

2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp. 228 (1997); Notice of August 15, 1995, 3 CFR, 1995 Comp. 501 (1996); Notice of August 14, 1996, 3 CFR, 1996 Comp. 298 (1997); Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

PART 770—[AMENDED]

§ 770.4 [Removed]

3. Part 770 is amended by removing § 770.4, "Interpretations related to chemical mixtures—*de minimis* exceptions examples."

PART 774—[AMENDED]

4. Supplement No. 1 to part 774 (Commerce Control List), Category 1 (Materials, Chemicals, "Microorganisms", & "Toxins"), is amended by revising the License Requirements section of ECCN 1C350, to read as follows:

Supplement No. 1 to Part 774—the Commerce Control List

* * * * *

Category 1—Materials, Chemicals, "Microorganisms", & "Toxins"

* * * * *

C. Materials

* * * * *

1C350 Chemicals that may be used as precursors for toxic chemical agents, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	Country chart
CB applies to entire entry ..	CB Column 2.
AT applies to entire entry ..	AT Column 1.

License Requirement Notes:

1. **SAMPLE SHIPMENTS:** Certain sample shipments of chemicals controlled under ECCN 1C350 may be made without a license, as provided by the following:

a. **Chemicals Not Eligible:** The following chemicals are *not* eligible for sample shipments: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856-11-8), Ethylphosphonyl difluoride (C.A.S. #753-98-0), and Methylphosphonyl difluoride (C.A.S. #676-99-3).

b. **Countries Not Eligible:** The following countries are *not* eligible to receive sample shipments: Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria.

c. **Sample Shipments:** A license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Multiple sample shipments, in any quantity, not exceeding the cumulative totals indicated in this paragraph may be exported without a license, in accordance

with the provisions of this Note 1. A consignee that receives a sample shipment under this exclusion may not resell, transfer or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons. However, a sample shipment received under this exclusion remains subject to all General Prohibitions including the end-use restriction described in § 744.4 of the EAR.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled "Report of Sample Shipments of Chemical Precursors" at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, P.O. Box 273, Washington, DC 20044, Attn: "Report of Sample Shipments of Chemical Precursors".

2. **MIXTURES:** Mixtures controlled by this entry that contain certain concentrations of precursor and intermediate chemicals are subject to the following licensing requirements:

a. A license is required, regardless of the concentrations in the mixture, for the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S.#57856-11-8), Ethylphosphonyl difluoride (C.A.S.#753-98-0) and Methylphosphonyl difluoride (C.A.S.#676-99-3);

b. A license is required when at least one of the following chemicals constitutes more than 10 percent of the weight of the mixture: Arsenic trichloride (C.A.S.#7784-34-1), Benzoic acid (C.A.S.#76-93-7), Diethyl ethylphosphonate (C.A.S.#78-38-6), Diethyl methylphosphonite (C.A.S.#15715-41-0), Diethyl-N,N-dimethylphosphoramidate (C.A.S.#2404-03-7), N,N-Diisopropyl-beta-aminoethane thiol (C.A.S.#5842-07-9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S.#4261-68-1), N,N-Diisopropyl-beta-aminoethanol (C.A.S.#96-80-0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S.#96-79-7), Dimethyl ethylphosphonate (C.A.S.#6163-75-3), Dimethyl methylphosphonate (C.A.S.#756-79-6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S.#1498-40-4), Ethylphosphonous difluoride [Ethylphosphinyl difluoride] (C.A.S.#430-78-4), Ethylphosphonyl dichloride (C.A.S.#1066-50-8), Methylphosphonous dichloride [Methylphosphinyl dichloride] (C.A.S.#676-83-5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S.#753-59-3), Methylphosphonyl dichloride (C.A.S.#676-97-1), Pinacolyl alcohol (C.A.S.#464-07-3), 3-Quinuclidinol (C.A.S.#1619-34-7), and Thiodiglycol (C.A.S.#111-48-8) (Related ECCN: 1C995);

c. A license is required when at least one of all other chemicals in the List of Items Controlled constitutes more than 25 percent of the weight of the mixture (related ECCN: 1C995); and

d. A license is not required under this entry for mixtures when the controlled

chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are controlled by ECCN EAR99.

Note to Mixtures: Calculation of concentrations of AG-controlled chemicals:

- Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;
- Absolute Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents;
- Example.

11% chemical listed in paragraph b. of Note 2

39% chemical not listed in Note 2

50% Solvent

100% Mixture

11/100 = 11% chemical listed in paragraph b. of Note 2.

In this example, a license is required because a chemical listed in paragraph b. of Note 2 constitutes more than 10 percent of the weight of the mixture.

3. **COMPOUNDS:** A license is not required under this entry for chemical compounds created with any chemicals identified in this ECCN 1C350, unless those compounds are also identified in this entry.

Technical Notes: 1. For purposes of this entry, a "mixture" is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (Item 25 in List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

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Dated: March 17, 1998.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 98-7493 Filed 3-23-98; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 644

[Docket No. 980305056-8056-01; I.D. 020398B]

RIN 0648-AK88

Atlantic Billfishes; Atlantic Blue Marlin and Atlantic White Marlin Size Limits; Billfish Tournament Notification Requirements

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

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule increases the minimum size limits for Atlantic blue marlin (BUM) and Atlantic white marlin (WHM) to 96 inches (244 cm) lower jaw-fork length (LJFL) and 66 inches (168 cm) LJFL, respectively, and specifies requirements to notify NMFS of tournaments involving any Atlantic billfish at least 4 weeks prior to commencement. NMFS invites public comments on the increase in minimum size limits. Public hearings on this issue will be announced in the **Federal Register** at a later date. The intended effect of this interim rule is to reduce overfishing of BUM and WHM, and to implement a recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

DATES: This interim rule is effective March 27, 1998 through September 23, 1998. Comments must be received not later than May 22, 1998.

ADDRESSES: Comments on this interim rule should be mailed to, and copies of documents supporting this action may be obtained from, the Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments regarding the collection-of-information requirement contained in this interim rule should be sent to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Buck Sutter, 813-570-5447; fax: 813-570-5364; or Jill Stevenson, 301-713-2347; fax: 301-713-1917.

SUPPLEMENTARY INFORMATION: Atlantic BUM and Atlantic WHM are managed under the Fishery Management Plan (FMP) for Atlantic Billfish and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at 50 CFR part 644. In addition, BUM and WHM are managed throughout the Atlantic Ocean by ICCAT, of which the United States is a member. The Secretary of Commerce has the responsibility, under the Atlantic Tunas Convention Act (ATCA), to implement ICCAT recommendations. In 1997, ICCAT recommended a reduction of BUM and WHM landings by at least 25 percent from 1996 levels, starting in 1998, to be accomplished by 1999. The 1997 ICCAT recommendation also included provisions to promote the voluntary release of live BUM and WHM, and to improve current

monitoring, data collection and reporting procedures in fisheries landing BUM and WHM.

Stock assessments for BUM and WHM were completed most recently in 1996 by ICCAT's Standing Committee on Research and Statistics (SCRS). NMFS has identified both BUM and WHM as overfished; ICCAT considers both species to be over-exploited. Historically, both species have been considered separately as North and South Atlantic stocks (dividing line at 5° N. lat.). Recent genetic and tag and recapture information indicates that an entire Atlantic stock may be more appropriate; however, available information from the South Atlantic makes a total Atlantic Ocean assessment problematic. Accordingly, assessments performed by ICCAT's SCRS include both a North Atlantic and a total Atlantic Ocean evaluation. The biomass of BUM for the total Atlantic Ocean and North Atlantic in 1996 was estimated to be about 24 and 61 percent, respectively, of the biomass needed to produce maximum sustainable yield (MSY); biomass levels for WHM were estimated to be about 23 and 32 percent, respectively, of levels need to produce MSY.

In 1996, Congress reauthorized the Magnuson-Stevens Act by passing the Sustainable Fisheries Act (SFA), which included several provisions that directly impacted the management of highly migratory species (HMS). One of the new provisions requires NMFS to notify Congress each year on the status of U.S. fisheries. In September, 1997, NMFS submitted the first report, entitled "Report to Congress: Status of Fisheries in the United States," which listed both BUM and WHM as overfished. Under the Magnuson-Stevens Act, NMFS is required to submit a draft FMP to the Secretary of Commerce, by September 30, 1998, that includes a rebuilding plan for BUM and WHM. Another new provision included in the SFA (Section 302(g)(1)) was the establishment of Advisory Panels (APs) to assist in the preparation of FMPs or FMP amendments involving HMS. Consequently, NMFS established a Billfish AP, with membership consisting of representatives from commercial and recreational fisheries, environmental, state management, and scientific entities, as well as members of the five affected fishery management councils with management jurisdiction along the U.S. Atlantic Ocean, Gulf of Mexico and Caribbean coasts.

At the January 1998 AP meeting, NMFS provided background information on landings and recent stock assessments in consideration of an

amendment to the Billfish FMP, in light of the 1997 ICCAT recommendations. Currently, only recreational landings of Atlantic billfish are allowable for U.S. fishermen; no Atlantic billfish may be purchased, bartered, traded, sold, or offered for sale in any state. Recreational landings for 1996 (ICCAT's target year for catch reduction) were 74,737 lb (34.9 mt) of BUM and 7,275 lb (3.3 mt) of WHM. Beginning in 1998, the United States is bound by ICCAT to immediately begin to reduce annual BUM and WHM landings to ensure that 1999 landings are at least 25 percent below 1996 levels. The Billfish AP considered various management options to accomplish this goal, and reached consensus to increase the minimum legal landing size of BUM from 86 inches LJFL/197 lb (219 cm/89 kg) to 96 inches LJFL/286 lb (244 cm/130 kg), and increase WHM from 62 inches LJFL/47.6 lb (157.4 cm/22 kg) to 66 inches LJFL/57.5 lb (168 cm/26 kg). The increases in the size limits were based on the 1994 to 1996 size distribution and landings and were calculated to reduce BUM and WHM landings by number and weight during 1998 to provide an adequate time frame to determine if these size measures are an effective means to meet U.S. billfish landing limits by the end of 1999. The increases in the minimum size limits are estimated to result in a reduction in landings of 46 percent by number and 39 percent by weight of BUM, and a reduction of 53 percent by number and weight of WHM from 1996 levels.

The Billfish AP also considered the ICCAT recommendation to promote the voluntary release of live BUM and WHM, and to improve current monitoring, data collection, and reporting procedures in all their fisheries. The United States already has a mandatory 100 percent release requirement for BUM and WHM caught by commercial vessels, and the recreational fishery is voluntarily releasing approximately 90 percent of all billfish caught. To ensure that the new size limits are widely communicated, that accurate data are collected, and that the release of live billfish is encouraged, in consideration of the recommendations of the Billfish AP, this interim rule requires all tournaments involving BUM and/or WHM to provide notification to NMFS of the purpose, dates and location of any tournament involving score keeping or awards for the capture of Atlantic billfish, at least 4 weeks prior to commencement. This requirement is necessary to provide NMFS with a complete data set of all active billfish

tournaments, thereby allowing statistically appropriate levels of data collection to enhance monitoring of BUM and WHM landings. The information collection requirement for tournaments previously listed under 50 CFR 644.5, is restated as 50 CFR 644.10.

The 4-week notification requirement for tournaments involving Atlantic billfish was included in the proposed rule consolidating regulations for Atlantic Migratory Species Fisheries (61 FR 57361, November 6, 1996). Five public hearings were held to receive oral comments on the proposed consolidated rule. Additionally, numerous written comments were received by mail and fax. The following summarizes and responds only to comments addressing billfish tournament requirements.

Comment: South Carolina Department of Natural Resources (SCDNR) comments that unless HMS tournaments are required to secure a Federal license, and NMFS specifically monitors competitive events and levies fines for violations, the program will not provide good data. They requested clarification on the tournament selection process and expressed concern that if only the largest, most visible events are chosen it would not accurately reflect true catch and effort for HMS. SCDNR also expressed concern that South Carolina tournaments would be targeted at a higher rate because the State has made the effort to identify these events and that the proposed action would require extensive funding and manpower, neither of which are available.

Response: Directors of HMS tournaments are required to register with the Science Director and NMFS will develop a statistically based sampling program. Under such a program, states with a higher proportion of tournaments will likely be selected more often. However, the burden is minimal since the report largely consists of information readily available to tournament directors.

Comment: The North Carolina Fisheries Association, Inc., comments that it is unclear why only tournaments selected by NMFS are required to report landings, since small tournaments (<200 boats) can have substantial landings of HMS.

Response: The tournament reporting program will comprise a statistically based sample drawn from all tournaments registered with the Science Director.

Comment: The National Fisheries Institute (NFI) suggests that NMFS require landing and fishing effort reports for all recreational HMS tournaments.

Response: In order to reduce the potential burden on NMFS and tournament directors, a statistically based sample of tournaments will be selected for reporting.

Comment: The Government of the Virgin Islands samples recreational catches using a non-uniform probability sampling program and voluntary use of fishery logbooks. The Division of Fish and Wildlife serves as weigh masters for all but one fishing tournament. Instead of imposing new reporting requirements, the Government of the Virgin Islands and NMFS should explore means of supplying data to ICCAT, while not adding to the burden of fishermen. This could be accomplished through better communication with the HMS Management Division and the Office of Sustainable Fisheries, NMFS, and the Virgin Island's Division of Fish and Wildlife.

Response: NMFS agrees that cooperative efforts could improve data collection while reducing the administrative burden; however, a uniform data collection system is needed to provide statistically reliable information for monitoring of billfish landings throughout U.S. waters, including the Caribbean Sea.

At their January, 1998 meeting, the Billfish AP urged NMFS to implement these measures (recommended by ICCAT in November 1997) before the start of billfish tournament season (March 1998). NMFS agrees that it is necessary to implement the 1997 ICCAT recommendation as soon as possible to assess the effects of these measures throughout the entire billfish fishing season, and to be in compliance with the ICCAT recommendation.

While the focus of the ICCAT recommendation is on landings, the greatest source of billfish mortality in the United States is from dead discards in the longline fishery. These are closely monitored through observer and logbook data, and fully reported to ICCAT. NMFS will continue to monitor this source of mortality and will work with the Billfish AP to consider measures to reduce longline dead discards.

NMFS has determined that the measures recommended by the Billfish AP are based on the best available scientific information to prevent further overfishing, and to implement ICCAT recommendations. Given the overfished status of both BUM and WHM as described in the 1997 "Report to Congress: Status of Fisheries in the United States," NMFS is implementing these measures under section 305(c) of the Magnuson-Stevens Act. The interim

measure is needed to meet U.S. obligations under ICCAT, and to initiate measures to prevent further overfishing.

In summary, this interim rule implements the reporting requirement proposed in 61 FR 57361 (November 6, 1996). That is, all persons conducting a fishing tournament involving scorekeeping or awards for the capture of Atlantic billfish, regardless of whether those fish are retained, from a port in an Atlantic, Gulf of Mexico, or Caribbean state must notify the Science Director at the Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149, in writing, at least 4 weeks prior to the commencement of the tournament. This interim rule also increases minimum size limits for the retention of BUM (96 inches (244 cm) LJFL) and WHM (66 inches (168 cm) LJFL).

On July 28, 1997, NMFS received a petition for rulemaking from NFI. NMFS announced receipt of the petition in a **Federal Register** notice on August 28, 1997 (62 FR 45614) and made copies available to interested parties, including members of the Billfish AP. This interim rule directly responds to one of the points made in the petition, which recommends mandatory registrations and reporting for all billfish tournaments. Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

Classification

NMFS issues this interim rule, effective for 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. This interim rule may be extended for an additional 180 days provided the public has had an opportunity to comment on the interim rule and, at the time of extension, a plan amendment or proposed regulations to address the overfishing on a permanent basis is being actively pursued. Public comments on this interim rule will be considered in determining whether to maintain or extend this interim rule to address overfishing of BUM and WHM. Responses to comments will be provided if the interim rule is revoked, modified, or extended.

As required in the Magnuson-Stevens Act, an amendment to the Billfish FMP addressing the overfished nature of these species must be prepared, and submitted to the Secretary of Commerce by September 30, 1998. NMFS is currently preparing an amendment to the Billfish FMP outlining a rebuilding

plan and concomitant management strategies. The amendment is being developed using the best possible science, the Billfish AP, and various outreach forums to ensure public input into this process.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this interim rule is necessary to reduce overfishing of BUM and WHM, and will also serve to implement 1997 ICCAT recommendations. The interim rule is consistent with the Magnuson-Stevens Act and other applicable laws.

The actions set forth in this interim rule respond to the over-exploitation of these resources in the Atlantic Ocean, and the need to improve current monitoring, data collection, and reporting procedures, as well as promote the release of live billfish. The United States is also obligated, under ATCA, to implement ICCAT recommendations for 1998. Failure to implement these actions in a timely manner now might result in failure to meet ICCAT obligations and increase the need for more severe restrictions in the future.

Accordingly, pursuant to authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment, as such procedures would be contrary to the public interest. Further, the measures have been discussed publicly; the AP meeting during which these measures were recommended in January 1998 was open to the public. Since the billfish tournament season begins in March 1998, the need to implement these measures in a timely manner to address the overfishing of BUM and WHM constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. NMFS makes this rule effective March 27, 1998. To ensure wide distribution of the increase in minimum size limits for BUM and WHM and new tournament notification requirements, NMFS will work with the Billfish AP, recreational fishing organizations, sportfishing media, and fishing tournaments known to involve billfish, to notify affected entities of the interim measures as quickly as practicable. In addition, notice will be provided through the HMS FAX network.

This interim rule has been determined to be not significant for purposes of E.O. 12866.

Notwithstanding any other provision of law, no person is required to respond to nor shall a 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 interim rule contains a collection-of-information requirement subject to the PRA. Fishing tournament registration and selective reporting in § 644.10 have been approved by OMB under control number 0648-0323 and is estimated at 10 minutes per report. Send comments regarding this burden estimate or any other aspect of this collection-of-information requirement including suggestions on how to reduce or eliminate this burden to NMFS and OMB (see ADDRESSES).

Because prior notice and an opportunity for public comment are not required to be provided for this interim rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 644

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 18, 1998.

David L. Evans,

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

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter VI are amended as follows:
15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b) the table is amended by adding in numerical order, the following entry to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

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(b) * * *

CFR part or section where the information collection requirements is located	Current OMB control number (all numbers begin with 0648)
50 CFR	*
644.10	-0323
	*

50 CFR Chapter VI

PART 644—ATLANTIC BILLFISHES

3. The authority citation for part 644 continues to read as follows:

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

4. In part 644, § 644.5 is suspended and § 644.10 is added, effective from March 27, 1998 through September 23, 1998, to read as follows:

§ 644.10 Recordkeeping and reporting.

A person conducting a fishing tournament involving score keeping or awards for the capture of Atlantic billfish, regardless of whether retained, from a port in an Atlantic, Gulf of Mexico, or Caribbean state must notify the Science Director of the purpose, dates, and location of the tournament by letter postmarked, or fax dated, at least 4 weeks prior to commencement. If selected in writing by the Science Director for reporting, that person must maintain and submit a fishing record on forms available from the Science Director for each day of fishing in the tournament. Completed forms must be submitted to the Science Director postmarked not later than the seventh day after the conclusion of the tournament and must be accompanied by a copy of the tournament rules.

(a) The following information must be included on each form:

- (1) Tournament name.
- (2) Recorder's name and telephone number.
- (3) Date for which the information is recorded.
- (4) Hours fished (time from first line in the water to last line out of the water).
- (5) Name of each vessel fishing that day.
- (6) For each vessel listed, the species of each billfish boated or released.
- (7) The weight and length of each billfish brought ashore.
- (8) The name, address, and signature of the tournament director.
- (9) The date signed.

(b) In addition to the information required to be reported by paragraph (a) of this section, the following information is desired, but is not mandatory:

(1) Prevailing weather conditions on the day reported, such as wind speed and direction, and sea height and direction.

(2) Whether a tag was attached before the billfish was released.

5. Section 644.21 is amended by suspending paragraphs (a) and (d) and adding paragraph (e) effective from March 27, 1998 through September 23, 1998, to read as follows:

§ 644.21 Size limits.

* * * * *

(e) The following minimum size limits, expressed in terms of lower jaw-fork length (LJFL), apply for the possession of billfish shoreward of the outer boundary of the EEZ, regardless of where caught:

- (1) Blue marlin—96 inches (244 cm)
- (2) White marlin—66 inches (168 cm)
- (3) Sailfish—57 inches (145 cm)

[FR Doc. 98-7629 Filed 3-23-98; 8:45 am]

BILLING CODE 3510-22-P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Notice of continuing effect.

SUMMARY: The Federal Trade Commission ("Commission") announces that the current, 1995 ranges of comparability for refrigerators, refrigerator-freezers, and freezers will remain in effect until new ranges of comparability are published for these products. The Commission also announces that manufacturers must continue to base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for refrigerators, refrigerator-freezers, and freezers on the 1995 Representative Average Unit Costs of Energy for electricity (8.67 cents per kilowatt-hour) that was published by the Department of Energy ("DOE") on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9295).

EFFECTIVE DATE: March 24, 1998.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of

Enforcement, Federal Trade Commission, Washington, D.C. 20580 (202-326-3035).

SUPPLEMENTARY INFORMATION: The Appliance Labeling Rule ("Rule") was issued by the Commission in 1979 (44 FR 66466 (Nov. 19, 1979)) in response to a directive in the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6294).¹ The Rule covers eight categories of major household appliances: Refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, furnaces, and central air conditions. The Rule also covers pool heaters (59 FR 49556 (Sept. 28, 1994)) and contains requirements that pertain to fluorescent lamp ballasts (54 FR 28031 (July 5, 1989)), certain plumbing products (58 FR 54955 (Oct. 25, 1993)), and certain lighting products (59 FR 25176 (May 13, 1994, eff. May 15, 1995)).

The Rule requires manufacturers of all covered appliances and pool heaters to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. It also requires manufacturers of furnaces, central air conditioners, and heat pumps either to provide fact sheets showing additional cost information, or to be listed in an industry directory showing the cost information for their products. The Rule requires that manufacturers include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule requires that manufacturers also include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report annually (by specified dates for each product type²) the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures.

¹ The statute also requires DOE to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

² Reports for refrigerators, refrigerator-freezers, and freezers are due August 1.

Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. Under § 305.10 of the Rule, to keep the required information on labels consistent with these changes, the Commission publishes new ranges (but not more often than annually) if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission publishes a statement that the prior ranges remain in effect until new ranges of comparability are published.

The annual submissions of data for refrigerators, refrigerator-freezers, and freezers have been made and have been analyzed by the Commission. The ranges of comparability for these products have not changed by more than 15% from the current ranges for refrigerators, refrigerator-freezers, and freezers, which were published on November 13, 1995, and became effective on February 12, 1996 (60 FR 56945). Therefore, the current ranges will remain in effect until new ranges of comparability are published for refrigerators, refrigerator-freezers, and freezers. As of the effective date of the current ranges (February 12, 1996), the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for refrigerators, refrigerator-freezers, and freezers must be based on the 1995 Representative Average Unit Costs of Energy for electricity (8.67 cents per kilowatt-hour) that was published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9295). Because the current ranges will remain in effect until new ranges are published, this requirement to use the 1995 DOE cost for electricity (8.67 cents per kilowatt-hour) also will remain in effect until new ranges of comparability are published for refrigerators, refrigerator-freezers, and freezers.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority

The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.