

adopted December 20, 1996, and released December 27, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Channel 288A at Nekoosa.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-46 Filed 1-2-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 259

[Docket No.961122326-6326-01; I.D. 081092G]

RIN 0648-AF22

Capital Construction Fund; Interim Fishing Vessel Capital Construction Fund Procedures

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to allow fishermen to use the Fishing Vessel Capital Construction Fund Program (Program) for equipping and/or modifying their fishing vessels to increase general vessel safety and/or to comply with specific requirements

established under the Commercial Fishing Industry Vessel Safety Act of 1988 and/or other laws or regulations that materially increase the safety of a fishing vessel. The result is that a vessel equipment acquisition or vessel modification, which materially increases the safety of a qualified vessel, will be treated as a reconstruction and exempted from certain Program rules so that payment for it becomes a qualified withdrawal.

EFFECTIVE DATE: February 3, 1997.

FOR FURTHER INFORMATION CONTACT: Charles L. Cooper (Financial Services Division, NMFS) at 301-713-2396.

SUPPLEMENTARY INFORMATION:

Background

The Program allows fisheries taxpayers to defer paying Federal taxes on fishing vessel income. Income on which taxes are to be deferred must be deposited in accordance with Capital Construction Fund Agreements and reserved for the equity portion of fishing vessel construction, reconstruction, or acquisition costs. All deferred taxes are eventually recaptured by reductions in the depreciation basis, for tax purposes, of vessels benefitting from tax deferrals under the Program.

Under present Program rules (50 CFR part 259), fishermen cannot use the Program to pay for safety equipment unless that equipment is part of a vessel construction or reconstruction project. Although this is not generally a problem when fishing vessel construction is involved, it can be a problem when fishing vessel reconstruction is involved.

Generally, improving a fishing vessel will not qualify as reconstruction under this Program's rules unless the cost of doing so: (1) Is a capital expenditure; (2) amounts to at least \$100,000 or 20 percent of the vessel's acquisition cost (whichever is less); and (3) substantially prolongs the vessel's useful life, increases its value, or adapts it to a different fisheries use. The purchase and installation of fishing vessel safety equipment would seldom meet this rules test. Many fishing vessel modifications for safety purposes would also fail to meet this test.

Additionally, the conditional fishery requirements apply to fishing vessel reconstruction under this Program. These requirements restrict the availability of Program benefits in fisheries where the Government deems additional or increased harvesting capacity unwarranted. These conditional fishery requirements could also, under the present Program rules,

prevent use of this Program for safety projects.

This rulemaking permits Program use for the acquisition and installation of fishing vessel safety equipment and for fishing vessel modifications whose central purpose is to increase vessel safety to be treated, in their own right, as reconstructions for the purpose of withdrawing tax-deferred funds from Capital Construction Funds to pay for them. Except for the capital expenditure requirement, these fishing vessel safety projects are now exempted from the normal rules test that determines whether fishing vessel improvements can qualify as reconstructions. They are now also exempted from the conditional fishery requirements that would otherwise apply to reconstruction projects.

Notice of proposed rulemaking for this change was published in the Federal Register on November 18, 1992 (57 FR 54356).

Comments and Responses

Seven parties responded in writing to the notice of proposed rulemaking. All supported it. The general response was that this rule would give the industry needed flexibility in meeting new and proposed safety requirements for fishing vessels. One of those responding was the Director, Northeast Region, NMFS, for NOAA, who also recommended expanding the proposed rule to include the acquisition and installation of equipment required by law or regulation which materially increases the safety of a qualified fishing vessel. This recommendation was made for the purpose of helping fishermen pay for the high cost of transponders required for fishery management purposes; but which also serve to materially increase vessel safety by providing accurate hourly position transmissions that could be sent directly to the U.S. Coast Guard.

After considering these comments, NMFS has decided to proceed with final rulemaking with only a minimum change in the proposed rule to allow the Program to be used for vessel equipment acquisitions or vessel modifications, which materially increase the safety of a qualified vessel, to be treated as a reconstruction when made either for such central purpose or because it was required by law or regulation.

Effect of Final Rule

This rule allows the fishing industry to use their Capital Construction Funds to pay for fishing vessel safety-related projects without regard to: (1) The cost of the safety project; (2) whether the fishing vessel involved in the safety project had its useful life extended, its

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

Classification

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

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

List of Subjects in 50 CFR Part 259

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

Dated: December 27, 1996.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 259—CAPITAL CONSTRUCTION FUND

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

Authority: 46 U.S.C. 1177.

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

§ 259.31 Acquisition, construction, or reconstruction.

* * * * *

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

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

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

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

[FR Doc. 96-33386 Filed 12-27-96; 4:05 am]

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National Oceanic and Atmospheric Administration

50 CFR Part 285

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

RIN 0648-AI29

Atlantic Tuna Fisheries; Permit Requirements

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

ACTION: Final rule; technical amendment.

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

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

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

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

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

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

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

Classification

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