

1501.101 Purpose.

This subpart establishes Chapter 15, the Environmental Protection Agency Acquisition Regulation (EPAAR), within Title 48, the Federal Acquisition Regulations System.

3. In Section 1501.602-3, paragraph (c)(2) is revised to read as follows:

1501.602-3 Ratification of unauthorized commitments.

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(c)(1) * * *

(2) For ratification actions which arise in regional offices or laboratory sites, the Chief of the Contracting Office to whom the activity functionally reports is the ratifying official.

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4. Section 1503.602 is revised to read as follows:

1503.602 Exceptions.

The Assistant Administrator for Administration and Resources Management may authorize an exception, in writing, to the policy in FAR 3.601 and 1503.601 for the reasons stated in FAR 3.602, if the exception would not involve a violation of 18 U.S.C. 203, 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, or EPA regulations at 40 CFR part 3. The Assistant Administrator shall consult with the Designated Agency Ethics Official before authorizing any exceptions.

5. Section 1505.202 is revised to read as follows:

1505.202 Exceptions.

The Contracting Officer need not submit the notice required by FAR 5.201 when the Contracting Officer determines in writing that the contract is for the services of experts for use in preparing or prosecuting a civil or criminal action under the Superfund Amendments and Reauthorization Act of 1986.

6. Section 1515.608 is amended by removing paragraphs (b)(2) and (c)(2); by redesignating paragraph (b)(3) as (b)(2) and by revising paragraph (b) introductory text, by revising newly designated (b)(2) introductory text; and by redesignating paragraph (c)(1) as (c) introductory text and redesignating paragraphs (c)(1)(i), (ii) and (iii) as (c)(1), (2) and (3), respectively; and the title to paragraph (c) introductory text to read as follows:

1515.608 Proposal evaluation.

(a) * * *

(b) *Technical evaluation panel report of initial offers.* The TEP shall deliver their report to the Contracting Officer upon completion of the evaluation of initial offers.

(1) * * *
(2) The TEP report shall also include:
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(c) *Technical evaluation panel report following the competitive range determination.* * * *

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7. Section 1532.102 is revised to read as follows:

1532.102 Description of contract financing methods.

Progress payments based on a percentage or stage of completion are authorized for use as a payment method under EPA contracts or subcontracts for construction and alteration or repair of buildings, structures, or other real property.

8. The following sections are removed:

EPAAR section	Title
1501.303	Codification and public participation.
1501.304	Agency control and compliance procedures.
1501.404	Class deviations.
1503.101-3	Agency regulations.
1503.103-2	Evaluating the certification.
1503.203	Reporting suspected violations of the gratuities clause.
1503.301	General.
1503.408-1	Responsibilities.
1503.409	Misrepresentations or violations of the covenant against contingent fees.
1503.502	Subcontractor kickbacks.
1503.603	Responsibilities of the Contracting Officer.
1505.270	Use of synopses to perform market surveys.
1505.401	General.
1505.502	Authority.
1506.202	Establishing or maintaining alternative sources.
1506.301	Policy.
1506.302	Circumstances Permitting other than full and open competition.
1506.302-1	Only one responsible source and no other supplies or services will satisfy agency requirements.
1506.303	Justifications.
1506.370	Limited competition.
1506.372	Class justification.
1509.105-2	Determinations and documentation.
1509.105-3	Disclosures of preaward information.
1509.506	Procedures.
1509.508	Examples.
1514.205-1	Establishment of lists.
1514.404-1	Cancellation of invitations after opening.
1514.406-3	Other mistakes disclosed before award.
1514.406-4	Mistakes after award.
1515.403	Solicitation mailing lists.
1515.610-70 ...	Limited discussions versus full negotiations.

EPAAR section	Title
1515.804-3	Exemptions from or waiver of submission of certified cost or pricing data.
1515.1003	Debriefings.
1519.602-1	Referral.
1520.102	Labor surplus area goals.
1520.303	Review of subcontracting program.
1522.103-4	Approvals.
1522.608-3	Protests against eligibility.
1522.608-4	Award upon final determination.
1522.608-6	Postaward.
1522.1003	Applicability.
1522.1306	Complaint procedures.
1522.1403	Waivers.
1522.1406	Complaint procedures.
1524.202	Policy.
1525.102	Policy.
1530.304	Waiver.
1531.101	Objectives.
1532.402	General.
1532.407	Interest.
1532.409-2	Recommendation for disapproval.
1532.412	Contract clause.
1533.209	Suspected fraudulent claims.
1533.211	Contracting Officer's decision.
1536.203	Government estimate of construction costs.
1536.602-4	Selection authority.
1536.602-5	Short Selection processes for contracts not to exceed \$10,000.
1536.604	Performance evaluation.
1536.605	Government estimate of architect-engineer work.
1545.403	Rental—Use and Charges clause.

Dated: July 10, 1995.
 Acting Director, Office of Acquisition Management.
Jeanette L. Brown,
 [FR Doc. 95-18372 Filed 7-26-95; 8:45 am]
 BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 285
[Docket No. 950426116-5184-02; I.D. 040495D]
RIN 0648-AG14
Atlantic Tuna Fisheries; Quotas and Permit Requirements
AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.
ACTION: Final rule.
SUMMARY: NMFS issues this final rule to revise the regulations governing the

Atlantic tuna fisheries to: Set Atlantic bluefin tuna (ABT) fishing category quotas for the 1995 fishing year; control fishing effort in the ABT General category; extend vessel and dealer permitting and reporting requirements to additional Atlantic tunas fisheries; adjust angler bag limits; and make amendments to clarify the regulations, facilitate enforcement and improve management efficiency.

These regulatory amendments address scientific monitoring and allocation issues in the ABT fisheries and simplify rules applicable to recreational fishing for tunas. The permitting and reporting provisions enhance data collection and enforcement of catch restrictions in the Atlantic tuna fisheries and enable the United States to collect fishery information needed by the International Commission for the Conservation of Atlantic Tunas (ICCAT) to produce stock assessments. These actions are necessary to begin implementation of the 1993 recommendation of ICCAT regarding fishing effort on yellowfin tuna, and to implement the 1994 recommendation of ICCAT regarding fishing quotas for ABT, as required by the Atlantic Tunas Convention Act (ATCA).

EFFECTIVE DATE: July 28, 1995.

ADDRESSES: Copies of the Final Environmental Impact Statement (FEIS) and final Regulatory Impact Review/Regulatory Flexibility Analysis (RIR/RFA), are available from Richard B. Stone, Chief, Highly Migratory Species Management Division (F/CM4), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments regarding the burden-hour estimate or any other aspect of the collection-of-information requirement contained in this rule should be sent to Richard B. Stone and to the Office of Management and Budget (OMB), (0648-0040; 0648-0168; 0648-0202; 0648-0239; 0648-0247), Attention: NOAA Desk Officer, Washington, DC 20503.

Permit applications and reporting forms are available from NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930-3799; or from NMFS, Southeast Regional Office, 9721 Executive Center Drive, St. Petersburg, FL 33702-2432.

FOR FURTHER INFORMATION CONTACT: Christopher W. Rogers, 301-713-2347; or Kevin B. Foster, 508-281-9260.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under regulations at 50 CFR part 285 implementing the recommendations of ICCAT and issued under the authority of ATCA, 16 U.S.C. 971 *et seq.* ATCA authorizes the Secretary of Commerce

(Secretary) to issue such regulations as may be necessary to carry out the recommendations of ICCAT. The regulatory authority of the Secretary with respect to ICCAT recommendations has been delegated to the Assistant Administrator for Fisheries, NOAA (AA). The AA has determined that provisions of this final rule are necessary to implement the recommendations of ICCAT.

Purpose of Current Action

Background information about the need for revisions to Atlantic tuna fishery regulations was provided in the notice of proposed rulemaking (60 FR 25665, May 12, 1995) and is not repeated here.

Management Measures

These regulatory changes will improve NMFS' ability to implement the ICCAT recommendations and further the management objectives for the domestic tuna fisheries:

1. Quota Allocations

Initial ABT quotas by category for the 1995 fishing year are established as follows: General category—438 mt; Harpoon Boat category—47 mt; Purse Seine category—250 mt; Angling category—324 mt; Incidental category—125 mt; Inseason Reserve—145 mt. The quota for the Angling category is further subdivided as follows: Southern area school bluefin—70 mt; northern area school bluefin—80 mt; large school/small medium bluefin—170 mt; and large medium/giant bluefin (may not be sold)—4 mt. The quota for the Incidental category is further subdivided as follows: Southern area longline—100 mt; northern area longline—23 mt; and other gear—2 mt.

2. General Category Effort Controls

Monthly subquotas and effort controls are established for the ABT General category for the 1995 fishing year. The initial 438 mt quota for the General category is subdivided as follows: June/July—88 mt; August—175 mt; September—131 mt; and October—44 mt. The AA may designate a portion of the October quota for a particular geographical area.

This rule establishes regulatory authority for the AA to control effort in the General category fishery by designating "no-fishing" days. Prior to the start of each fishing season, scheduled "no-fishing" days will be published in the **Federal Register** for a comment period of 30 days. For calendar year 1995, this notice and comment procedure is waived because such effort controls were discussed at

public hearings on the proposed rule. Notice is hereby given that, for 1995, scheduled days on which no large medium or giant ABT may be retained by persons on board vessels permitted in the General category are: July 30, and 31; August 2, 6, 7, 10, 11, 12, 16, 20, 21, 23, 27, 28, and 30; and September 5, 6, 10, 11, 13, 17, 18, 20, 24, 25, and 27. A designated "no-fishing" day may be waived if the AA determines that such effort control is impeding attainment of the monthly quota. If applicable, a notice of such waiver will be filed with the Office of the Federal Register a minimum of 5 days in advance of the scheduled "no-fishing" day.

3. Permits and Reporting

Permits and reporting are required for all of the Atlantic tuna fisheries. Vessels taking any Atlantic tuna for recreational or commercial purposes and fish dealers purchasing any Atlantic tuna must be issued appropriate permits by the Director, Northeast Region, NMFS (Regional Director). Dealer permits for the Atlantic tuna fisheries must be obtained by November 15, 1995. Vessel permits for the Atlantic tuna fisheries must be obtained by November 15, 1995 for commercial vessels including charter and headboat vessels, and by January 1, 1996 for private recreational vessels. Atlantic tunas landed by vessels permitted in the Angling category must not be sold.

Only one category of Atlantic tunas permit may be issued for a vessel. Persons on board General category vessels may fish for non-commercial size class ABT or other species of Atlantic tunas, except when the catch limit for commercial size class ABT has been retained or possessed. Current vessel and dealer permittees in the ABT fishery may fish for, sell, or purchase other species of Atlantic tunas without need of an additional permit. Current vessel and dealer permittees in the Atlantic shark, and Atlantic swordfish fisheries may fish for, sell, or purchase all species of Atlantic tunas, except ABT, without need of an additional permit. Handgear fishermen who are operating solely in the exclusive economic zone (EEZ) surrounding Puerto Rico and the U.S. Virgin Islands and dealers of tuna taken by handgear from those waters are also exempt from permit requirements for the Atlantic tuna fisheries.

Permanent consolidation of permits and ABT allocations is authorized for owners of vessels permitted in the ABT Purse Seine category, however, vessel operators transferring permits may not fish with purse seines in any directed Atlantic tuna fishery.

4. Catch Limits

ABT recreational catch limits applicable to persons on board vessels permitted in the Angling category are two fish per angler per trip from among the school/large school size classes plus one fish per vessel in the small medium size class. In addition, one fish per year per vessel is authorized in the large medium or giant class, provided it is reported and is not sold.

Persons on board vessels permitted in the General category or permitted in the Charter/Headboat category may fish under the catch limits for Atlantic tunas applicable to the Angling category. Captains and mates on board vessels permitted in the Charter/Headboat category may be counted as anglers for the purposes of recreational catch limits.

Regardless of permit category, all fishing for any species must cease and the vessel must return to port to offload once a large medium or giant ABT is retained or possessed under regulations pertaining to the Angling category or General category fishery, as applicable.

5. Size Limits

The minimum size for yellowfin and bigeye tuna is 22 inches (56 cm) total fork length according to the curved measurement method.

6. Other Amendments

Other amendments to the regulations at 50 CFR part 285 are made to restrict close approaches by purse seine vessels to other vessels actively fishing, allow for a 10 percent per season and 15 percent per trip incidental catch of large medium ABT by purse seine operators, codify the allowance for purse seine vessel operators to transfer ABT at sea, restrict issuance of letters of authorization to the Director, redefine authorized gear for the Atlantic tuna fisheries and clarify gear use by permit category, define commercial and recreational fishing, redefine the curved measurement method, authorize use of certain catch-and-release tags issued by organizations other than NMFS, clarify the regulations pertaining to sale of small ABT and possession by dealers, and expand the applicability of subpart C regulations to all Atlantic tunas other than bluefin. These changes will not affect the conduct of the tuna fisheries except to facilitate enforcement, reduce discarding, and reduce gear conflict. Without such changes, the fisheries cannot be monitored or enforced with maximum effectiveness.

Comments and Responses

1. Quota Allocations

Comment: Many fishery participants stated the need, based on increased participation rates and the usefulness of scientific data obtained, to increase the allocation to the Angling and General categories by reducing the allocation to the Purse Seine category. Others commented that the underharvest from the 1994 Angling category fishery should be used to cover the 1994 overharvest in the General category rather than reduce the initial quota for the General category in 1995.

Response: NMFS agrees that participation in the General and Angling categories has increased in recent years and has resulted in early closures for these categories. Because of the reliance on the large fish and small fish catch-per-unit-effort (CPUE) indices for stock assessment, the General and Angling category fisheries should be kept open as long as possible to achieve high survey sampling rates over the widest possible geographic area. Also, NMFS, in response to recommendations from the National Research Council, has increased scientific sampling, working with outside organizations, for genetic studies, microconstituent analysis, sexual maturity determination, tagging studies, and age and growth studies. For these reasons, NMFS has reallocated 51 mt from the Purse Seine category (the only category which has not been subject to increased participation and premature closure) to the Reserve category. A total reserve of 145 mt will allow NMFS to transfer tonnage into other categories as needed to keep fisheries open to maximize scientific data collection. The criteria for such inseason transfers are stipulated in the regulations and are not changed by this rule.

Comment: The General Category Tuna Association (GCTA) petitioned NMFS to amend rules, regulations, and guidelines for allocation of U.S. quota, and to reallocate the quota among user groups. More specifically, GCTA requested that NMFS address areas of: (1) Reallocation, (2) Control of bycatch and discards, and (3) Modification of methodology used in computing costs and benefits related to the directed bluefin tuna fishery.

Response: See response to previous comment. In addition, NMFS agrees that there could be additional reduction in bycatch, and NMFS is supporting research in this area. NMFS will continue to monitor advances in this research to see if additional regulatory action is necessary. The FEIS considers the effect of various management options in terms of net economic

benefits, as required under E.O. 12866. However, the FEIS also examines, to the extent that data are available, the economic impact of the management alternatives, including expenditures and employment.

Comment: Many people commented that allocation of quota to the Purse Seine fishery, which, they assert, does not provide useful catch and effort information for scientific monitoring purposes, does not support the overall ICCAT objective of a scientific monitoring quota for ABT.

Response: NMFS agrees that fishery data are essential to monitor the status of the bluefin tuna resource. Information from commercial fisheries that can be used for scientific monitoring (i.e., input to stock assessments) includes landings data, size frequency information, and CPUE data. Rod-and-reel fishermen also tag numerous bluefin each year and purse seiners have been used as platforms for large-scale tagging experiments in the past. All bluefin tuna gear categories provide catch and size frequency information. All commercial landings are censused and measured. However, because purse seine landings cover only a narrow size range and geographic area, they do not provide information about the stock as a whole. In addition, CPUE data from purse seiners cannot be used in stock assessments, since they do not appear to correlate well with stock abundance. Standardized CPUE data are also lacking for the harpoon category and northeastern U.S. coastal longline fisheries. The categories that do provide usable catch per unit effort information are the Angling and General category fisheries and the Gulf of Mexico Incidental Longline fishery. It would also be possible to develop a CPUE series for the northeastern U.S. Incidental Longline fishery using existing methodology, but it would take several years before it could be used in the stock assessment. The feasibility of developing a new series based on aerial survey information from the purse seine and harpoon fisheries is currently being investigated. Thus, NMFS places considerable emphasis on the development of existing and new indices that can be used to monitor stock abundance. Although the need for scientific monitoring is paramount, NMFS' quota allocation decisions also take account of stock rebuilding goals, targeted size categories, historical participation and dependence, number of participants, other socio-economic effects, and other relevant factors.

Comment: Some people expressed concern about the biological, economic, and scientific effects of reallocation

from the Purse Seine category to other categories.

Response: Compared to the current allocation, reallocating 51 mt from the Purse Seine category to other categories will have only a small negative effect on stock rebuilding (the spawning stock will grow slightly less (1 percent less) by the year 2010), and a small positive economic effect (a cumulative increase of \$5 million over 16 years, or 2 percent in net national economic benefits). In addition, the use of quota to extend the season for rod-and-reel fisheries increases overall sampling success, leading to increases in the accuracy and precision of CPUE indices.

Comment: There was opposition to the proposed allocation of 350 mt of yellowfin tuna to purse seine vessels permitted for ABT without further analysis of environmental and economic impacts.

Response: NMFS agrees that further analysis and comment on yellowfin tuna allocations is needed, and NMFS is not implementing a purse seine quota at this time.

2. General Category Effort Controls

Comment: Most commenters were in basic agreement on the need to extend the General category fishing season but no clearly preferable option emerged on how to do this. Comments were divided on whether the quota should be partitioned on a monthly or bimonthly basis.

Response: Although there was a geographical split on comments for monthly or bimonthly quotas, NMFS agrees that the first 2 weeks of August are, from the standpoint of price and the U.S. share of the Japanese market, important for the General category-caught ABT. Part of the argument for bimonthly quotas (August/September) was to protect this critical market period. NMFS believes that allocating 40 percent of the General category quota to August and providing a larger reserve, which could be used in August, will reduce the possibility of closure during that period.

Comment: Many fishery participants wanted to reduce the rate of catch in the General category fishery and commented that the proposed 2 days of no fishing each week were insufficient to slow catch rates enough to extend the fishing season. In addition, many commented that the 3-day market closure in Tokyo, Japan, in August should also be considered for time off in the General category fishery.

Response: NMFS concurs that 2 days off per week may be insufficient to slow the catch rates to desired levels. Therefore, NMFS has included Mondays

and the 3-day Japanese holiday in August as part of the effort control calendar. Since the AA retains the authority to waive "no-fishing" days under this rule, NMFS has some flexibility to ensure that the desired catch rate is achieved. In future years, a schedule of designated "no-fishing" days will be published in the **Federal Register**.

Comment: Many fishery participants did not want fishing restricted on weekends, citing adverse impact on local economies, particularly shoreside service industries. These participants suggested that all days off be scheduled for weekdays.

Response: NMFS concurs that high participation rates in the General category fishery generate important economic impacts. However, Sundays have been high production days and NMFS is concerned that the effort control program would be ineffective if only weekdays are included in the effort control program. Also, NMFS agrees with some commenters that the burden of "no-fishing" days should be "shared" between part-time and full-time fishery participants. In addition, early closures in the General category eliminate all weekend days, possibly with greater adverse economic impacts. The allowance at this time for General category vessels to participate in the ABT recreational fishery should mitigate some of the adverse impacts of "no-fishing" days.

Comment: Many fishery participants in the Mid-Atlantic area were concerned that the monthly quota for October, in and of itself, would not assure a late-season fishery in the New York Bight area.

Response: Under this final rule, the AA may designate a portion of the October quota for a particular geographic area.

Comment: Some General category participants were concerned that the proposed 7-day notice for waiver of "no-fishing" days would unduly restrict the use of waivers to enable a monthly quota to be reached. They suggested 3-days notice would be adequate.

Response: Under this final rule, the required notification period is reduced to 5 days. NMFS is concerned that 3 days would be insufficient to adequately notify all fishery participants.

3. Permits and Reporting

Comment: Many fishery participants were concerned about the proposed separation of Angling and General category permits. While many anglers maintain General category permits for the limited occasions when giant ABT are available to them, their main fishing

activity is for school tuna. There were also concerns that General category vessels could not participate in recreational tournaments when the General category fishery is closed or subject to effort controls.

Response: Since the majority of General category permit holders primarily participate in the recreational fishery, NMFS has decided not to eliminate these vessels from the school tuna fishery. Instead, operators of General category vessels may target and land ABT in the smaller size categories. However, persons on board General category vessels must cease fishing and the vessel must return to port immediately upon retaining or possessing the daily catch limit of large medium or giant ABT.

Comment: NMFS received a petition and other letters from harpoon fishermen, requesting a moratorium on issuance of new Harpoon Boat permits. However, during the comment period on the proposed moratorium, many current and past participants in the Harpoon Boat category fishery expressed concern about the agency's proposed criteria for limiting entry into that category. Additionally, many fishermen were concerned that NMFS was not addressing limited entry for all ABT categories simultaneously.

Response: While NMFS believes that limited entry programs could have beneficial impacts on the operation and management of the ABT fisheries, NMFS agrees that more discussion is needed to address industry concerns on limited entry, to help develop specific criteria for participation, and to ensure that any adverse effects of incremental changes are minimized. NMFS will hold workshops on limited entry for the tuna fisheries in 1995, but will not limit entry into the Harpoon Boat category this year. To avoid speculative entry or fishing effort in this category, NMFS advises Harpoon category permit holders that catch history in the 1995 season may not be considered in any future limited access program.

Comment: Purse seine operators requested that NMFS amend the proposed hauling and inspection requirements to minimize delays.

Response: NMFS has adjusted the requirements so that only one inspection of the gear and vessel is required prior to the start of the fishing season. In addition, inspection is automatically waived if not undertaken within 48 hours of notifying NMFS.

Comment: Purse seine operators requested that NMFS allow permanent consolidation of permits and ABT allocations and provide for individual vessel quotas which could be freely

transferrable to permit holders in all fishing categories.

Response: This rule authorizes permanent consolidation of permits and ABT allocations for owners of vessels permitted in the ABT Purse Seine category, however, vessel operators transferring permits may not fish with purse seine nets in any directed fishery for Atlantic tunas. NMFS believes that freely transferrable quotas could be useful in resolving allocation issues between participants in all categories. However, time is needed to develop monitoring procedures and adequate controls for such a system.

Comment: Artisanal fishermen and local fish dealers operating in Puerto Rico and the U.S. Virgin Islands requested exemptions from the permitting and reporting requirements, because they would duplicate local reporting systems.

Response: NMFS agrees to initially exempt such fishermen and dealers from permitting and reporting while the adequacy of existing information collection programs is investigated.

4. Angling Catch Limits

Comment: Many people commented that simplification of ABT catch limits was needed but that the potential to take two small medium tuna per angler was excessive. It was suggested that the limit for small medium ABT remain at one fish per vessel.

Response: NMFS agrees and has adjusted the catch limits to allow two ABT per angler from either the school or large school size classes plus one small medium ABT per vessel.

Comment: Some charter vessel operators opposed the prohibition on captains and mates from counting as anglers for the purposes of catch limits. They commented that removing this measure would not result in significant catch towards the annual quotas but does impact the success of individual trips.

Response: NMFS remains concerned that increased catch rates, particularly for school bluefin, could result in early closures. Nevertheless, those parties most directly affected by closures are in the best position to moderate catch levels. The rule allows captains/mates to be counted as anglers for the purposes of catch limits.

Comment: While many individuals commented that the proposed yellowfin tuna 10-fish catch limit was too high (relative to actual catch rates), they oppose the limit until NMFS provides further analysis. It is believed that a 10 fish limit amounts to a quota on the recreational fishery while no commercial category, except purse

seine, was proposed for yellowfin quota management.

Response: NMFS agrees that further analysis on the impact of recreational catch limits is needed. For this reason, NMFS did not include a yellowfin tuna catch limit in this rule. NMFS seeks further comment on appropriate catch limits for the recreational tuna fishery.

5. Size Limits

Comment: NMFS should set a higher yellowfin size limit because the ICCAT limit does not coincide with age of first spawning; fish should have the opportunity to spawn at least once.

Response: NMFS agrees that increasing the minimum size could be beneficial; however, more information is needed on the potential impact for both recreational and commercial sectors, especially the effect on discard rates and an analysis of release mortality. Because U.S. landings are low relative to total Atlantic landings and the major spawning area is outside of the U.S. EEZ, a higher U.S. size limit is not likely to have measurable effect on yield per recruit. NMFS must, therefore, assess benefits in terms of post-release return of larger fish to U.S. fishing areas.

Comment: Many anglers catch both yellowfin and bluefin. Small sized tunas are difficult to differentiate and the length-weight relationship is approximately the same for young fish of both species. Though 22 inches (56 cm) corresponds to the ICCAT minimum, NMFS should reduce confusion by having a consistent yellowfin, bigeye, and bluefin tuna size minimum of 27 inches (69 cm).

Response: NMFS agrees that a uniform size limit would simplify regulations. However, further analysis is needed before establishing 27 inches (69 cm) curved measure as the minimum for yellowfin and bigeye tuna. Since the 22 inch (56 cm) minimum corresponds closely with the current ICCAT recommendation, NMFS is establishing this as the minimum size for the current time.

6. Technical Amendments

Comment: Many anglers use tags issued by the Billfish Foundation for tag and release fishing. ABT regulations should reflect this.

Response: NMFS is concerned that all anglers register with the NMFS tagging program to assist in data collection and provide a means to contact ABT fishery participants. An allowance is made to certify use of tags issued by other programs, provided anglers are registered with NMFS in the tagging program.

Comment: As proposed, the prohibition on close approaches by purse seine vessels is not truly reciprocal, since approaching the cork line signifies the "act of fishing." There is a need for similar reciprocal language, or purse seiners could be precluded from ever setting the net if other vessels move into an area where a purse seiner is operating.

Response: The regulatory text has been changed to include similar reciprocal language.

Comment: As proposed, the seasonal allowance for purse seine incidental catch of large medium ABT is not enforceable until a vessel's entire annual catch has been landed.

Response: NMFS has amended the incidental catch allowance to restrict the take of large medium ABT to 15 percent per trip and 10 percent per season.

Comment: NMFS has allowed at-sea transfer of ABT between purse seine vessels but the regulations prohibit at-sea transfers for all vessels except permitted buy-boats.

Response: Since 1986, NMFS has allowed transfers between purse seine vessels to reduce discarding when vessels have netted more fish than the remaining vessel allocation would allow. Codified text has been amended to reflect this policy.

Comment: Bandit gear, as defined, is not synonymous with downrigger. This could lead to confusion about use of downriggers by Angling category boats.

Response: The definition of downrigger is clarified and downriggers are authorized for use with rod-and-reel gear under the rules for the Angling, General and Charter/Headboat categories.

Comment: The existing prohibition on the sale of small bluefin does not address dealer trade in Pacific bluefin or imported Atlantic bluefin.

Response: NMFS has clarified the regulations by inserting a new section of regulatory text to specify that small bluefin tuna in the possession of dealers must be accompanied by documentation of origin.

Comment: The existing subpart C regulations apply only to yellowfin and bigeye tuna. NMFS must clarify whether permitting and reporting requirements apply to all species of Atlantic tuna.

Response: NMFS has clarified the regulations by amending subpart C to apply to all Atlantic tunas other than bluefin.

Changes From the Proposed Rule

Based on consideration of comments received, and further analysis of

available data, the following changes were made to the proposed rule:

1. Quota Allocations

Initial ABT quotas by category for the 1995 fishing year were changed by transferring 51 mt from the Purse Seine category to the Reserve category for scientific research and to enhance data collection in the handgear categories. In addition, 4 mt were transferred from the Incidental category to the Angling category to account for catch of large medium and giant ABT in the consolidation of recreational permits.

2. General Category Effort Controls

Monthly subquotas were modified by increasing the percentage allocated to August to 40 percent and reducing the percentage allocated to September to 30 percent. This should reduce the possibility of closure during a critical market period for U.S. product. A portion of the October sub-quota may be set aside for a specific geographic area. In addition, the scheduled days off were increased to 3 per week, generally including Sundays, Mondays, and Wednesdays, but modified to coincide with certain market closures in Japan. The regulatory text has been modified to provide notification and opportunity for comment on the annual schedule of "no-fishing" days. Also, the required advance notice of waiver of days off has been reduced to 5 days from the proposed 7 days.

3. Permits and Reporting

The moratorium on the Harpoon Boat category has been eliminated, pending further analysis and comment. Vessels for which General category permits have been issued may fish for non-commercial size ABT and other species of Atlantic tunas, except when the catch limit for commercial size class ABT has been retained. Handgear fishermen and dealers operating solely in the EEZ surrounding Puerto Rico and the U.S. Virgin Islands are exempt from Atlantic tuna permit requirements. Hailing and inspection requirements for purse seine vessel operators have been revised to minimize delay. Permanent consolidation of permits and ABT allocations is authorized for owners of vessels permitted in the ABT Purse Seine category; however, vessel operators transferring permits may not fish with purse seines in any of the Atlantic tuna fisheries.

4. Catch Limits

ABT catch limits applicable to persons on board vessels permitted in the Angling category are two fish per angler per trip from either the school/

large school size classes plus one fish per vessel in the small medium size class. In addition, a total quota of 4 mt is set for the one fish per year per vessel authorized in the large medium or giant class. Captains and mates on board charter/headboat vessels may be counted as anglers for the purposes of catch limits. Operators of charter/headboat vessels are subject to the rules applicable to General category vessels once a large medium or giant ABT is retained or possessed.

5. Size Limits

This rule incorporates the proposed minimum size for yellowfin and bigeye tuna of 22 inches (56 cm) total fork length according to the curved measurement method. Further analysis on alternative minimum sizes will be conducted and comment is requested.

6. Other Amendments

Changes were made to the proposed amendments to restrict close approaches by purse seine vessels to other vessels actively fishing, to codify the allowance for purse seine vessels to transfer ABT at sea, to set the purse seine tolerance for large medium ABT to 15 percent per trip and 10 percent per season, to add definitions for commercial and recreational fishing, to clarify the definition and authorized use of downriggers, to authorize use of certain catch-and-release tags issued by organizations other than NMFS. In addition, a new § 285.34 has been added to clarify the prohibition on dealers possessing and selling bluefin tuna smaller than the large medium size class. Finally, subpart C of part 285 has been revised to make regulations applicable to all Atlantic tunas other than bluefin tuna.

Classification

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

NMFS prepared an FEIS for this rule that examined the environmental consequences of four national quota levels in combination with five domestic allocation alternatives and three access control alternatives. The selected quota level is expected to allow the bluefin tuna resource to rebuild, while enabling a viable commercial industry and recreational fishery to exist. The selected allocation alternative is expected to result in little biological or economic impact overall, but should improve the quality of data used for

scientific monitoring. NMFS does not intend to implement access controls in 1995, pending further analysis. No significant impact on the human environment would result from implementing effort controls in the General category or amending the tuna permitting and reporting requirements. The FEIS has been filed with the U.S. Environmental Protection Agency and has been distributed. Parties not on the initial distribution list may obtain a copy from Richard B. Stone (see ADDRESSES).

NMFS prepared an RFA as part of the RIR, which describes the impact this rule has on small entities. The RIR/RFA indicates that General category permit holders (81 percent of commercial vessels landing at least one bluefin in 1994) would face a reduction of gross revenues of approximately 18 percent due to the reduction in overall quota relative to 1994. However, effort controls could result in increased prices, offsetting the revenue decline associated with decreased quota. In addition, inseason transfers from the Reserve category to the General category could increase the total catch in that category. This final rule is also estimated to reduce gross revenues to vessel owners in the Purse Seine category by about 18 percent due to the transfer of 51 mt to the Reserve category. Copies of the RIR/RFA are available from NMFS (see ADDRESSES).

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

This rule contains new and revised collection-of-information requirements subject to review under the Paperwork Reduction Act. It modifies requirements that were approved by OMB under control numbers 0648-0202 and 0648-0239 and restates requirements that were approved by OMB under control numbers 0648-0040, 0648-0168 and 0648-0247.

The public reporting burden for completing an application for a Federal fishing permit for vessel owners is estimated at 0.50 hours (30 minutes) per response for initial applications and 0.25 hours (15 minutes) per response for renewals. The public reporting burden for completing an application for a Federal permit for tuna dealers is estimated at 0.08 hours (5 minutes) per response. The public reporting burden for these dealers for collection of information on dealer reports is estimated at 0.08 hours (5 minutes) per response for the phone-in daily dealer reports, at 0.05 hours (2.5 minutes) per response for the written daily dealer reports, at 0.55 hours (33 minutes) per response for the biweekly dealer reports.

The public reporting burden for completing an ICCAT Bluefin Tuna Statistical Document is estimated at 0.33 hours (20 minutes). The public reporting burden for completing a vessel log by vessel owners is estimated at 0.10 hours (6 minutes) per day and 0.10 hours (6 minutes) per notification of fish transfer. The public reporting burden for registering with the NMFS Cooperative Tagging Center is estimated at 0.03 hours (2 minutes).

These estimates include 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 these burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 285

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

Dated: July 21, 1995.

Rolland A. Schmitt,
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 § 285.1, paragraph (c) is revised to read as follows:

§ 285.1 Purpose and scope.

* * * * *

(c) This part does not apply to any person or vessel authorized by the Commission, or in writing by the Director, or any state upon written authorization by the Director, to engage in fishing for research purposes.

* * * * *

3. In § 285.2, the definitions of "Center Director" and "Party boat" are removed, definitions of "Bandit gear", "Commercial fishing", "Downrigger", "Fixed gear", "Headboat", "Length overall", "Operator", "Recreational fishing", "Rod and reel", and "Trap" are added in alphabetical order, and the definitions of "Charter boat", "Curved fork length" and "Regional Director", "Straight fork length" are revised to read as follows:

§ 285.2 Definitions.

* * * * *

Bandit gear means vertical hook-and-line gear with rods attached to a vessel, with no more than two hooks per line and with line retrieved by manual, electric, or hydraulic reels.

* * * * *

Charter boat means a vessel less than 100 gross tons (90.8 metric tons) that meets the requirements of the Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year.

* * * * *

Commercial fishing means fishing for purposes including sale or barter of any or all of the fish harvested.

* * * * *

Curved fork length means a measurement of the length of Atlantic tuna taken in a line tracing the contour of the body along the middle of the lateral surface from the tip of the upper jaw to the fork of the tail.

* * * * *

Downrigger means a rod attached to a vessel and with a weight on a cable that is in turn attached to hook-and-line gear to maintain lures or bait at depth while trolling, and that has a release system to retrieve the weight by rod and reel or by manual, electric, or hydraulic winch after a fish strike on the hook-and-line.

* * * * *

Fixed gear means stationary, anchored non-trawl gear.

* * * * *

Headboat (partyboat) means a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire.

* * * * *

Length overall means the length listed on the vessel's U.S. Coast Guard Certificate of Documentation or Certificate of Number, or if not documented, on the vessel's state registration certificate.

* * * * *

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

* * * * *

Recreational fishing means fishing for purposes not including sale or barter of any or all of the fish harvested.

Regional Director means

(1) For the purposes of Atlantic tuna vessel and dealer permits and Atlantic bluefin tuna dealer reports, the Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-3799; and for purposes of reporting for Atlantic tunas other than bluefin, the Regional

Director, Southeast Region, National Marine Fisheries Service, 9721 Executive Center Drive, St. Petersburg, FL 33702-2432.

(2) For the purposes of Pacific bluefin dealer permits and reporting, the Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

* * * * *

Rod and reel means vertical hook-and-line gear with a hand-held (includes rod holder) fishing rod and with a manually operated reel attached.

* * * * *

Straight fork length means a measurement of the length of Atlantic tuna taken in a straight line along the middle of the lateral surface from a line perpendicular to the tip of the upper jaw to a line perpendicular to the fork of the tail.

* * * * *

Trap means a pound net, weir or staked gill net that is maintained and operated at a fixed location.

* * * * *

4. In § 285.3, paragraphs (j) and (k) are revised, and paragraphs (q), (r) and (s) are added to read as follows:

§ 285.3 Prohibitions.

* * * * *

(j) For any person on board a vessel subject to the jurisdiction of the United States to fish for or catch any Atlantic tuna with gear that is not authorized under § 285.21(b) or § 285.51, or to retain or land Atlantic tunas taken with unauthorized gear.

(k) For any person to possess any Atlantic tuna on board a vessel subject to the jurisdiction of the United States that has gear on board that is not authorized under § 285.21(b) or § 285.51, unless authorized under § 285.7.

* * * * *

(q) Purchase, receive, or transfer for commercial purposes any Atlantic tunas landed by owners or operators of vessels not permitted to do so under this part, or purchase, receive, or transfer for commercial purposes any Atlantic tunas without a valid dealer permit issued under this part.

(r) Sell, offer for sale, or transfer for commercial purposes any Atlantic tunas landed by owners or operators of a vessel not permitted to do so under this part or to any person or vessel without a valid dealer permit issued under this part.

(s) Dispose of fish or parts thereof or other matter in any manner, after any communication or signal from an

authorized officer, or after the approach of an authorized officer.

5. Section 285.9 is removed.

6. In § 285.20, paragraphs (a)(1)(i) and (b)(3) are revised to read as follows:

§ 285.20 Fishing seasons.

(a) * * *

(1) * * *

(i) For anglers fishing for Atlantic bluefin tuna under the quota specified in § 285.22(d);

* * * * *

(b) * * *

(3) A vessel permitted in the Purse Seine category may fish under the bluefin tuna quota specified in § 285.22(c), or in fisheries for Atlantic yellowfin or skipjack tuna or other fisheries where bluefin tuna might be taken as bycatch, only until the allocation of bluefin tuna assigned or transferred under § 285.25(d) to that vessel is reached. Upon reaching its individual vessel allocation of Atlantic bluefin tuna, directed purse seine fisheries for Atlantic tunas are closed to such vessel and the vessel will be deemed to have been given notice to that effect.

* * * * *

7. In § 285.21, paragraphs (a), (b), the heading and first sentence in paragraph (c), and paragraphs (h), (i), and (m) are revised to read as follows:

§ 285.21 Vessel permits.

(a) *Permit requirements.* A vessel that fishes for, takes, retains or possesses Atlantic bluefin tuna must have on board a valid permit issued to the vessel owner under this section.

(b) *Categories of permits.* (1) Upon submission of a complete and valid application pursuant to paragraph (c) of this section, the Regional Director will issue to the owner of each qualifying vessel a permit 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.

(2) Persons may fish for, retain or possess Atlantic bluefin tuna only under the quota, catch limits, and size classes applicable to the permit category of the carrying vessel, except that anglers on board General and Charter/Headboat category vessels may fish for and retain school, large school and small medium bluefin tuna, subject to the limits applicable to the Angling category only until such time that a large medium or giant bluefin tuna is caught, retained or possessed on board the vessel.

(3) School, large school and small medium bluefin tuna landed by anglers on board General and Charter/Headboat

category vessels are counted against the Angling category quota. When the General category fishery is open, large medium and giant bluefin tuna landed by anglers on board General and Charter/Headboat category vessels are counted against the General category quota. When the General category fishery is closed, or at any time in the Gulf of Mexico, large medium and giant bluefin tuna landed by anglers on board Angling and Charter/Headboat category vessels pursuant to § 285.24(d)(2) may not be sold and are counted against the Angling category quota.

(4) Persons fishing for Atlantic bluefin tuna must not possess on board or use any gear inappropriate to the category for which the carrying vessel is permitted:

(i) General—rod and reel (including downriggers), handline, harpoon, bandit gear;

(ii) Charter/Headboat—rod and reel (including downriggers), handline;

(iii) Angling—rod and reel (including downriggers), handline;

(iv) Harpoon Boat—harpoon;

(v) Purse Seine—purse seine nets;

(vi) Incidental Catch—purse seine nets, fixed gear, traps, longlines.

(5) When fishing for, or possessing, Atlantic bluefin tuna, operators of vessels permitted for the Charter/Headboat category must have on board a current copy of the operator's merchant marine license or the operator's uninspected passenger vessel license.

(6) Vessels permitted for any category other than the Angling category are eligible to conduct commercial fishing for Atlantic bluefin tuna.

(c) *Application procedure.* Permits issued under this section must be renewed upon expiration. * * *

* * * * *

(h) *Transfer.* A permit issued under this section, except in the case of a purse seine permit as allowed under paragraph (m) of this section, is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

(i) *Display.* A permit issued under this section must be carried on board the vessel at all times. The permit must be displayed for inspection upon request of any authorized officer or any employee of NMFS designated by the Regional Director for such purpose. Upon sale of any large medium or giant Atlantic bluefin tuna, the vessel permit must be presented for inspection to the permitted dealer completing the landing card.

* * * * *

(m) *Closed categories.* The Regional Director will issue permits to catch and

retain Atlantic bluefin tuna under § 285.22(c) only to current owners of those purse seine vessels, or their replacements, that were granted allocations under this subpart and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during the period 1980 through 1982. The Regional Director will not issue a permit to take Atlantic bluefin tuna under this subpart to the owner of any vessel that was replaced or consolidated with another vessel and retired from the purse seine fishery during the period 1980 through 1982, unless that vessel is replacing another vessel being retired from the fishery.

8. In § 285.22, paragraphs (a), (b), (d), (e), the heading and first sentence of paragraph (f) introductory text, and paragraph (h) are revised to read as follows:

§ 285.22 Quotas.

* * * * *

(a) *General.* (1) The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the General category under § 285.21(b) is 438 mt, of which 88 mt are available in the period beginning June 1 and ending July 31; 175 mt are available in the period beginning August 1 and ending August 31; 131 mt are available in the period beginning September 1 and ending September 30; and 44 mt are available beginning October 1.

(2) On the basis of the statistics referenced at § 285.20(b)(1), the Assistant Administrator will project a date when the catch of Atlantic bluefin tuna will equal the available quota in any period, and will publish a notification in the **Federal Register** stating that fishing for, retaining, possessing, or landing Atlantic bluefin tuna under the quota for that period is prohibited from a specified time on that date until the opening of the subsequent quota period, whereupon a quota equal to the initial quota for that period as adjusted for estimated overharvest or underharvest prior to that period will become available.

(3) If the Assistant Administrator determines (based on dealer reports, availability of large medium or giant Atlantic bluefin tuna on the fishing grounds, and any other relevant information) that variations in seasonal distribution, abundance, or migration patterns of Atlantic bluefin tuna, and the catch rate, may prevent fishermen in an identified area from harvesting their share of the quota, the Assistant Administrator may set aside an allocation of the October quota for such

area. The amount of any geographic allocation shall not exceed 20 mt. The Assistant Administrator will publish notification of any geographic set-aside allocation and its basis in the **Federal Register**. The daily catch limit for the identified area will be set at one large medium or giant Atlantic bluefin tuna per day per vessel.

(b) *Harpoon Boat*. The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 47 mt.

* * * * *

(d) *Angling*. The total annual amount of Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by anglers is 324 mt. No more than 4 mt of this quota may be large medium or giant Atlantic bluefin tuna and no more than 150 mt of this quota may be school Atlantic bluefin tuna. The quota for school Atlantic bluefin tuna is further subdivided as follows:

(1) 70 mt of school Atlantic bluefin tuna may be caught, retained, possessed, or landed south of 38°47' N. lat.; and

(2) 80 mt of school Atlantic bluefin tuna may be caught, retained, possessed, or landed north of 38°47' N. lat.

(e) *Incidental*. The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 125 mt. This quota is further subdivided as follows:

(1) For longline vessels, 123 mt, no more than 100 mt of which may be caught, retained, possessed, or landed in the area south of 34°00' N. lat.

(2) For vessels fishing under § 285.23 (a) and (b), 2 mt may be caught, retained, possessed, or landed in the regulatory area.

(f) *Inseason adjustment amount*. The total amount of Atlantic bluefin tuna that will be held in reserve for inseason adjustments is 145 mt. * * *

* * * * *

(h) If the Assistant Administrator determines, based on landing statistics and other available information, that an annual quota in any category, or as appropriate, subcategory, has been exceeded or has not been reached, the Assistant Administrator will subtract the overharvest from, or add the underharvest to, that quota category for the following year; provided that the total of the adjusted quotas and the reserve is consistent with a recommendation of the Commission

regarding country quotas. The Assistant Administrator will publish any amounts to be subtracted or added and the basis for the quota reductions or increases in the **Federal Register**.

* * * * *

9. In § 285.23, paragraphs (a) and (b) are revised, paragraph (d) is removed, and paragraph (e) is redesignated as paragraph (d) and revised to read as follows:

§ 285.23 Incidental catch.

(a) *Herring, mackerel, and menhaden purse seine gear and fixed gear other than longlines or traps*. Subject to the quotas in § 285.22, large medium and giant Atlantic bluefin tuna may be retained during any fishing trip, on board a vessel for which an Incidental Catch permit has been issued under § 285.21 that is fishing with herring, mackerel, and menhaden purse seine gear or fixed gear other than longlines or traps principally for species of fish other than tuna, provided that the total amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish on board the vessel at the end of each fishing trip.

(b) *Traps*. Subject to the quotas in § 285.22, large medium and giant Atlantic bluefin tuna may be retained during any fishing trip on board a vessel for which an Incidental Catch permit under § 285.21 has been issued that catches Atlantic bluefin tuna incidentally while fishing with traps, provided that the total amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish landed by the owner of the vessel within the preceding 30-day period.

* * * * *

(d) *Purse Seine*. When fishing for Atlantic yellowfin or skipjack tuna, vessels for which an Atlantic bluefin tuna Purse Seine category permit has been issued are allowed a 1 percent per trip (by weight) incidental take of bluefin less than the large medium size class. Any landings of these incidental catches may not be sold and will be counted against the Purse Seine category quota allocation for bluefin tuna.

10. In § 285.24, paragraphs (a), (c), (d), and (e) are revised to read as follows:

§ 285.24 Catch limits.

(a) *General category*. (1) From the start of each fishing year, except on designated "no-fishing" days, only one large medium or giant Atlantic bluefin tuna may be caught and landed per day from a vessel for which a General category permit has been issued under § 285.21. On designated "no-fishing"

days, persons on board such vessels may not possess, retain or land any large medium or giant Atlantic bluefin tuna. The Assistant Administrator will publish in the **Federal Register** a schedule of designated "no-fishing" days.

(2) The Assistant Administrator may increase or reduce the catch limit over a range from zero ("no-fishing" days) to a maximum of three large medium or giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota. The Assistant Administrator will publish a notice in the **Federal Register** of any adjustment in the allowable daily catch limit made under this paragraph. Other than fishery closures pursuant to attainment of quotas in any period, such notice of catch limit adjustment shall be published at least 5 calendar days prior to the change becoming effective.

(3) Large medium and giant Atlantic bluefin tuna may be possessed or retained on board a vessel for which a General category permit has been issued if the amount does not exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit in effect on that day.

(4) Anglers on board vessels permitted in the General category may possess school, large school, and small medium Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit for the Angling category in effect on that day. However, on allowable fishing days, once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained, fishing by persons on board the vessel must cease and the vessel must proceed to port.

* * * * *

(c) *Purse Seine category*. Large medium bluefin tuna may be caught from a vessel for which a Purse Seine category permit has been issued provided that the total amount of large medium bluefin landed per trip does not exceed 15 percent by weight of the total amount of giant Atlantic bluefin tuna landed on that trip, and the total annual amount of large medium bluefin landed does not exceed 10 percent by weight of the total amount of giant Atlantic bluefin tuna allocated to that vessel for that fishing season.

(d) *Angling category*. (1) Each angler on board a vessel permitted in the Angling category may catch and retain each day no more than two Atlantic

bluefin tuna which may be from the school or large school size class. In addition to the per angler limits, one small medium size class bluefin tuna may be retained each day, per angling category vessel. Anglers may not retain young school Atlantic bluefin tuna.

(2) In addition to the daily catch limit for school, large school and small medium bluefin tuna, a vessel for which an Angling category permit has been issued may catch and retain annually one large medium or giant Atlantic bluefin tuna, to be counted against the Angling category quota specified in § 285.22. The owner or operator of the vessel must report to the nearest NMFS enforcement office within 24 hours of landing any large medium or giant bluefin, and must make the tuna available for inspection and attachment of a tag. No such large medium or giant Atlantic bluefin tuna may be sold or transferred to any person for a commercial purpose except for taxidermic purposes. A list of local NMFS enforcement offices may be obtained from the Regional Director.

(3) The Assistant Administrator may increase or reduce the per angler catch limit for any size class bluefin tuna or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit based on a review of daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota spread over the longest possible period of time. The Assistant Administrator will publish a notice in the **Federal Register** of any adjustment in the allowable daily catch limit made under this paragraph. Other than fishery closures pursuant to attainment of quotas in any period, such notice shall be published at least 5 calendar days prior to a change in daily catch limit becoming effective.

(4) Anglers on board vessels for which an Angling category permit has been issued may possess school, large school, and small medium Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit for the Angling category in effect on that day.

(e) *Charter/Headboat category.* (1) Anglers on board vessels for which a Charter/Headboat category permit has been issued are subject to the daily catch limits for school, large school, and small medium Atlantic bluefin tuna applicable to the Angling category.

(2) When the General category fishery is closed, or at any time when operating in the Gulf of Mexico, operators of Charter/Headboat vessels are subject to

the annual vessel limit and reporting requirement for non-commercial take of large medium or giant Atlantic bluefin tuna as specified in paragraph (d) of this section.

(3) When the General category fishery is open, except when operating in the Gulf of Mexico, operators of vessels for which a Charter/Headboat category permit has been issued are subject to the daily catch limit in effect for the General category for large medium or giant Atlantic bluefin tuna as specified in paragraph (a) of this section. Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained, fishing by persons on board the vessel must cease and the vessel must proceed to port. Large medium or giant bluefin tuna landed by Charter/Headboat vessels may be sold and are counted against the quota for the General category.

(4) Anglers on board vessels for which a Charter/Headboat category permit has been issued may possess school, large school, and small medium Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit for the Angling category in effect on that day. Vessels for which a Charter/Headboat category permit has been issued may possess large medium and giant Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit in effect on that day.

11. In § 285.25, paragraph (d) is revised and paragraph (e) is added to read as follows:

§ 285.25 Purse seine vessel requirements.
* * * * *

(d) *Vessel allocations.* (1) Owners or operators of vessels for which a Purse seine permit has been issued under § 285.21(b) must apply for an allocation of Atlantic bluefin tuna from the quotas specified in § 285.22. The owner or operator must apply for this allocation in writing to the Regional Director by April 15 and must specify the particular size class or classes of Atlantic bluefin tuna for which the vessel will fish. The owner or operator must supply documentation of the vessel's stockholders, owners, partners, or association structure.

(2) The Regional Director will review applications for allocations of Atlantic bluefin tuna on or about May 1, and will make equal allocations of the available size classes of Atlantic bluefin tuna among vessel owners so requesting. Such allocations are freely transferrable among purse seine vessel permit holders. Any purse seine vessel permit

holder intending to fish for more than one allocation in any fishing season must provide written notice of such intent to the Regional Director 15 days before commencing fishing in that season. Purse seine vessel permit holders who transfer their annual allocation to another purse seine vessel permit holder must not fish their permitted vessel in any fishery in which Atlantic bluefin tuna might be caught.

(3) Purse seine vessel owners may apply to the Regional Director to permanently consolidate vessel permits issued under § 285.21(b). Upon approval of consolidation by the Regional Director, the Atlantic tuna permit(s) of the transferring vessel(s) will be cancelled, and the holder of the consolidated permit is authorized to apply for allocations of Atlantic bluefin tuna commensurate with the number of consolidated permits. Purse seine vessel owners who cancel their permit by means of consolidation must not fish their vessel in any fishery in which Atlantic bluefin tuna might be caught.

(e) *Transfer at sea.* Purse seine vessel owners or operators may transfer large medium and giant Atlantic bluefin tuna at sea from the net of the catching vessel to another permitted purse seine vessel provided the amount transferred does not cause the receiving vessel to exceed its annual vessel allocation as modified by authorized transfers. Such at-sea transfers are authorized only between purse seine vessels permitted under § 285.21 and not to buy boats permitted under § 285.28.

12. Section 285.26 is amended by removing the phrase "tip of the snout" in the second sentence, and adding in its place the phrase "tip of the upper jaw".

13. Section 285.27 is revised to read as follows:

§ 285.27 Tag and release program.

(a) Notwithstanding other provisions of this part, an angler may fish for Atlantic bluefin tuna under a tag and release program, provided the angler tags all Atlantic bluefin tuna so caught with tags issued under this section, and releases and returns such fish to the sea immediately after tagging and with a minimum of injury. To participate in this program, an angler must obtain tags, reporting cards, and detailed instructions for their use from the Cooperative Tagging Center, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149-1099 or by calling (800)437-3936.

(b) Tags obtained from sources other than NMFS may be used to fish for Atlantic bluefin tuna provided the angler has registered each year with the

Cooperative Tagging Center and the NMFS program manager has approved the use of tags from that source. Anglers using an alternative source of tags wishing to tag bluefin tuna can call (800) 437-3936 or write NMFS at the address given above.

(c) Anglers registering for the Atlantic bluefin tagging program are required to provide their name, address, phone number, and, if applicable, identify the alternate source of tags.

(d) If NMFS-issued or NMFS-approved tags are not on board a vessel, all anglers on board that vessel are deemed to be ineligible to fish under this section.

14. In § 285.29, paragraphs (a) and (d) are revised to read as follows:

§ 285.29 Dealer recordkeeping and reporting.

* * * * *

(a) Must report via electronic facsimile (fax) or an Interactive Voice Response System (IVRS) as instructed by the Regional Director within 24 hours of the purchase or receipt of each Atlantic bluefin tuna from the person or vessel that harvested the fish. Said report via fax or the IVRS must include the tag number affixed to the fish by the dealer, the date landed, the round and/or dressed weight (indicating which weight(s) measured), the total or pectoral fin curved fork length (indicating which length(s) measured), and the permit category of the landing vessel. In addition, dealers must submit to the Regional Director a daily report on a reporting card provided by NMFS. Said card must be postmarked and mailed at the dealer's expense within 24 hours of the purchase or receipt of each Atlantic bluefin tuna. Each vessel permit holder or vessel operator must sign each reporting card immediately upon transfer of the fish to verify the name of the vessel that landed the fish and the vessel permit number, and each card must indicate the tag number affixed to the fish by the dealer or assigned by an authorized officer, the date landed, the port where landed, the round and/or dressed weight (indicating which weight(s) measured), the total and/or pectoral fin curved fork length (indicating which length(s) measured), gear used, and area where the fish was caught. The dealer purchasing or receiving the Atlantic bluefin tuna must inspect the vessel permit and verify that the required vessel name and vessel permit information is correctly recorded on the reporting card.

* * * * *

(d) Must retain at his/her place of business a copy of each landing card (including proof of fax or IVRS

transmission) and a copy of each bi-weekly report for a period of 2 years from the date on which each was required to be submitted to the Regional Director.

* * * * *

15. In § 285.31, paragraphs (a)(3), (a)(4), (a)(8), (a)(13), (a)(15), (a)(30), (a)(31), (a)(34) and (a)(37) are revised and paragraph (a)(38) is added to read as follows:

§ 285.31 Prohibitions.

(a) * * *

(3) Fish for, catch, possess or retain Atlantic bluefin tuna in excess of the quotas specified in § 285.22 except that fish may be caught and released under the provisions of § 285.27.

(4) Fish for, catch, or possess or retain Atlantic bluefin tuna in excess of the catch limits specified in § 285.24, or to possess or retain large medium or giant ABT on designated "no-fishing" days, except that fish may be caught and released under the provisions of § 285.27.

* * * * *

(8) For any vessel other than a vessel holding a purse seine permit issued under § 285.21(b), to approach to within 100 yd (91.5 meters) of the cork line of any purse seine net used by any vessel fishing for Atlantic bluefin tuna, or for any such purse seine vessel to approach to within 100 yd (91.5 meters) of any vessel, other than a purse seine vessel, actively fishing for Atlantic bluefin tuna;

* * * * *

(13) Purchase, receive, or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna without a valid dealer permit for buy-toat operations issued under § 285.28 unless between permitted purse seine vessels as authorized under § 285.25(e);

* * * * *

(15) Sell, offer for sale, or transfer to any person for a commercial purpose any large medium or giant Atlantic bluefin tuna caught with rod and reel gear under § 285.24(d)(2) or § 285.24(e)(2);

* * * * *

(30) Fish for, catch, possess, or retain Atlantic bluefin tuna from the Gulf of Mexico except as specified under §§ 285.23(c) or 285.24(e)(2), or if taken incidental to recreational fishing for other species and retained in accordance with § 285.24(d)(2);

(31) Fish for, catch, possess or retain Atlantic bluefin tuna with a gear type or in a manner other than specified in §§ 285.21, 285.22, 285.23, 285.24 and 285.25, or other than authorized under

an experimental fishing exemption issued pursuant to the requirements of § 285.7;

* * * * *

(34) Sell, offer for sale, purchase, receive for a commercial purpose, trade, or barter, or if a seafood dealer or processor, retain or possess, any Atlantic bluefin tuna other than a large medium or giant, except with documentation as specified in § 285.34;

* * * * *

(37) Fish for, catch, possess or retain any Atlantic bluefin tuna less than the large medium size class from a vessel other than one issued a permit for the Angling, General or Charter/Headboat categories under § 285.21, or a Purse Seine category permit operating under § 285.23(d);

(38) Fail to cease fishing and return to port once the catch limit for large medium and giant bluefin is retained or possessed on board vessels permitted in the General and Charter/Headboat categories.

16. In § 285.32, paragraphs (a) and (b) are revised to read as follows:

§ 285.32 Civil penalties.

(a) Any person who violates § 285.31(a)(1) through (a)(21) inclusive, or (a)(25) through (a)(31) inclusive, or (a)(33) and (a)(34) or (a)(36) through (a)(38) inclusive, will be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for a subsequent violation.

(b) Any person who violates § 285.31(a)(22) through (24) inclusive, or (a)(32), or (a)(35) will be assessed a civil penalty of not more than \$1,000, and a civil penalty of not more than \$5,000 for a subsequent violation.

* * * * *

17. Section 285.34 is added to read as follows:

§ 285.34 Restrictions on sale.

(a) Any Atlantic bluefin tuna less than the large medium size class may not be, or attempted to be, purchased, bartered, traded, sold, or offered for sale, or retained or possessed by a dealer or seafood processor in any state unless it is lawfully imported and is accompanied by the Commission's Bluefin Tuna Statistical Document.

(b) Except for a bluefin tuna landed in a Pacific state and remaining in the state of landing, a bluefin tuna that is possessed by a dealer or seafood processor is deemed to be a bluefin tuna harvested from the Atlantic Ocean by a United States vessel unless it is accompanied by the Commission's Bluefin Tuna Statistical Document.

18. Subpart C is revised to read as follows:

Subpart C—Atlantic Tunas Other Than Bluefin Tuna

- 285.50 Species subject to regulation.
- 285.51 Authorized fishing gear.
- 285.52 Size limits.
- 285.53 Vessel permits.
- 285.54 Commercial Vessel recordkeeping and reporting.
- 285.55 Dealer permits.
- 285.56 Dealer recordkeeping and reporting.
- 285.57 Purse Seine vessel requirements.
- 285.58 Incidental catch.
- 285.59 Prohibitions.

Subpart C—Atlantic Tunas Other Than Bluefin Tuna

§ 285.50 Species subject to regulation.

Regulations contained in this subpart pertain to yellowfin tuna, bigeye tuna, albacore tuna, skipjack tuna and Atlantic bonito.

§ 285.51 Authorized fishing gear.

Fishing for, catching, retention or possession of Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito in the regulatory area by persons on board fishing vessels subject to the jurisdiction of the United States is authorized only for handline, rod and reel (including downriggers), harpoon, purse seine, longline, drift gillnet and bandit gear unless the gear is authorized under an experimental fishing exemption issued pursuant to the requirements of § 285.7.

§ 285.52 Size limits.

(a) Fishing for, catching, retention or possession of Atlantic yellowfin and bigeye tunas in the regulatory area by persons on board fishing vessels subject to the jurisdiction of the United States is authorized only for yellowfin or bigeye tuna measuring 22 inches (56 cm) or more in total curved fork length.

(b) Total curved fork length is the sole criterion for determining the size class of whole (head on) Atlantic yellowfin and bigeye tuna. For this purpose, all measurements must be taken in a line tracing the contour of the body along the middle of the lateral surface from the tip of the upper jaw to the fork of the tail.

§ 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.* Effective November 15, 1995, 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 by the Regional Director a vessel permit in the commercial category appropriate for the gear type or method of fishing.

(c) *Charter/Headboat vessel permits.* Effective November 15, 1995, owners or operators of charter vessels and headboats must be issued by the Regional Director 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.* Effective January 1, 1996, owners or operators of private recreational vessels are required to obtain vessel permits in order to fish for, catch, retain or land Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito. Anglers on board private recreational vessels must adhere to applicable daily catch limits. Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito taken on board private recreational vessels may not be sold.

(e) *Purse seine.* Directed purse seine fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito is restricted to owners of those purse seine vessels that have current Atlantic bluefin tuna purse seine permits under § 285.21(b) and that have reported, or replaced vessels that have reported, Atlantic yellowfin, skipjack, albacore or bigeye tuna landings to NMFS over the period 1989 through 1993. The owner or operator of such purse seine vessel must apply for authorization to fish for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito in writing to the Regional Director by April 15. The owner must supply documentation of the vessel's stockholders, owners, partners, or association structure and records of landings to verify that the vessel meets the qualifying criteria. The Regional Director will review these applications for authorization on or about May 1 and issue authorizations as appropriate.

(f) *Exemptions.* In lieu of a permit issued under this section, persons on board a vessel for which a valid permit for the Atlantic bluefin tuna fishery has been issued under § 285.21 of this part are eligible to fish for and take Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito using the

authorized gear and subject to the commercial fishing restrictions applicable to the category of permit issued for the vessel. In lieu of a permit issued under this section, owners or operators of vessels for which valid permits for the Atlantic shark fishery (50 CFR part 678) or the Atlantic swordfish fishery (50 CFR part 630) have been issued are eligible to fish for and take Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito using the authorized gear and subject to fishing restrictions applicable to the permit issued to the vessel. Owners or operators of vessels fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito shoreward of the outer boundary of the EEZ around Puerto Rico and the Virgin Islands with only handgear on board are exempt from the permit requirements of this section.

§ 285.54 Commercial vessel recordkeeping and reporting.

(a) The master or other person in charge of a fishing vessel that engages in commercial fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito or any person as may be authorized in writing to serve as the agent of such master or person, must:

(1) Keep an accurate log of all operations conducted from the vessel, entering therein for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of tuna on board by species. The record and bridge log shall be sufficient to comply with this paragraph, provided however, that the items of information specified herein are fully and accurately entered in such log; and,

(2) Furnish on a form obtainable from the Regional Director, following the sale or delivery of a catch of tuna made by such vessel, a report, certified to be correct as to facts within the knowledge of the reporting individual, giving the name and official number of the fishing vessel, the dates of beginning and ending of the fishing voyage, the port of departure, and a listing separately by species of the round weight quantities (pounds or short tons) of tuna sold or delivered. At the option of the vessel master or other person in charge, a copy of the fish ticket, weighout slip, settlement sheet, or similar record issued by the dealer or his agent may, however, be used for reporting purposes in lieu of the form obtainable from the Regional Director, if such alternate record is similarly certified and contains all items of information required by this paragraph. Such sale and delivery

reports must be delivered or post marked and mailed to the Regional Director within 72 hours after weighout has been completed.

(b) The master or other person in charge of a fishing vessel, subject to the jurisdiction of the United States, except vessels proceeding directly to Puerto Rico or to any other U.S. port for unloading, must report to the Regional Director not less than 48 hours prior to entering the regulatory area via the Panama Canal. In addition, the master or other person in charge of a vessel, subject to the jurisdiction of the United States except a vessel without fish on board, must notify the Regional Director not less than 48 hours prior to leaving the regulatory area via the Panama Canal. Each report must include the name of the reporting vessel, the tonnage by species on board, and whether the fish were caught in Pacific or Atlantic waters.

(c) All such fishing vessels entering or leaving the regulatory area via the Panama Canal are subject to inspection. Official seals will be affixed to wells containing fish taken within or outside the regulatory area, as appropriate and the same will be noted on the vessel log. The official seals may be removed only by a designated agent of NMFS upon arrival at point of sale or delivery.

(d) The master or other person in charge of a fishing vessel subject to the jurisdiction of the United States, must notify the Regional Director not less than 48 hours prior to any transfer of Atlantic tuna taken in the regulatory area to another vessel for the purpose of transshipment. Such reports must include the date and place of unloading, name and destination of the oncarrying vessel, and the tonnage by species of tuna transferred.

(e) The failure to file the reports or to follow the procedures required by this section, the tampering with or the removal of an official seal, or the alteration of a fishing vessel's log by any person or fishing vessel subject to the jurisdiction of the United States is a prohibited act within the meaning of § 285.3.

(f) Any person authorized to carry out enforcement activities under the Act or these regulations has power, without warrant or other process, to inspect, at any reasonable time, catch on board the vessel, log books, catch reports, statistical records, or other reports as required by the regulations in this part to be made, kept or furnished.

(g) Owners and operators of vessels fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito shoreward of the outer boundary of the EEZ around Puerto Rico

and the Virgin Islands with only handgear on board are exempt from the reporting requirements of this section.

§ 285.55 Dealer permits.

(a) *General.* Effective November 15, 1995, a dealer purchasing or attempting to purchase, receiving, possessing, importing or exporting Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito must have a valid permit required under this section.

(b) *Application.* Applications for a dealer permit must be in writing on an appropriate form obtained from the Regional Director. The application must be signed by the applicant, and be submitted to the Regional Director at least 30 days before the date upon which the applicant desires the permit to be effective. The application must contain the following information: Company name; principal place of business; owner or owners' names; applicant's name (if different from owner or owners) and mailing address and telephone number; and any other information required by the Regional Director.

(c) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit within 30 days of receipt of a completed application.

(2) The Regional Director will notify the applicant 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.

(d) *Duration.* Any permit issued under this section remains valid until December 31 of the year for which it is issued, unless suspended or revoked.

(e) *Alteration.* Any permit which is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit is not considered a new application.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the dealer to whom it is issued.

(h) *Inspection.* The dealer must keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any authorized officer, or any employee of NMFS designated by the Regional Director for such purpose.

(i) *Sanctions.* The Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(j) *Fees.* The Regional Director may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the dealer issued a permit will report the change in writing to the Regional Director.

(l) *Exemptions.* Dealers issued valid permits for the Atlantic bluefin tuna fishery under § 285.28 of this part, dealers issued valid permits for the Atlantic shark fishery (50 CFR part 678) or the Atlantic swordfish fishery (50 CFR part 630), and dealers located in Puerto Rico and the Virgin Islands who purchase, sell, or re-sell only Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito taken shoreward of the outer boundary of the EEZ around Puerto Rico and the Virgin Islands by handgear are exempt from the permit requirements of this section.

§ 285.56 Dealer recordkeeping and reporting.

(a) A dealer who has been issued a dealer permit pursuant to § 285.55 must submit reports to the Fisheries Science Center Director as specified in paragraph (b) of this section. A report form is available from the Science and Research Director. The following information must be included in each report:

(1) Name, address, and permit number of the dealer.

(2) Names and official numbers of fishing vessels from which Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito were received.

(3) Dates of receipt of Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito.

(4) Listed by each port and county where Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito were offloaded from fishing vessels:

(i) Total weight (pounds) for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito by market category, if applicable, and for other

species received with the tuna, including, but not limited to, shark, swordfish, dolphin, and wahoo; and

(ii) Price per pound or total value paid by market category for tuna and other species, to the extent that such price information is known at the time of reporting.

(b) A report of tuna and other applicable species received by a dealer on the first through the 15th days of each month must be submitted to the Science and Research Director postmarked not later than the 20th day of that month. A report of tuna and other applicable species received by the dealer on the 16th through the last day of each month must be submitted to the Science and Research Director postmarked not later than the 5th day of the following month. If no tuna was received during the reporting period, a report so stating must be submitted postmarked as specified for that respective reporting period.

(c) The reporting requirement of paragraph (a) of this section may be satisfied by providing a copy of each appropriate weigh-out sheet and/or sales record, provided such weigh-out sheet and/or sales record, by itself or combined with the form available from the Science and Research Director, includes all of the required information.

(d) In lieu of providing a required report to the Science and Research Director by mail, as specified in paragraph (a) of this section, a dealer may provide a report to a state or Federal fishery port agent designated by the Science and Research Director. Reports so provided must be delivered to such port agent not later than the prescribed postmark date for submitting each such report.

(e) *Additional data and inspection.* Additional data may be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers. Dealers are required to make tuna available for inspection by the Science and Research Director or an authorized officer and must allow an authorized officer, or any employee of NMFS designated by the Regional Director for this purpose, to inspect and copy any records of transfers, purchases, or receipts of Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito;

(f) *Recordkeeping.* Dealers must retain at their place of business a copy of each bi-weekly report for a period of 2 years from the date on which each was required to be submitted to the Regional Director.

(g) *Exemptions.* Dealers located in Puerto Rico and the Virgin Islands who

purchase, sell, or re-sell only Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito taken shoreward of the outer boundary of the EEZ around Puerto Rico and the Virgin Islands by handgear are exempt from the reporting and recordkeeping requirements of this section.

§ 285.57 Purse Seine vessel requirements.

(a) *Mesh size.* Any owner or operator of a purse seine vessel conducting a directed fishery for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito must use a purse seine net with a mesh size as specified under § 285.25(a).

(b) *Inspection.* The owner or operator of a purse seine vessel conducting a directed fishery for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito must request an inspection of the vessel and fishing gear by an enforcement agent of NMFS prior to commencing fishing for the season in any fishery that may result in the harvest of any regulated species. The owner or operator must request such inspection at least 48 hours before commencement of the first fishing trip of the season. In addition, at least 48 hours before commencement of offloading any Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito after a fishing trip, the owner or operator must request an inspection of vessel and catch by calling 508-563-5721 or 508-281-9261. The inability to provide for an inspection within 48 hours of notification shall constitute a waiver of this requirement. The owner or operator of a purse seine vessel must have the vessel's catch information recorded on the appropriate forms at the time of offloading and prior to transporting said tuna from the area of offloading.

§ 285.58 Incidental catch.

Persons or fishing vessels subject to the jurisdiction of the United States must release, in a manner to promote survival, any yellowfin tuna or bigeye tuna less than the minimum size specified in § 285.52 taken incidental to authorized fishing in the regulatory area.

§ 285.59 Prohibitions.

(a) It is unlawful for any person or vessel subject to the jurisdiction of the United States to do any of the following:

(1) Fish for, catch, possess, retain or land Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito without a valid permit required under § 285.53 and carried on board the vessel;

(2) Fish for, catch, land, retain or possess, Atlantic yellowfin or bigeye tuna below the minimum size specified in § 285.52;

(3) Fail to release immediately with a minimum of injury any Atlantic yellowfin or bigeye tuna that will not be retained;

(4) Fish for or catch Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito in a directed fishery with purse seine nets if without any remaining bluefin tuna allocation made under § 285.25(d);

(5) For any vessel other than a vessel holding a purse seine permit issued under § 285.53(d), to approach to within 100 yds (91.5 meters) of the cork line of any purse seine net used by any vessel fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito, or for any such purse seine vessel to approach to within 100 yds (91.5 meters) of any vessel, other than a purse seine vessel, actively fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito;

(6) Begin fishing or offloading from any purse seine vessel to which a permit has been issued under § 285.21 any Atlantic tuna without first requesting an inspection of the vessel in accordance with § 285.57(b);

(7) Fail to report the catching of any Atlantic tuna to which a plastic tag has been affixed under a tag and release program conducted by NMFS or any other scientific organization;

(8) Falsify or fail to make, keep, maintain, or submit any reports, or other record required by this subpart;

(9) Refuse to allow an authorized officer to make inspections for the purpose of checking any records relating to the catching, harvesting, landing, purchase, or sale of any Atlantic tuna required by this subpart;

(10) Make any false statement, oral or written, to an authorized officer concerning the catching, harvesting, landing, purchase, sale, or transfer of any Atlantic tuna;

(11) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person has committed any act prohibited by this part;

(12) Refuse to permit access of NMFS personnel to inspect any records relating to, or area of custody of, Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito;

(b) It is unlawful for any person subject to the jurisdiction of the United States to violate any other provision of

this subpart, the Act, or any other rules implemented under the Act.

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BILLING CODE 3510-22-P

50 CFR Part 663

[Docket No. 941265-4365; I.D. 071995B]

Pacific Coast Groundfish Fishery; End of Whiting Regular Season

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

ACTION: Fishing restrictions.

SUMMARY: NMFS announces the end of the regular season for the Pacific whiting (whiting) fishery off Washington, Oregon, and California and the reimposition of a 10,000-lb (4,536-kg) trip limit coastwide. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan that governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. This action is intended to keep landings close to the 1995 harvest guideline for whiting, while allowing small quantities to be landed by fresh fish and bait fisheries and as bycatch in other fisheries.

EFFECTIVE DATE: Effective from 0001 hours (local time), July 24, 1995, until the effective date of the 1996 annual specifications and management measures, which will be published in the **Federal Register**.

ADDRESSES: Comments on this action should be sent to Mr. William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070; or Ms. Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Information relevant to these actions has been compiled in aggregate form and is available for public review during business hours at the office of the Director, Northwest Region, NMFS (Regional Director).

FOR FURTHER INFORMATION CONTACT: William L. Robinson 206-526-6140; or Rodney R. McInnis 310-980-4040.

SUPPLEMENTARY INFORMATION: At its October 1994 meeting, the Pacific Fishery Management Council (Council) recommended that a 10,000-lb (4,536-kg) trip limit apply to landings of whiting after the end of the regular season (when the harvest guideline is reached) (60 FR 2339, January 9, 1995).

At-sea processing of whiting was prohibited on May 4, 1995 (60 FR 24572, May 9, 1995) when 107,000 metric tons (mt) (60 percent of the 178,400 mt harvest guideline) was projected to have been taken (102,624 mt for at-sea processing and 3,932 mt for shore-based processing). The remaining 71,844 mt of the harvest guideline was reserved for delivery to shore-based processors.

Based on the best available information on current and projected rates of landings, the Regional Director has determined that approximately 168,346 mt of whiting has been caught through July 16, 1995, and that at a rate of about 1,200 mt delivered shoreside per day, the 178,400 mt harvest guideline would be reached on July 24, 1995. Therefore, the regular season ends and the 10,000-lb (4,536-kg) trip limit for whiting resumes at 0001 hours (local time), July 24, 1995. Because at-sea processing of whiting is prohibited, this trip limit applies only to vessels delivering shoreside. The trip limit is intended to accommodate small bait and fresh fish markets and the bycatch of whiting in other fisheries.

NMFS Action

NMFS announces the following change to the 1995 fishery specifications and management measures for whiting published at paragraph IV.F.(1)(b) (60 FR 2343, January 9, 1995) as follows:

(b) No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed, per vessel per fishing trip.

Classification

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the office of the Regional Director (see **ADDRESSES**) during business hours. This action was recommended by the Council at its October 1994 meeting, and was announced in the annual specifications and management measures on January 9, 1995 (60 FR 2331). There was an opportunity for public comment at the August and October 1994 Council meetings. Supporting documents (catch projections) were available for public inspection prior to, and at, the June 1995 Council meeting. Because of the need for immediate action, and because the public had an opportunity to comment on the action at Council meetings, NMFS has determined that good cause exists for this action to be published without affording a prior opportunity for public comment or a 30-

day delayed effectiveness period. This action is taken under the authority of 50 CFR 663.23(b)(3) and (c)(1)(i)(I), and is exempt from review under E.O. 12866.

Dated: July 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-18432 Filed 7-24-95; 11:55 am]

BILLING CODE 3510-22-F

50 CFR Part 672

[Docket No. 950206041-5041-01; I.D. 072095B]

Groundfish of the Gulf of Alaska; "Other Rockfish" in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting the retention of "other rockfish" in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of "other rockfish" in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the "other rockfish" total allowable catch (TAC) in the Central Regulatory Area of the GOA has been reached.

EFFECTIVE DATE: Effective 12 noon, Alaska local time (A.l.t.), July 21, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS 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 Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii), the TAC for "other rockfish" in the Central Regulatory Area was established by the final 1995 harvest specifications of groundfish (60 FR 8470, February 14, 1995) as 370 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the TAC for "other rockfish" in the Central Regulatory Area of the GOA has been reached. Therefore,