

value increased, or was converted to a different fisheries use; and (3) conditional fishery requirements.

#### Classification

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because it relates to financial assistance programs in which participation is voluntary and does not impose any cost, economic burden, or reporting burden on the industry. As a result, a regulatory flexibility analysis was not prepared.

This action has been determined to be not significant for the purposes of E.O. 12866.

#### List of Subjects in 50 CFR Part 259

Fisheries, Fishing vessels, Income taxes, Reporting and recordkeeping requirements.

Dated: December 27, 1996.

Nancy Foster,

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

For the reasons set out in the preamble, 50 CFR part 259 is amended as follows:

### **PART 259—CAPITAL CONSTRUCTION FUND**

1. The authority citation for part 259 continues to read as follows:

Authority: 46 U.S.C. 1177.

2. Section 259.31 is amended by removing the authority citation in the parenthetical at the end of the section and by adding a new paragraph (e) to read as follows:

#### **§ 259.31 Acquisition, construction, or reconstruction.**

\* \* \* \* \*

(e) *Safety projects.* The acquisition and installation of safety equipment for a qualified vessel and vessel modifications whose central purpose is materially increasing the safety of a qualified vessel or the acquisition and installation of equipment required by law or regulation that materially increases the safety of a qualified vessel shall, regardless of cost, be treated as reconstruction for the purpose of qualifying a CCF withdrawal for such expenditure, shall be exempt from having to meet conditional fishery requirements for reconstruction as set forth in § 259.32, and shall be exempt from all qualifying tests for reconstruction set forth in paragraph (b) of this section, with the following exceptions:

(1) A safety improvement shall be required to meet both conditional fishery requirements and all qualifying tests for reconstruction if it serves the dual purpose of safety and meeting the reconstruction requirement of paragraph (a) of this section for qualifying a withdrawal for the acquisition of a used vessel;

(2) That portion of the actual cost of a safety improvement that is to be paid for from the CCF must be classifiable and treated as a capital expenditure for Internal Revenue Service purposes;

(3) Safety improvement projects whose clear and central purpose is restricted to complying with the requirements of the Commercial Fishing Industry Vessel Safety Act of 1988 (Public Law 100-424 Sec. 1, 102 stat. 1585 (1988) (codified in scattered sections of 46 U.S.C.)) shall, without further documentation, be considered to fall within this paragraph (e). Satisfactory documentation will be required for all other projects proposed to be considered as falling within this paragraph (e). Projects not required by law or regulation whose central purpose clearly involves something other than an improvement that materially increases the safety of a vessel will not be considered to fall within this paragraph (e).

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### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 285**

[Docket No. 961209344-6344-01; I.D. 102596D]

RIN 0648-AI29

#### **Atlantic Tuna Fisheries; Permit Requirements**

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** NMFS amends the final regulations governing the Atlantic tunas fisheries by removing references to the Regional Director for the purposes of applying for and issuing tuna permits. These changes are necessary to allow the Atlantic tunas permit program to be managed by contract.

**EFFECTIVE DATE:** December 30, 1996. See **SUPPLEMENTARY INFORMATION** for the permit conversion schedule.

**FOR FURTHER INFORMATION CONTACT:** Chris Rogers, 301-713-2347.

**SUPPLEMENTARY INFORMATION:** The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). The ATCA authorizes the Secretary of Commerce (Secretary) to implement regulations as necessary to carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to implement ICCAT recommendations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA.

ICCAT requires contracting parties to report annual fishing effort and catch statistics for species under international management. To implement the ICCAT data collection program, NMFS has established vessel permitting requirements for Atlantic tuna fisheries (60 FR 38505, July 27, 1995). Due to the volume of permits issued, NMFS has determined that the Atlantic tunas permit program can be more efficiently managed under contract.

This final rule amends tuna regulations by removing references to the Regional Director for the purposes of applying for and issuing tuna permits. These changes are necessary to allow the Atlantic tunas permit program to be managed by contract. This amendment does not affect any other requirements for vessel permits. However, all existing Atlantic tunas permits must be reissued under the new system in order to remain valid and a fee of \$18.00 will be assessed to recover administrative costs of the contract.

Atlantic tunas permits which expired in 1996, regardless of whether or not renewed, must be reissued under the new system to remain valid beginning January 1, 1997. In addition, all new permit applications and requests for category changes must be made under the new system beginning January 1, 1997. In a proposed rule to be published soon, NMFS will propose that permits expiring on or after January 1, 1997 must be renewed under the new system by March 31, 1997. NMFS will inform vessel owners of procedures to access the new permitting system in letters to individual permit holders and in notices broadcast over the Highly Migratory Species FAX network.

#### Classification

Because this amendment only revises agency procedure or practice, under 5 U.S.C. 553(b)(A) prior notice and opportunity for comment are not required. Because this rule is not substantive, under 5 U.S.C. 553(d), it is

not subject to a 30-day delay in effectiveness.

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

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

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

Dated: December 27, 1996.

Nancy Foster,

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

For the reasons set out in the preamble, 50 CFR part 285 is amended by making the following technical amendment:

### 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 paragraphs (b)(1), (c), (d), (e), (g) and (l) are revised to read as follows:

#### § 285.21 Vessel permits.

\* \* \* \* \*

(b) *Categories of permits.* (1) Upon submission of a complete and valid application pursuant to paragraph (c) of this section, the owner of each qualifying vessel may be issued a permit by NMFS for one of the following permit categories: General, Charter/Headboat, Angling, Harpoon Boat, Purse Seine, or Incidental Catch. A permit will not be issued for more than one category.

\* \* \* \* \*

(c) *Application procedure.* Permits issued under this section must be renewed upon expiration. A vessel owner applying for an initial Atlantic tuna permit, or transfer, under this section must submit a completed permit application signed by the owner or agent on a form approved by the Assistant Administrator. The application must be submitted as indicated in the instructions on the form at least 30 days before the date on which the applicant desires to have the permit made effective. To be deemed complete, an application must include all the information required on the form and must contain copies of required documents as indicated in the instructions on the form. The application must include the name, address and telephone number of the vessel owner(s) (for each owner that

owns more than a 25 percent interest in the vessel); the name of the vessel; the port where the vessel is docked; the official U.S. Coast Guard documentation or state registration number; the gross tonnage, if known; the length of the vessel; the engine horsepower; the year the vessel was built; the type of vessel construction; the type of vessel propulsion; the vessel's fish hold capacity; the type(s) of fishing gear used; the normal crew size; number of party or charter passengers licensed to carry (if applicable); and the category of the permit. In addition, applicants must submit a copy of the official state registration or U.S. Coast Guard documentation, party/charter boat license, and, if a boat is owned by a corporation or partnership, the corporate or partnership documents (copy of Certificate of Incorporation and Articles of Association or Incorporation, including the names and addresses of all shareholders owning 25 percent or more of the corporation's shares). Except for purse seine vessels, an owner may change the category of the vessel's permit by application on the appropriate form to the Assistant Administrator before May 15. After May 15, the vessel's permit category may not be changed for the remainder of the calendar year, regardless of any change in the vessel's ownership, unless there is sufficient evidence for the Assistant Administrator to determine that an error involving contradictory information was made on the application.

(d) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, a permit shall be issued within 30 days of receipt of a complete and valid application.

(2) The applicant will be notified of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(e) *Duration.* A permit issued under this section remains valid until it is suspended or revoked, or it expires. A permit issued under this section expires when the name of the owner or vessel changes, or upon the renewal date specified on the permit.

\* \* \* \* \*

(g) *Replacement.* Replacement permits will be issued when requested in writing by the owner or authorized representative, stating the need for replacement, the name of the vessel, and the fishing permit number assigned. A request for a replacement permit will not be considered a new application. An

appropriate fee, consistent with paragraph (k) of this section, may be charged for issuance of the replacement permit.

\* \* \* \* \*

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner must report the change in writing. In such case, a new permit will be issued to incorporate the new information. For certain informational changes, NMFS may require supporting documentation before a new permit will be issued. The permit is void if any change in the information is not reported within 15 days.

\* \* \* \* \*

3. In § 285.53 paragraphs (a) through (c), and the first sentence in (d) are revised to read as follows:

#### § 285.53 Vessel permits.

(a) *Permit requirements.* The operator of each vessel that fishes for, or takes, Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito must have on board a valid permit issued under this section.

(b) *Commercial vessel permits.* As a prerequisite to selling Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito and to be eligible for exemption from applicable bag limits, if any, specified in this subpart, an owner or operator of a vessel that fishes for or takes Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito must be issued a vessel permit in the commercial category appropriate for the gear type or method of fishing.

(c) *Charter/Headboat vessel permits.* Owners or operators of charter vessels and headboats must be issued a charter/headboat vessel permit to lawfully fish for, catch, retain or land Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito. Anglers on board charter vessels and headboats must adhere to applicable catch limits for the recreational fisheries.

(d) *Recreational vessel permits.* Owners or operators of private recreational vessels must be issued vessel permits in order to fish for, catch, retain, or land Atlantic yellowfin, bigeye, albacore, and skipjack tunas.

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