

requesting that the Board stay the establishment of the new \$7,600 filing fee for Fee Item (60), Labor arbitration proceedings, and the new \$150 filing fee for Fee Item (61), Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d), pending the disposition of his petition to reopen the August 14, 1996 decision. In letters filed August 26, 1996, the United Transportation Union and the Brotherhood of Locomotive Engineers also objected to the establishment of these two fees and supported Mr. Szabo's petition for stay. On September 3, 1996, Mr. Szabo filed his petition to reopen this proceeding.

Under the authority of 49 U.S.C. 721(a), I am granting a "housekeeping" delay of the effective date of Fee Items (60) and (61) so that the Board will have sufficient time to consider the issues raised in the related petition to reopen. The Board intends to act on that petition by October 1, 1996. All other fee items will go into effect as scheduled.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: August 11, 1996.

By the Commission, Chairman Morgan.
Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, the effective date of 49 CFR 1002.2(f), fee items (60) and (61), published at 61 FR 42190 (August 14, 1996), is delayed until the Board issues a decision on the merits of the related petition to reopen filed in this proceeding. The Board will announce further information in the Federal Register regarding the effective date of these two fee items when a decision on the merits of the petition to reopen is issued.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 091096C]

Atlantic Tuna Fisheries; Recreational Fishery Adjustments

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

ACTION: Fishery reopening; catch limit adjustment.

SUMMARY: NMFS has adjusted the Atlantic bluefin tuna (ABT) Angling category quota by transferring 10 metric tons (mt) from the Inseason Reserve. Therefore, the Angling category fishery for school ABT will open for the northern area beginning Friday, September 13, at 1 a.m. local time and close on Sunday, September 15 at 11:30 p.m. local time. The daily catch limit for this reopening is set at one school ABT per vessel. This action is being taken to extend scientific data collection on school ABT while preventing overharvest of the adjusted subquota for the northern area.

EFFECTIVE DATES: The transfer of 10 mt from the Reserve to the Angling category, and the transfer of 10 mt from the Incidental longline south subcategory to the Reserve are effective September 11, 1996. The Angling category fishery for school ABT will open for the northern area beginning Friday, September 13, at 1 a.m. local time and close on Sunday, September 15 at 11:30 p.m. local time.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301-713-2347, or Mark Murray-Brown, 508-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a Federal Register announcement to close the applicable fishery.

Angling Category Reopening

Implementing regulations for the Atlantic tuna fisheries at § 285.22 provide for a quota of 138 mt of school ABT and 100 mt of large school/small medium ABT to be harvested from the regulatory area by vessels fishing under the Angling category quota during calendar year 1996. The school ABT quota is further subdivided into 65 mt for states Delaware and south and 73 mt for states New Jersey and north.

Based on catch estimates obtained through angler interviews, NMFS closed

the southern school ABT fishery on July 25, 1996 (61 FR 38656, July 25, 1996) and the coastwide large school/small medium July 31 (61 FR 40352, August 2, 1996). Although catch estimates did not indicate that the quota was reached, NMFS closed the school ABT Angling category fishery for the northern area effective August 17, 1996 (61 FR 43027, August 20, 1996) due to estimated overharvests of the school ABT southern area subquota and the coastwide large school/small medium ABT quota.

Under the implementing regulations at 50 CFR 285.22(f), the Assistant Administrator for Fisheries, NOAA (AA), has the authority to make adjustments to quotas involving transfers from the Inseason Reserve after considering the following factors: (1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock, (2) the catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made, (3) the projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season, and (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

Because scientific information from the northern school ABT fishery is needed to broaden the temporal and geographic range of data incorporated into the school ABT index of abundance, NMFS transfers 10 mt from the Inseason Reserve to allow the northern school ABT fishery to reopen. Such transfer responds to the four criteria listed above as follows: (1) Angling category landings are a major contributor to the collection of biological data on this fishery, (2) catch in the Angling category to date has precluded the northern area school ABT fishery as planned and this fishery cannot occur if no allocation is made, (3) the Angling category is projected to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season, and (4) the impact on other gear segments is minimal since sufficient quota remains for the incidental category, the purse seine fishery is managed under individual quotas and other gear segments of the fishery have previously been closed or are subject to predetermined set-asides.

Catch Limit Adjustment

Implementing regulations for the Atlantic tuna fisheries at § 285.24

provide for a daily catch limit of school or large school ABT of one fish per angler. However, the AA has the authority to make adjustments to catch limits to effect maximum utilization of the available quota and a fair distribution of fishing opportunities. For this reason the catch limit is reduced to one school ABT per vessel for the duration of this reopening.

This action is being taken to extend the season for the Angling category, provide for fishing opportunities in the northern fishing area, and ensure additional collection of biological assessment and monitoring data without exceeding the adjusted quota.

Classification

This action is taken under 50 CFR 285.20(b) and 50 CFR 285.22 and is exempt from review under E.O. 12866.

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

Dated: September 10, 1996.

Gary C. Matlock,

Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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50 CFR Part 622

[Docket No. 960807218-6244-02; I.D. 072996D]

RIN 0648-AG89

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the approved provisions of a regulatory amendment prepared by the Gulf of Mexico Fishery Management Council (Council) in accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The approved provisions of the regulatory amendment: Increase the annual commercial quota for red snapper; reopen the commercial red snapper fishery on September 15, 1996, to allow harvest of the remainder of the 1996 quota; split the 1997 commercial quota between two seasons, the first beginning on February 1, 1997, with a quota of 3.06 million lb (m lb) (1.39 million kg (m kg)) and the second beginning on September 15, 1997, with

a quota equal to the unharvested balance of the annual commercial quota; extend the rebuilding schedule for red snapper; and increase the total allowable catch (TAC) of red snapper. The intended effect of this action is to maximize the economic benefits from the red snapper resource while extending for 10 years the rebuilding program for this overfished resource.

EFFECTIVE DATE: October 16, 1996, except that the amendment to § 622.42(a)(1) is effective September 15, 1996.

ADDRESSES: Requests for copies of the final regulatory flexibility analysis (FRFA) should be sent to Robert Sadler, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented by regulations at 50 CFR part 622 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The regulatory amendment submitted by the Council would have reduced the minimum size limit for red snapper taken under the commercial quota from 15 inches (38.1 cm) to 14 inches (35.6 cm), and eliminated the FMP's automatic size limit increase to 16 inches (40.6 cm) scheduled for January 1, 1998. Based on a preliminary evaluation of the regulatory amendment, NMFS concluded that these measures were inconsistent with the Magnuson Act and the agency's policy of risk-averse decision-making. NMFS published a proposed rule to implement the remaining measures of the regulatory amendment (61 FR 42413, August 15, 1996). The rationale for the remaining measures, as well as the reasons for the disapproval of the size limit measures, are contained in the preamble of the proposed rule and are not repeated here. After considering the public comment received on the proposed rule, NMFS approved the remaining measures of the Council's proposal and is issuing this final rule to give effect to them.

Comments and Responses

Twenty-three comments were received from the public. These comments are summarized below followed by the agency response. The comments and responses are grouped by general subject heading.

Disapproved Measures Regarding the Commercial Fishery Minimum Size Limit

Comment: Four commenters supported the Council's proposed measures for decreasing the minimum size limit for the commercial red snapper fishery from 15 to 14 inches and eliminating the automatic increase from 15 to 16 inches scheduled for 1998. One commenter supported the proposed 15-inch size limit but opposed the scheduled change to 16 inches in 1998. One commenter opposed both size limit measures.

Response: NMFS acknowledges these comments on the size limit measures as contained in the Council's proposed regulatory amendment. NMFS refers the reader to the above explanation of the agency's disapproval of the size limit measures.

Increase in TAC and Reopening of the Commercial Fishery

Comment: Six commenters opposed the proposed increase in TAC and/or the proposed reopening of the commercial fishery. Each of the opposing commenters expressed various concerns that the actions would prevent recovery of the overfished resource by the year 2019.

Response: NMFS disagrees with these commenters because the proposed TAC is within the allowable biological catch range as required under the FMP's framework procedure. Implementation of the TAC, in combination with the 50-percent reduction in shrimp trawl bycatch of juvenile red snapper beginning in 1997, is expected to achieve recovery of the red snapper resource consistent with the revised rebuilding schedule.

Comment: Twelve commenters supported both the increased TAC and reopening of the commercial fishery and stated that such action would increase economic benefits to the commercial fishery while maintaining the stock rebuilding schedule. A commenter supported both the increased TAC and reopening of the commercial fishery and stated that such action would allow continuation of the recreational catch limits and thereby stabilize the fishery while achieving the recovery goals.

Response: NMFS agrees.

Probability of Achieving Necessary Bycatch Reduction

Comment: Seven commenters supported taking action to ensure the 50-percent reduction in shrimp trawl bycatch of juvenile red snapper that is necessary for recovery of the red snapper stock. Three commenters stated