

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 285**

[Docket No. 990513131-9153-02; I.D. 051299B]

RIN 0648-AM69

**Atlantic Tuna Fisheries; Regulatory Adjustments**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS amends the regulations governing the Atlantic bluefin tuna fisheries to establish, for 1999 only, a deadline of 4:00 P.M. on June 11 for requesting Atlantic Tunas permit category changes. NMFS had previously suspended the normally applicable deadline of May 15 to provide vessel owners the opportunity to consider category changes after publication of a final rule to implement the Highly Migratory Species Fishery Management Plan (HMS FMP) and the final 1999 bluefin tuna (BFT) quota specifications and after publication of a proposed rule on the use of spotter aircraft since these actions could affect the allowable operations of several fishing categories. Now that the final rule and quota specifications have been issued and the proposed spotter aircraft rule has been published, vessel owners are able to make an informed choice of fishing category.

**DATES:** Effective 4:00 p.m. on June 11, 1999.

**ADDRESSES:** Requests for copies of the final rule and information on obtaining an Atlantic tunas permit should be directed to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirement contained in this rule to Rebecca Lent 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:** Mark Murray-Brown, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). ATCA

authorizes the Secretary of Commerce (Secretary) to issue such regulations as may be necessary to carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations to carry out ICCAT recommendations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

NMFS previously issued an interim final rule to suspend the deadline for BFT permit category selection for the 1999 fishing season (64 FR 27207, May 19, 1999). The normal deadline for BFT fishing category selection of May 15 was suspended in response to comments received on a proposed rulemaking to implement the HMS FMP (64 FR 3154, January 20, 1999) and proposed BFT quota specifications (64 FR 9298, February 25, 1999), particularly with respect to the use of spotter aircraft in the commercial BFT categories. Certain aspects of the final rule to implement the HMS FMP and final BFT quota specifications, as well as any new regulations governing the use of spotter aircraft, would, in combination, affect catch limits, gear restrictions, and fishing opportunities in several permit categories. NMFS received comment that it would be impossible to make a rational choice of permit category until final rules and quota specifications are issued.

NMFS has since issued a final rule to implement the HMS FMP (64 FR 29090, May 28, 1999) and final BFT quota specifications and effort controls (64 FR 29806, June 3, 1999). Additionally, NMFS has published a proposed rule to address issues related to the use of spotter aircraft in the BFT fisheries (64 FR 29984, June 4, 1999). Given this information, vessel owners and operators are able to make an informed choice of BFT fishing category for the 1999 fishing year.

**Comments and Responses**

NMFS received several comments regarding a permit category deadline for 1999. Comments were generally in favor of establishing a deadline as early as possible after the start of the General and Harpoon category fisheries on June 1. A number of commenters noted that a prior suspension of the deadline in the 1997 fishing year resulted in a disruption of the fisheries as many vessel operators switched categories after the fisheries opened, especially once the Harpoon category quota was reached. These commenters noted that NMFS must establish the deadline early enough in the 1999 fishing year to avoid the problems associated with switching

categories after any one category quota is reached and that fishing category is closed.

NMFS notes that the objective of the deadline continues to be to prevent vessel operators from fishing in more than one category in a single fishing year. NMFS, therefore, agrees that the deadline must be established as soon as possible to achieve consistency with the objective. Although the proposed spotter plane rule has a comment period which extends through June 22, 1999, establishing a deadline after that date would substantially increase the likelihood that the Harpoon category quota will have reached and the category closed prior to the deadline. NMFS agrees that the disruptions in the BFT fisheries caused by category switching in 1997 should be avoided to the extent possible. Given that the final HMS FMP rule and BFT quota specifications have been issued and that the proposed spotter plane rule has been published for public review and comment, NMFS has determined that sufficient information is available to vessel operators to enable a reasoned decision as to what permit category they should select for 1999.

NMFS, therefore, establishes a deadline of 4:00 P.M. on June 11, 1999, for permit category selection. Given the amount of public comment on the deadline during the comment periods associated with the proposed HMS FMP regulations and the proposed 1999 BFT quota specifications and on the interim final rule that suspended the deadline, NMFS has determined that a deadline of June 11 provides sufficient public notice while maintaining consistency with fishery management objectives. NMFS will rapidly communicate the deadline to fishery participants through its FAX network and Atlantic tunas information line.

Vessel operators wishing to change fishing categories should renew permits as soon as possible prior to the deadline by calling NMFS Northeast Region at 978-281-9260. After the deadline, vessel operators may continue to renew permits in the same category or obtain new (first-time) permits through the automated permitting system at 1-888-USA-TUNA or through the internet at <http://www.usatuna.com>.

No requests for changes to Atlantic tunas permit categories will be accepted after 4:00 PM on June 11, 1999, and vessel operators who have not renewed permits for 1999 will be allowed to renew only in the same category as that issued in 1998. Vessel operators who have previously renewed permits for the 1999 fishing year will not be afforded any additional opportunity to request a

change of permit category after 4:00 PM on June 11, and such restriction will apply for the remainder of the calendar year regardless of change in ownership of the vessel.

Please note that regulations require that Atlantic tunas permits be carried on board the vessel and be displayed to dealers purchasing tunas. Therefore, changes in permit category are not effective until the new permit has been issued and is carried on board the vessel. Upon receipt of a new Atlantic tunas permit, any previously-issued Atlantic tunas permit is rendered invalid.

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

#### Classification

This final rule is published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that these regulations are necessary to implement the recommendations of ICCAT and are necessary for management of the Atlantic tuna fisheries.

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 OMB control number.

This rule involves a collection of information requirement subject to the PRA and approved by OMB under Control Number 0648-0327. The burden associated with Atlantic tunas vessel permits is estimated at 30 minutes per initial permit application and 6 minutes per renewal, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

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

NMFS has determined that, under 5 U.S.C. 553(d)(3), there is good cause to waive partially the requirement for a 30-day delay in effective date as such would be contrary to the public interest. The intent of the permit category selection deadline is to ensure that

vessels are used to fish in only one category during a single fishing year. The 1999 BFT fishery is underway and it is possible that the quota for the Harpoon fishing category could be filled prior to the end of a 30-day delay in effective date. Thus, a 30-day delay would likely allow some vessel operators to switch categories after one category has been closed. NMFS has received comment that further postponement of the deadline in 1999 would adversely impact those fishermen in the categories that remain open. As previously stated, NMFS will rapidly communicate the deadline to fishery participants through its FAX network and HMS Information Line.

This final rule follows from an interim final rule for which prior notice and opportunity for public comment was not required by 5 U.S.C. 553 or by any other law. Therefore, under 5 U.S.C. 603 it is not subject to the analytical requirements of the Regulatory Flexibility Act. Accordingly, no regulatory flexibility analysis was prepared.

#### List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 4, 1999.

**Andrew Kemmerer,**

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

For the reasons set out in the preamble, 50 CFR part 285 is amended as follows:

#### PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

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

2. In § 285.21, paragraph (b)(7) is revised to read as follows:

##### § 285.21 Vessel permits.

\* \* \* \* \*

(b) \* \* \*

(7) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas permit to another category by application on the appropriate form to NMFS or by dialing 1-888-USA-TUNA before the specified deadline. After the deadline, the vessel's permit category may not be changed to another category for the remainder of the calendar year, regardless of any change in the vessel's ownership. In 1999, the deadline for category changes is 4:00 PM on June 11. In years after 1999, the deadline for

category changes is 11:59 PM on May 15.

\* \* \* \* \*

[FR Doc. 99-14655 Filed 6-4-99; 4:31 pm]

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 060499A]

##### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second seasonal apportionment of pollock total allowable catch (TAC) in this area.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), June 7, 1999, until 1200 hours, A.l.t., September 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-486-6919 or tom.pearson@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of pollock TAC is equal to 20 percent of the annual TAC (§ 679.20(a)(5)(ii)(C)). The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that any amount of unharvested first seasonal apportionment of TAC or any amount of TAC harvested in excess of the first seasonal apportionment shall be proportionately added to or subtracted from subsequent seasonal apportionments throughout the remainder of the fishing year, with the provision that no seasonal apportionment shall exceed 30 percent