice and procedure, Freedom of information, Government employees, Investigations.

The NTSB amends 49 CFR Chapter VIII as follows:

1. The authority citation for part 801 is revised to read as follows:

Authority: 5 U.S.C. 552; 49 U.S.C. 1101 et seq.; 18 U.S.C. 641 and 2071.

§ 801.13 [Removed]

2. Section 801.13 is removed.

3. Part 837 is added to read as follows:

PART 837—PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Sec.

837.1 Purpose and scope.

837.2 Applicability.

837.3 Published reports, material contained in the public accident investigation dockets, and accident database data.

837.4 Other material.

Authority: 49 U.S.C. 1101 et seq.; 40101 et seq.; 5 U.S.C. 301.

§ 837.1 Purpose and scope.

(a) This part sets forth procedures to be followed when requesting material for use in legal proceedings (including administrative proceedings) in which the National Transportation Safety Board (NTSB or Board) is not a party, and procedures to be followed by the employee upon receipt of a subpoena, order, or other demand (collectively referred to here as a demand) by a court or other competent authority or by a private litigant. "Material," as used in this part, means any type of physical or documentary evidence, including but not limited to paper documents, electronic media, videotapes, audiotapes, etc.

(b) The purposes of this part are to:

(1) Conserve the time of employees for conducting official business;

(2) Minimize the possibility of involving the NTSB in controversial issues not related to its mission;

(3) Maintain the impartiality of the Board among private litigants;

(4) Avoid spending the time and money of the United States for private purposes; and

(5) To protect confidential, sensitive information, and the deliberative processes of the Board.

§ 837.2 Applicability.

This part applies to requests to produce material concerning information acquired in the course of performing official duties or because of the employee's official status. Specifically, this part applies to requests for: material contained in NTSB files; and any information or material acquired by an employee of the NTSB in the performance of official duties or as a result of the employee's status. Two sets of procedures are here established, dependent on the type of material sought. Rules governing requests for employee testimony, as opposed to material production, can be found at 49 CFR part 835. Document production shall not accompany employee testimony, absent compliance with this part and General Counsel approval.

§ 837.3 Published reports, material contained in the public accident investigation dockets, and accident database data.

(a) Demands for material contained in the NTSB's official public docket files of its accident investigations, or its computerized accident database(s) shall be submitted, in writing, to the Public Inquiries Branch. Demands for specific published reports and studies should be submitted to the National Technical Information Service. The Board does not maintain stock of these items. Demands for information collected in particular accident investigations and made a part of the public docket should be submitted to the Public Inquiries Branch or, directly, to our contractor. For information regarding the types of documents routinely issued by the Board, see 49 CFR part 801.

(b) No subpoena shall be issued to obtain materials subject to this paragraph, and any subpoena issued shall be required to be withdrawn prior to release of the requested information. Payment of reproduction fees may be required in advance.

§ 837.4 Other material.

(a) *Production prohibited unless approved.* Except in the case of the material referenced in § 837.3, no employee or former employee of NTSB shall, in response to a demand of a private litigant, court, or other authority, produce any material contained in the files of the NTSB (whether or not agency records under 5 U.S.C. 552) or produce any material acquired as part of the performance of the person's official duties or because of the person's official

status, without the prior written approval of the General Counsel.

(b) *Procedures to be followed for the production of material under this paragraph.*

(1) All demands for material shall be submitted to the General Counsel at NTSB headquarters, Washington, DC 20594. If an employee receives a demand, he shall forward it immediately to the General Counsel.

(2) Each demand must contain an affidavit by the party seeking the material or his attorney setting forth the material sought and its relevance to the proceeding, and containing a certification, with support, that the information is not available from other sources, including Board materials described in §§ 837.3 and part 801 of this chapter.

(3) In the absence of General Counsel approval of a demand, the employee is not authorized to comply with the demand.

(4) The General Counsel shall advise the requester of approval or denial of the demand, and may attach whatever conditions to approval considered appropriate or necessary to promote the purposes of this part. The General Counsel may also permit exceptions to any requirement in this part when necessary to prevent a miscarriage of justice, or when the exception is in the best interests of the NTSB and/or the United States.

Issued in Washington, DC, May 16, 1997.

Jim Hall,

Chairman.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[Docket No. 961211348-7106-04; I.D. 041897C]

RIN 0648-AH77

Atlantic Shark Fisheries; Quotas, Bag Limits, Prohibitions, and Requirements

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS is amending the final regulations governing the Atlantic shark fisheries by combining the recreational bag limits under one paragraph and

reinserting a paragraph that was inadvertently deleted by a recently published final rule, which prohibits a person to whom Federal bag limits apply from combining Federal and state bag or possession limits. When issuing the final regulations, it was not the intent of NMFS to eliminate the prohibition on combining Federal and state bag or possession limits.

DATES: Effective May 21, 1997.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, John D. Kelly, or Margo B. Schulze, 301-713-2347, FAX: 301-713-1917.

SUPPLEMENTARY INFORMATION: On April 7, 1997, NMFS published a final rule (62 FR 16648) that modified commercial quotas and recreational bag limits. The final rule inadvertently eliminated the prohibition on combining Federal and state bag and possession limits. This amendment revises the final regulations by reinserting the previously existing prohibition on combining Federal and state bag or possession limits as 50 CFR 678.23(c). To accommodate this amendment, 50 CFR 678.23(b) and (c), as added by the April 7, 1997, final rule, are redesignated as 50 CFR 678.23(b)(1) and (2).

Classification

The Assistant Administrator (AA), NMFS finds good cause, under 5 U.S.C. 553(b)(B), to waive the requirement to provide prior notice and opportunity for public comment as such procedures are unnecessary. This rule merely reinserts previously existing language that was inadvertently omitted.

The unintentional removal of this prohibition could result in higher mortality on the overfished large coastal sharks than allowed under the final regulations. Accordingly, under 5 U.S.C. 553(d)(3), there is good cause to waive the 30 day delay in effective date. However, in order to provide notice, NMFS will delay the effective date of this rule for 5 days.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 14, 1997.

Charles Karnella,

Acting Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 678 is amended as follows:

PART 678—ATLANTIC SHARK

1. The authority citation for part 678 continues to read as follows:

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

2. In § 678.23, paragraphs (b) and (c) are redesignated as paragraphs (b)(1) and (2), the heading and introductory text to paragraph (b) and a new paragraph (c) is added to read as follows:

§ 678.23 Bag limits.

* * * * *

(b) *Bag limits.* Bag limits are as follows:

* * * * *

(c) *Combination of bag limits.* A person to whom the bag limits apply may not combine a bag limit specified in paragraph (b) of this section with a bag or possession limit applicable to state waters.

* * * * *

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