

DEPARTMENT OF COMMERCE**National Telecommunications and Information Administration****47 CFR Part 300**

[Docket Number 110323214–1214–01]

RIN 0660–AA24

Revision to the Manual of Regulations and Procedures for Federal Radio Frequency Management

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Telecommunications and Information Administration (NTIA) hereby makes certain changes to its regulations, which relate to the public availability of the Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual). Specifically, NTIA updates the version of the Manual of Regulations and Procedures for Federal Radio Frequency Management with which federal agencies must comply when requesting use of the radio frequency spectrum.

DATES: *Effective Date:* This regulation is effective on April 5, 2011. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 5, 2011.

ADDRESSES: A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue, NW., Room 1087, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: William Mitchell, Office of Spectrum Management, at (202) 482–8124 or wmitchell@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:**Background**

NTIA authorizes the U.S. Government's use of the radio frequency spectrum. 47 U.S.C. 902(b)(2)(A). As part of this authority, NTIA developed the NTIA Manual to provide further guidance to applicable federal agencies. The NTIA Manual is the compilation of policies and procedures that govern the use of the radio frequency spectrum by the U.S. Government. Federal government agencies are required to follow these policies and procedures in their use of the spectrum.

Part 300 of title 47 of the Code of Federal Regulations provides information about the process by which

NTIA regularly revises the NTIA Manual and makes public this document and all revisions. Federal agencies are required to comply with the specifications in the NTIA Manual when requesting frequency assignments for use of the radio frequency spectrum. See 47 U.S.C. 901 *et seq.*, Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp. at 158.

This rule updates section 300.1(b) of title 47 of the Code of Federal Regulations to specify the version of the NTIA Manual with which federal agencies must comply when requesting frequency assignments for use of the radio frequency spectrum. In particular, this rule amends section 300.1(b) by replacing “May 2010” with “September 2010.” See Revision to the Manual of Regulations and Procedures for Federal Radio Frequency Management, 75 FR 54790, 54791 (Sept. 9, 2010) (revising the Manual through May 2010). Upon the effective date of this rule, Federal agencies must comply with the requirements set forth in the January 2008 edition of the NTIA Manual, as revised through September 2010.

The NTIA Manual is scheduled for revision in January, May, and September of each year and is submitted to the Director of the Federal Register for Incorporation by Reference approval. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and part 51 of title 1 of the Code of Federal Regulations. The NTIA Manual is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, by referring to Catalog Number 903–008–00000–8. A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue, NW., Room 1087, Washington, DC 20230, or call William Mitchell on (202) 482–8124, and available online at <http://www.ntia.doc.gov/osmhome/redbook/redbook.html>. The NTIA Manual is also on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Paperwork Reduction Act

This action does not contain collection of information requirements subject to the Paperwork Reduction Act (PRA). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be

subject to a penalty for failure to comply with, a collection of information subject to the PRA, unless that collection displays a currently valid OMB Control Number.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Administrative Procedure Act/Regulatory Flexibility Act

NTIA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment as it is unnecessary. This action amends the regulations to include the date of the most current version of the NTIA Manual. These changes do not impact the rights or obligations of the public. The NTIA Manual applies only to Federal agencies. Because these changes impact only federal agencies, NTIA finds it unnecessary to provide for the notice and comment requirements of 5 U.S.C. 553. NTIA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the reasons provided above. Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Executive Order 13132

This rule does not contain policies having federalism implications as that term is defined in EO 13132.

Regulatory Text**List of Subjects in 47 CFR Part 300**

Incorporation by reference, Radio.

For the reasons set forth in the preamble, NTIA amends title 47, part 300 as follows:

PART 300—MANUAL OF REGULATIONS AND PROCEDURES FOR FEDERAL RADIO FREQUENCY MANAGEMENT

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 47 U.S.C. 901 *et seq.*, Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., p. 158.

■ 2. Section 300.1 (b) is revised to read as follows:

§ 300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

* * * * *

(b) The Federal agencies shall comply with the requirements set forth in the January 2008 edition of the NTIA Manual, as revised through September 2010, which is incorporated by reference with approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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Dated: March 30, 2011.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 101029546-1208-02]

RIN 0648-BA39

Atlantic Highly Migratory Species; Bluefin Tuna Bycatch Reduction in the Gulf of Mexico Pelagic Longline Fishery

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

ACTION: Final rule.

SUMMARY: Under this final rule, NMFS requires the use of “weak hooks” in the Gulf of Mexico (GOM) pelagic longline (PLL) fishery. A weak hook is a circle hook that meets NMFS’ current size and offset restrictions for the GOM PLL fishery, but is constructed of round wire stock that is thinner-gauge than the circle hooks currently used and is no larger than 3.65 mm in diameter. Weak hooks can allow incidentally hooked bluefin tuna (BFT) to escape capture because the hooks are more likely to straighten when a large fish is hooked. Requiring weak hooks in the GOM will reduce bycatch of BFT; allow the long-term beneficial socio-economic benefits of normal operation of directed fisheries in the GOM with minimal short-term negative socio-economic impacts; and have both short- and long-term beneficial impacts on the stock status of Atlantic BFT, an overfished species. This action affects commercial fishermen using PLL gear to fish for Atlantic Highly Migratory Species (HMS) in the GOM.

DATES: This final action will become effective on May 5, 2011.

ADDRESSES: Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the supporting documents—including the Environmental Assessment (EA), Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), small entity compliance guide, and the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP)—are available from the HMS Web site at <http://www.nmfs.noaa.gov/sfa/hms/>.

FOR FURTHER INFORMATION CONTACT: Dianne Stephan at 978-281-9260 or Randy Blankinship at 727-824-5399.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Conventions Act (ATCA), which authorizes the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary and appropriate to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), which details the management measures for Atlantic HMS fisheries, including the PLL fishery. The implementing regulations for Atlantic HMS are at 50 CFR part 635.

Background

On January 13, 2011, NMFS published a proposed rule (76 FR 2313) to require the use of “weak hooks” by PLL vessels fishing in the GOM. A weak hook is a circle hook that meets NMFS’ current size and offset restrictions but is constructed of round wire stock that is thinner-gauge and is no larger than 3.65 mm in diameter than the circle hooks currently used in the PLL fishery. This final rule finalizes the provisions proposed in the January 13, 2011, rule. The purpose of this action is to reduce PLL catch of Atlantic BFT in the GOM, which is the only known BFT spawning

area for the western Atlantic stock of BFT, as early in the 2011 BFT spawning season as possible. Bluefin tuna spawning season begins in early April each year. This action is consistent with the advice of the ICCAT Standing Committee for Research and Statistics (SCRS) that ICCAT may wish to protect the strong 2003 year class until it reaches maturity and can contribute to spawning. The purpose is also to allow directed fishing for other species to continue within allocated BFT subquota limits. This measure is consistent with the 2006 Consolidated HMS FMP and ICCAT Recommendation 10-03 (supplemental recommendation by ICCAT concerning the western BFT rebuilding program).

Since 2007, NMFS has conducted research on weak hooks used on PLL vessels operating in the GOM to determine if their use can reduce the incidental catch of large BFT during directed PLL fishing for other species. Research data show that the use of a weak hook can significantly reduce the amount of BFT caught incidentally by PLL vessels in the GOM. Weak hooks can allow incidentally hooked BFT to escape capture because the hooks are more likely to straighten when a large fish is hooked, thus releasing the fish.

Due in part to this research, this action finalizes the requirement to use weak hooks in the Atlantic HMS PLL fishery in the GOM. This action will be effective on May 5, 2011 to ensure implementation happens as early in the 2011 BFT spawning season as possible. Implementation of weak hooks in the GOM PLL fishery during spring 2011 is important because the strong 2003 year class is beginning to enter adulthood, and it is likely that some of them will begin to spawn in the GOM this spring. Also, reducing the incidental BFT catch in the GOM may enable the PLL fishery to continue to participate in directed fisheries (e.g., yellowfin tuna (YFT) and swordfish) year-round with less risk of fishery interruption due to insufficient BFT subquota availability in the Longline Category.

NMFS considered three alternatives regarding the GOM PLL fishery. Alternative one would maintain the status quo, thus continuing existing regulations in the GOM PLL fishery. Alternative two would require all PLL vessels fishing in the GOM to use weak hooks. Alternative three would implement additional time/area closures in the GOM to protect spawning BFT. The proposed rule contained details regarding the alternatives considered and a brief summary of the recent management history. Those details are not repeated here.