

References Cited

Little, E.L., R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands. Second volume. U.S. Department of Agriculture Handbook No. 449. Washington, D.C. 1024 pp.

Author

The primary author of this document is Ms. Susan R. Silander (see **ADDRESSES** section).

Authority

The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 10, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97-5156 Filed 3-3-97; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 630**

[Docket No. 960416112-7024-04; I.D. 111396A]

RIN 0648-AJ04

Atlantic Highly Migratory Species Fisheries; Tuna Fishery Regulatory Adjustments

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend regulations governing the Atlantic tuna fisheries to: Divide the large school-small medium size class quota and the large medium-giant quotas of Atlantic Bluefin Tuna (ABT) into north and south regional subquotas; establish a new tuna permit program to provide for category changes, annual renewals and the collection of fees; establish authority for self-reporting for ABT landed under the Angling category; prohibit the retention of ABT less than the large medium size class by vessels permitted in the General category; prohibit all fishing by persons aboard vessels permitted in the General category on designated restricted-fishing days; and prohibit the use of spotter aircraft except in purse seine fisheries. The proposed regulatory amendments are necessary to achieve domestic management objectives for the Atlantic

tuna fisheries. NMFS will hold public hearings to receive comments from fishery participants and other members of the public regarding these proposed amendments.

DATES: Comments are invited and must be received on or before March 31, 1997.

ADDRESSES: Comments on the proposed rule should be sent to, William Hogarth, Acting Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to implement regulations as may be 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 (AA).

Relation to Advance Notices of Proposed Rulemaking

This proposed rule responds in part to comments received subsequent to two recently published Advance Notices of Proposed Rulemaking (ANPR) (61 FR 43518, August 23, 1996 and 61 FR 48876, September 17, 1996). Written comments were accepted over a 30 day period following publication of each ANPR. A summary of comments received follows.

NMFS received comments from several organizations and individuals in support of dividing the large school-small medium and large medium-giant size class quotas into regional subquotas. Many commenters are concerned that the high catch rates off North Carolina in the winter months preclude the opportunity to land a trophy size bluefin in other areas. Some commenters felt that this would be a more reasonable solution than delaying the Angling category season until June 1. Still others suggested that since the winter fishery off North Carolina is not historical, at least at current levels, it should not be allowed to increase if it is likely to jeopardize the ABT recovery program or preclude fisheries in traditional areas.

Some commenters wrote in support of providing NMFS the authority to close and/or reopen all or part of the Angling category in order to ensure an equitable distribution of fishing opportunities.

NMFS has decided to address this option in a separate regulatory action.

Regarding a new tuna permit program, some commenters support annual renewal and the collection of a fee. Some individuals state that an annual renewal system would be an administrative burden. A few commenters suggest a higher fee for commercial and charter permits, and a few oppose the fee altogether. Several commenters support the establishment of a self-reporting system for ABT landed under the Angling category. Some are concerned about NMFS getting the resources to develop a monitoring strategy in which the constituency can have confidence.

Many commenters wrote to support issuance of one permit per vessel so that vessels could not fish in more than one quota category. In July 1995, NMFS issued regulations that precluded issuance of both a General and Angling category permit to a single vessel, but that rule also allowed General and Charter/Headboat permitted vessels to fish under the Angling category quota. The numerous comments NMFS received in support of separating the General and Angling category permits can thus be translated as requests to prohibit the retention of school ABT by General category vessels.

Some commenters wrote to support the requirement of logbooks for General category vessels.

Over 350 post cards were received that requested NMFS to prohibit fishing by persons on General category vessels on restricted-fishing days. A few commenters oppose restricted-fishing days. NMFS received 510 comments supporting prohibition of spotter planes in all handgear categories, two comments supporting the prohibition for the General category only, and one comment supporting the prohibition for the Harpoon category only.

NMFS has reviewed comments received on the two ANPRs and has considered them in developing this proposed rule.

Relation to Proposed Consolidation

A proposed rule on "Atlantic Highly Migratory Species Fisheries; Consolidation of Regulations" was published by NMFS on November 6, 1996, in the Federal Register at 61 FR 57361. The regulatory amendments contained in this proposed rule have been written to be consistent with the previously proposed consolidation. As proposed, the consolidated regulations significantly reorganize and condense regulatory text regarding the Atlantic tuna fisheries. In particular, regulations governing the Atlantic tuna fisheries,

currently found at 50 CFR part 285, were proposed to be combined with other regulations governing HMS under 50 CFR part 630. This proposed rule is drafted in a consistent format to enable the public to place these changes in context, as the changes will amend the proposed consolidated regulations under part 630. Copies of the proposed consolidation rule may be obtained by writing (see **ADDRESSES**) or calling the contact person (see **FOR FURTHER INFORMATION CONTACT**).

Subsequent to the publication of the proposed consolidation, a technical amendment to 50 CFR part 285 was filed at the Office of the Federal Register (62 FR 331, January 3, 1997) to remove references to the Regional Director for the purposes of issuing Atlantic Tunas permits. This amendment was necessary to begin implementation of the automated permitting system by a private sector contractor. Therefore, regulatory text referring to permits in this proposed rule reflects changes made by that technical amendment in addition to the proposed consolidation.

Angling Category

Changes to Angling category regulations would provide more information for scientific monitoring by lengthening the fishing season. Additionally, these changes would provide more equitable geographic and temporal distribution of fishing opportunities.

Since 1992, the school size subcategory has been divided between a "north" and "south" area quota, with the division at Delaware Bay. The northern region has been allocated 53 percent of the school ABT quota and the southern region 47 percent. Given the recent and unprecedented increase in landings of large school-small medium and large medium-giant (trophy class) ABT in the early season North Carolina fishery, NMFS proposes to subdivide the large school-small medium quota and the large medium-giant quota in the same proportions and for the same geographic areas as has been specified for the school size class of ABT. This subdivision would improve scientific data collection over all regions and the entire fishing season and help ensure that the northern and southern areas have access to an equitable share of the quota. If implemented, these northern and southern area subquotas will be identified in the annual quota specifications to be published in the Federal Register at a later date.

NMFS believes that the subdivision of the quota combined with the expanded authority for interim closures, to be undertaken in a separate action, could

adequately address the scientific monitoring and fishing opportunity issues without delaying the opening of the Angling category fishing season until June.

General Category

In 1995, NMFS proposed amendments to permit regulations to preclude issuance of both ABT General and Angling category permits to a single vessel (60 FR 25665, May 12, 1995). At the time, industry participants had communicated concerns to NMFS that permitting vessels in both the Angling and General categories facilitates violations of daily catch limits and results in discarding and additional mortality of bluefin tuna. These commenters maintained that under a dual permit system, vessels may continue to fish after the daily commercial trip limit is reached with the intent to capture a more valuable fish or illegally transfer fish to another vessel. It was argued that issuance of only a General or Angling category permit to a single vessel would also reduce bluefin discard mortality by separating commercial and recreational fishing activities.

In response, NMFS proposed that a permit for a single category be issued to a vessel, that persons aboard General category vessels be required to release all ABT less than 73 inches curved fork length and cease fishing once the daily limit of large medium or giant ABT is attained, and that persons aboard Angling category vessels be required to release all ABT greater than 73 inches curved fork length and cease fishing once the daily limit of school, large school, or small medium ABT is attained, except that vessels registered in the NMFS cooperative tagging program would be authorized to continue catch and release fishing.

At the 1995 public hearings, many General category permittees expressed interest in maintaining a "mixed" fishery, that is, alternately targeting large or small ABT depending on weather conditions and availability of fish. Based on comments received, NMFS issued final regulations (60 FR 38505, July 27, 1995) that limited permits to one category per vessel, but that also allowed General and Charter/Headboat permitted vessels to fish under the Angling category quota for ABT less than 73 inches.

Since that time, fishery participants have continued to express concerns in letters, phone calls and at public meetings about enforcement of General category rules, particularly restricted fishing days and daily catch limits, in situations where General category vessel

operators could legally continue to fish under the Angling category rules. In addition, concerns have been raised about NMFS' ability to monitor the Angling category quota when General category vessels are included in the sample frame for the telephone and dockside surveys. The fact that the General and Angling quota categories do not correspond exactly with the General, Charter/Headboat and Angling permit categories has led to much confusion on the part of the regulated public. Often the General category is perceived as a commercial fishery for giant ABT when in fact there is considerable overlap with the recreational fishery for school ABT. Of the more than 13,000 General category permittees, only about 1,000 normally land and sell commercial-size ABT in a given year.

To address these concerns about quota monitoring and effective effort controls, NMFS again proposes to prohibit the retention of ABT less than the large medium size class by vessels permitted in the General category. This would effectively separate the commercial and recreational fisheries, with the exception of charter/headboats. Anglers aboard vessels permitted in the Charter/Headboat category could fish under either the daily Angling category limits or the daily General category limit as applicable on that day. The size category of the first ABT retained or possessed would determine the fishing category of the vessel for that day.

Additionally, NMFS proposes to prohibit all fishing by persons aboard vessels permitted in the General category on designated ABT restricted-fishing days. This measure is necessary to monitor and enforce the General category effort controls but is only practical if the recreational and commercial categories are separate. Fee-paying anglers aboard vessels permitted in the Charter/Headboat category could fish under the Angling category rules on designated restricted-fishing days.

The proposed requirements for General category vessels would improve distribution of fishing opportunities, decrease ABT mortality, facilitate enforcement and increase the effectiveness of the General category restricted fishing days, and improve the accuracy of catch estimates for both the Angling and General categories.

Permits and Catch Reporting

Revisions proposed for the Atlantic tunas permit and reporting program would provide for annual renewals and the collection of fees, and the authorization for a mandatory reporting

system for ABT landed under the Angling category.

In recent years, NMFS has received substantial criticism that the existing telephone and dockside surveys do not result in timely or accurate catch estimates. Revisions to the permitting and reporting systems will improve NMFS' ability to monitor the Angling category catch and effect a fair distribution of fishing opportunities. While collection of fees and annual renewals are authorized under current regulations, Atlantic tuna permits are currently provided free of charge, and have been issued for renewals on a three-year, staggered basis. Because of the extremely high volume of permit requests, NMFS previously found it cost-inefficient to collect fees and to implement an annual renewal system.

Recent changes to automate the permit program, now managed by private sector contractor, will expedite permit renewals and the processing of initial applications. Under the new system, reissued tuna permits would be required for all permit holders, regardless of the date of expiration indicated on current permits and a fee would be assessed to recover administrative costs of permit issuance.

Atlantic tunas permits issued by NMFS Northeast Regional Office, regardless of expiration date printed on the permit would have to be renewed under the new system in 1997. In addition, all new permit applications and requests for category changes would be made under the new system. NMFS has provided advance notice to vessel owners of proposed procedures to access the new permitting system via letters to individual permit holders and in notices broadcast over the Highly Migratory Species FAX network. Additionally, recorded information and instructions on the proposed new system can be obtained by phone (toll-free, 1-888-USA-TUNA) or over the internet (<http://www.usatuna.com>).

Permit fees are established according to the NOAA schedule for recovery of administrative costs. Such fees, previously authorized but waived by the NMFS Northeast Regional Office for administrative reasons, are now necessary to recover the cost of the permit program contract. The fee for calendar year 1997 would be set at \$18.00.

The automated procedures, which include application by telephone or internet, will reduce the administrative burden on NMFS and the public, thus annual renewals are feasible. Annual renewals are necessary to maintain an accurate permit database for the

purposes of quota monitoring and statistical collection.

Systems implemented for the permit program will also accommodate automated catch reporting. Automated procedures for direct telephone catch reporting by anglers would be less burdensome yet more timely and potentially more precise than current survey-based reporting. Additional reporting procedures may involve catch reports by tagging fish or using punch cards. NMFS intends to establish a pilot reporting system in 1997. If selected for this pilot program, anglers would be notified by mail of applicable reporting procedures. Depending on the feasibility and cost assessment of the direct reporting pilot study, the requirements would be expanded, as appropriate, in 1998. Such improvements in quota monitoring are necessary to meet ICCAT obligations and domestic management objectives.

Finally, Atlantic tunas permitting requirements would be extended to require permits when fishing under the provisions for tag and release. In recent years, situations have arisen where significant levels of fishing activity occur during closures of the ABT fishery. Current regulations require that tagging kits be on board the vessel and that tags be used to qualify anglers for the catch and release exemption to ABT fishery closures. Requiring vessel permits in addition to tagging kits recognizes that these situations are in fact directed fisheries for ABT and will facilitate enforcement of ABT regulations and collection of catch and effort information.

These proposed permitting and reporting requirements would improve the quality and quantity of catch information collected for stock assessments as well as the accuracy of catch estimates for both the Angling and General categories.

Spotter Aircraft

This proposed rule would prohibit the use of aircraft to assist fishing vessel operators in the location and capture of ABT, with the exception of purse seine vessels. NMFS has received numerous comments that the use of aircraft to locate bluefin tuna is contrary to the effort controls previously established for the General category and is accelerating the closure of the Harpoon category. NMFS has, on two occasions, requested specific comments on ways to mitigate the impact of aircraft use on catch rates (54 FR 29916, July 17, 1989 and 61 FR 18366, April 25, 1996).

In both cases, NMFS elected not to regulate aircraft use in the Atlantic tuna fisheries, in part because of concerns

about the enforceability of spotter plane regulations. Additionally, in 1996, a voluntary agreement was signed by the majority of active tuna spotters that would limit activity to vessels using harpoon gear. NMFS recognized that the voluntary agreement warranted a trial period, but also indicated that the agency would continue to monitor the situation and would take appropriate action if necessary. Since the fishery management concerns continue to be expressed, and due to increased numbers of aircraft and vessels, safety issues are now being raised, NMFS has reconsidered action to respond to these issues.

NMFS considered combining the Harpoon and General categories as a means to resolve the catch rate and safety issues. The incentive for aircraft use would be greatly diminished if all handgear fishermen were subject to a daily catch limit. However, it is debatable whether the harpoon fishery, as it has traditionally existed, could continue under catch limits. Also, aircraft are currently used in the General category, so it is not clear how aircraft use would adapt to a single handgear category. On the other hand, fishery participants have expressed a commitment to self-policing, increasing the likelihood that a spotter aircraft regulation could be effectively enforced. Recognizing that self-policing is essential for effective enforcement, NMFS proposes to prohibit use of aircraft for ABT fishing except for assisting purse seine vessels. NMFS requests comment on this proposal and alternative measures to address the fishery management and safety issues raised by use of aircraft in the ABT fisheries.

Public Hearings

NMFS will hold public hearings to receive comments on these proposed amendments. These hearings will be scheduled at a later date and before the end of the comment period. Advanced notice of these hearings will be published in the Federal Register and via the HMS fax network, internet worldwide web site (<http://www.usatuna.com>), and telephone information hotline (301-713-1279).

Classification

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

NMFS prepared a draft EA for this proposed rule with a preliminary finding of no significant impact on the human environment. In addition, a draft RIR was prepared with a preliminary finding of no significant impact.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief of Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities as follows:

The proposed regulatory amendments are necessary to achieve domestic management objectives. Small businesses should benefit from measures to extend the fishing season and distribute fishing opportunities. Permit fees will be \$18.00 per year and anglers will not incur any significant costs to comply with reporting requirements. Restricted-fishing days should augment total revenues to the General category due to increased prices from more even product flow on the export market. Approximately 30 pilots would be affected by the spotter plane prohibition. Some pilots would continue to fly for purse seine vessels. Otherwise, since pilots operate on a catch share basis lost revenue would accrue to fishing vessel operators. While over 10,000 recreational vessel owners could be restricted from selling a bluefin tuna, such sales are an infrequent occurrence. Therefore, it is concluded that these proposed actions, considered separately or in aggregate, will not have a significant impact on a substantial number of small entities. Thus, a regulatory flexibility analysis is not required for these actions.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB Control Number.

This proposed rule would implement new collections and restates or revises existing collection-of-information requirements subject to the PRA. Atlantic tuna vessel permits required under § 630.4(a) are approved under OMB Control Number 0648-0202 and are estimated at 30 minutes per permit action. Vessel reporting and recordkeeping requirements for longline vessels under § 630.5 are currently approved for swordfish and shark vessels under OMB Control Number 0648-0016 and are estimated at 15 minutes per logbook entry and 16 minutes for the attachment of tally sheets. Vessel reporting requirements for Atlantic tuna vessels permitted in the Angling category as proposed to be authorized under § 630.5 are currently

approved as a voluntary collection under OMB Control Number 0648-0052 and are estimated at 8 minutes per telephone interview and 5 minutes per dockside interview.

Although permitting and reporting requirements have been approved by OMB for these fisheries, this rule would modify or extend these information collections. First, the new permit system would require reissuance of all vessel permits. NMFS estimates that up to 20,000 permit holders may be affected at an estimated 6 minutes per phone call. Second, commercial tuna vessel operators, who do not otherwise submit logbooks under swordfish or shark fishery requirements could be selected for the pelagic logbook reporting program. Purse seine, harpoon or handgear vessels could be affected. NMFS would request OMB approval prior to selecting vessels from these categories. Finally, ABT catch reporting by recreational anglers would be conducted by direct phone call rather than by interview. Catch reports are estimated at 5 minutes per toll-free phone call. While automated catch reporting may reduce the burden to individual respondents, the direct reporting program, if fully implemented, would increase the number of respondents. NMFS has requested that OMB review these proposed modifications to information collections. If implemented, the effectiveness of these collections will be delayed, pending OMB approval.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

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

NMFS issued a biological opinion under the Endangered Species Act on July 5, 1989, indicating that the level of impact and marine mammal takes in the Atlantic tuna fisheries is not likely to jeopardize the continued existence of any sea turtle species or any marine mammal populations. NMFS has since reintiated consultation on the Atlantic highly migratory species fisheries under section 7 of the Endangered Species Act. This consultation will consider new information concerning the status of the

northern right whale. NMFS has determined that proceeding with this rule, pending completion of that consultation, will not result in any irreversible and irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

List of Subjects in 50 CFR Part 630

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

Dated: February 19, 1997.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 630 as proposed to be amended at 61 FR 57361, November 6, 1996, is further proposed to be amended as follows:

1. The authority citation for part 630 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

2. In § 630.2, definitions for "aircraft" and "restricted-fishing day" are added to read as follows:

§ 630.2 Definitions.

* * * * *

Aircraft means any contrivance used for flight in air.

* * * * *

Restricted-fishing day means a date, after the commencement date of the General category fishing season and before the effective date of fishery closure on attaining the annual quota, designated by the Director under § 630.29(a)(1)(i) upon which no fishing may be conducted by persons aboard vessels permitted in the Atlantic tunas General category.

* * * * *

3. In § 630.4, paragraph (a)(2)(v), the introductory text of paragraph (c) and paragraphs (c)(1)(i), (c)(1)(iii), (c)(1)(v), and paragraphs (d), (e), (f), (i) and (k) are revised to read as follows:

§ 630.4 Permits and fees.

(a) * * *

(2) * * *

(v) *Change of category.* Except for purse seine vessels for which a permit has been issued under paragraph (a)(2)(iv) of this section, an owner may change the category of the vessel's Atlantic tunas permit to another category a maximum of once per calendar year by application on the appropriate form to NMFS before May 15. After May 15, the vessel's permit category may not be changed to another

category for the remainder of the calendar year, regardless of any change in the vessel's ownership.

* * * * *

(c) *Application.* A vessel owner or dealer applying for a permit under paragraph (a) or (b) of this section must submit a completed permit application as indicated in the application instructions at least 30 days before the date on which the applicant desires to have the permit made effective.

(1) *Vessel permits.* (i) Applicants must provide all information concerning vessel, gear used, fishing areas, and fisheries participation, including sworn statements relative to income requirements and permit conditions, as indicated in the instructions on the application form.

* * * * *

(iii) NMFS may require the applicant to provide documentation supporting any sworn statements required under this section before a permit is issued or to substantiate why such permit should not be revoked or otherwise sanctioned under paragraph (l) of this section. Such required documentation may include copies of appropriate forms and schedules from the applicant's income tax return. Copies of income tax forms and schedules are treated as confidential.

* * * * *

(v) Applicants must also submit any other information that may be necessary for the issuance or administration of the permit, as requested by NMFS.

* * * * *

(d) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, a permit shall be issued within 30 days of receipt of a completed application. An application is complete when all requested forms, information, sworn statements and supporting documentation have been received and the applicant has submitted all reports required under this part.

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

(e) *Duration.* A permit issued under paragraph (a) or (b) of this section remains valid until it expires or is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904. Permits expire on the date indicated on the permit or when any of the information previously submitted on the application changes. Permits must be renewed upon expiration. Renewal of permits must be initiated at least 30

days before the expiration date to avoid a lapse in validity.

(f) *Fees.* NMFS may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee shall be determined, at least biannually, in accordance with the procedures of the NOAA Finance Handbook, available from the Director, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with application or renewal instructions. The required fee must accompany each application or renewal. 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.

* * * * *

(i) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under paragraph (a) or (b) of this section, the vessel owner or dealer must report the change by phone (1-888-USA-TUNA) or internet (<http://www.usatuna.com>). In such case, a new permit will be issued to incorporate the new information. For certain informational changes, NMFS may require supporting documentation before a new permit will be issued or may require payment of an additional fee. Permittees will be notified of such requirements, if applicable, when reporting changes. The permit is void if any change in the information is not reported within 15 days.

* * * * *

(k) *Replacement.* Replacement permits will be issued when requested by the owner or authorized representative. A request for a replacement permit will not be considered a new application. An appropriate fee, consistent with paragraph (f) of this section, may be charged for issuance of the replacement permit.

* * * * *

4. In § 630.5, the first sentence in each of paragraphs (a)(1) and (2) are revised, and a new paragraph (a)(4) is added to read as follows:

§ 630.5 Recordkeeping and reporting.

(a) *Vessels*—(1) *Logbooks.* If selected and so notified in writing by NMFS, the owner and/or operator of a vessel for which a permit has been issued under § 630.4(a), must ensure that a daily logbook form is maintained of the vessel's fishing effort, catch, and disposition on forms available from the Science and Research Director. * * *

(2) *Tally sheets.* The owner and/or operator of a vessel for which a permit has been issued under § 630.4(a), and who is required to submit a logbook under paragraph (a)(1) of this section, must ensure that copies of tally sheets are submitted for all fish offloaded and sold after a fishing trip. * * *

* * * * *

(4) *Angling reports.* Angling category permittees selected by the Director are required to report all ABT landed under the Angling category quota. Permittees will be notified in writing by the Director of their selection and applicable reporting requirements and procedures. Reporting procedures shall be established by the Director in cooperation with the States, and may include telephone, dockside or mail surveys, mail-in or phone-in reports, tagging programs, or mandatory ABT check-in stations. A statistically based sample of the Angling category permittees may be selected for specific reporting programs.

* * * * *

5. In § 630.21, paragraph (f) is added to read as follows:

§ 630.21 Gear restrictions.

* * * * *

(f) *Aircraft.* Other than for a vessel holding a valid permit in the Purse Seine category under § 630.4(a)(2), locating, fishing for, catching, taking, retaining or possessing ABT by means, aid, or use of any aircraft is prohibited.

6. In § 630.28, paragraphs (b)(5) and (e)(1) are revised to read as follows:

§ 630.28 Quotas and closures.

* * * * *

(b) * * *

(5) *Inseason adjustments.* NMFS may make transfers between fishing categories or allocate any portion of the Reserve held for inseason adjustments to any category of the fishery, or to account for harvest by persons conducting research activities authorized under § 630.1(b)(2) in accordance with § 630.32. NMFS will publish notification of any inseason adjustment amount in the Federal Register. Before making any such allocation between categories or from the Reserve, NMFS will consider the following factors:

(i) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock.

(ii) 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.

(iii) 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.

(iv) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

* * * * *

(e) *Closures*—(1) *Atlantic bluefin tuna*. (i) NMFS will monitor catch and landing statistics, including catch and landing statistics from previous years and projections based on those statistics, of Atlantic bluefin tuna by vessels other than those permitted in the Purse Seine category. On the basis of these statistics, NMFS will project a date when the catch of Atlantic bluefin tuna will equal any quota established under this section, and will file notification with the Office of the Federal Register stating that fishing for or retaining Atlantic bluefin tuna under the quota must cease on that date at a specified hour.

(ii) Upon determining that variations in seasonal distribution, abundance, or migration patterns of ABT, and the catch rate in one area may preclude anglers in another area from a reasonable opportunity to harvest its historical share of the quota, NMFS may close all or part of the Angling category or reopen it at a later date, to ensure that ABT have migrated to the identified area before the entire Angling category quota is reached. In determining the need for any such temporary or area closure, NMFS will consider the applicable factors referenced under § 630.28(b)(5).

* * * * *

7. In § 630.29, paragraph (a)(1)(iv) is removed and paragraphs (a)(1)(i) and (a)(5) are revised to read as follows:

§ 630.29 Catch limits.

(a) *Atlantic bluefin tuna*—(1) *General category*. (i) From the start of each fishing year, except on designated restricted-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 § 630.4(a)(2). On designated restricted-fishing days, persons aboard such vessels may not fish. NMFS will publish in the Federal Register a schedule of designated restricted-fishing days applicable for that fishing season.

* * * * *

(5) *Charter/Headboat category*. (i) Persons aboard vessels for which a Charter/Headboat category permit has been issued under § 630.4(a)(2) are

subject to the daily catch limit in effect on that day for school, large school, and small medium ABT applicable to the Angling category or the daily catch limit in effect on that day for large medium and giant ABT applicable to the General category. The size category of the first ABT retained or possessed shall determine the fishing category applicable to the vessel that day.

Persons aboard the vessel may possess ABT 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 for the Angling or General category, as applicable. School, large school, and small medium ABT landed by persons aboard Charter/Headboat category vessels are counted against the Angling category quota. Large medium and giant ABT landed by persons aboard Charter/Headboat category vessels are counted against the General category quota if landed under paragraph (a)(5)(ii) of this section, or the Angling category quota, if landed under paragraph (a)(5)(iii) or (iv) of this section.

(ii) When commercial fishing by vessels for which General category permits have been issued under § 630.4(a)(2) is authorized, except when fishing in the Gulf of Mexico, operators of vessels for which a Charter/Headboat category permit has been issued under § 630.4(a)(2) 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)(1) of this section. Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained on authorized commercial fishing days, persons aboard vessels for which Charter/Headboat category permits have been issued under § 630.4(a)(2) must cease fishing and the vessel must proceed to port. Large medium or giant ABT landed under this paragraph may be sold.

(iii) When the General category fishery is closed, except when fishing in the Gulf of Mexico, operators of vessels for which a Charter/Headboat category permit has been issued under § 630.4(a)(2) 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 (a)(4)(ii) of this section. Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained under the Angling category quota, fishing by persons aboard Charter/Headboat category vessels must cease and the vessel must proceed to port.

(iv) At any time when fishing in the Gulf of Mexico, operators of vessels for

which Charter/Headboat category permits have been issued under § 630.4(a)(2) may not fish for, catch, retain or possess bluefin tuna except that large medium and giant bluefin tuna taken incidental to fishing for other species may be retained 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 (a)(4)(ii) of this section. Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained under the Angling category quota, fishing by persons aboard Charter/Headboat category vessels must cease and the vessel must proceed to port.

8. In § 630.30, paragraph (a)(1) is revised to read as follows:

§ 630.30 Catch and release.

(a) *Atlantic bluefin tuna*. (1) Notwithstanding other provisions of this part, a person aboard a vessel permitted under § 630.4(a)(2), other than a person aboard a vessel permitted in the General category on a designated restricted-fishing day, may fish for Atlantic bluefin tuna under a tag and release program, provided the person tags all Atlantic bluefin tuna so caught with tags issued or approved by NMFS under this section, and releases and returns such fish to the sea immediately after tagging and with a minimum of injury. If NMFS-issued or NMFS-approved tags are not on board a vessel, all persons aboard that vessel are deemed to be ineligible to fish under the provisions of this section.

* * * * *

9. In § 630.70, paragraphs (a)(8) and (a)(78) are revised and paragraphs (a)(101) and (a)(102) are added to read as follows:

§ 630.70 Prohibitions.

* * * * *

(8) 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 or Charter/Headboat categories under § 630.4(a)(2)(i), or a permit for the Purse Seine category under § 630.4(a)(2)(i) as authorized under § 630.26(a)(2).

* * * * *

(78) Fish for, catch, or possess or retain Atlantic bluefin tuna in excess of the catch limits specified in § 630.29(a), except that fish may be caught and released under the provisions of § 630.30.

* * * * *

(101) For persons aboard vessels permitted in the General category under

§ 630.4(a)(2), engage in fishing for any species on designated restricted-fishing days.

(102) Fish for, catch, possess or retain, or attempt to fish for, catch, possess or retain any ABT by means, aid, or use of any aircraft, unless holding a valid permit in the Purse Seine category under § 630.4(a).

[FR Doc. 97-4587 Filed 2-27-97; 4:45 pm]

BILLING CODE 3510-22-F