

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 010523137-1137-01; I.D. 051501C]

RIN 0648-AP29

**Atlantic Tuna Fisheries; Regulatory Adjustments**

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

**ACTION:** Temporary rule.

**SUMMARY:** NMFS temporarily amends the regulations governing the Atlantic bluefin tuna (BFT) fisheries to establish, for 2001 only, a deadline of 11:59 p.m. on May 31 for requesting Atlantic Tunas permit category changes. This regulatory amendment is necessary to provide vessel owners the opportunity to change their permit categories once the automated Atlantic highly migratory species (HMS) permit system is activated for the 2001 fishing year. NMFS received comments in conjunction with the 2001 proposed initial quota specifications and general category effort controls indicating that, due to technical difficulties and subsequent delay in activation of the 2001 permitting system, vessel owners were not provided an adequate opportunity to obtain their permits and/or change their permit categories prior to the previously established deadline of May 15.

**DATES:** Effective May 25, 2001, through May 31, 2001.

**ADDRESSES:** Requests for copies of the temporary rule and information on obtaining an Atlantic HMS permit should be directed to Christopher Rogers, Acting Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirement contained in this temporary rule to Christopher Rogers and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Brad McHale, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** The Atlantic tunas fisheries are managed under the dual authority of the

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to implement binding 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).

**Background**

This temporary rule responds to certain comments on Atlantic HMS permits received in conjunction with comments received on the 2001 proposed initial quota specifications and general category effort controls (66 FR 17520, April 2, 2001). The comments on permits addressed timely activation of the automated Atlantic tunas and HMS Charter/Headboat vessel permit system and the May 15 deadline and permit category selection. NMFS has contracted the Atlantic tunas and HMS Charter/Headboat vessel permitting system to a private company, and, due to technical difficulties, there has been a delay in issuing 2001 vessel permits. In previous years vessel owners have been able to apply for new, or renew existing, permits well in advance of the May 15 permit category change deadline and prior to the start of the fishing year on June 1. The May 15 permit category change deadline is intended to prevent vessel operators from fishing in more than one category in a single fishing year.

Vessel owners have commented that, due to the delay in activation of the permit system, they have not had enough time before the permit category change deadline. This temporary rule extends the deadline to change permit categories to May 31 for 2001 only. For 2002, and beyond, the deadline reverts to May 15. This regulatory change allows vessel owners an additional 2 weeks to change permit categories prior to the beginning of the 2001 fishing season. By allowing vessel owners to choose the most appropriate category, before the start of the fishing year, this measure will further the domestic management objectives for the Atlantic tuna fisheries and maintain the objective of preventing vessel operators from fishing in more than one category in a single fishing year.

NMFS is undertaking this action as a temporary rule without prior notice and an opportunity for public comment because of the immediate need to extend the deadline. Vessel operators

wishing to change fishing categories should renew permits as soon as possible prior to the revised deadline of May 31, through the automated permitting system at 1-888-872-8862 or through the internet at <http://www.nmfspermits.com>. No requests for changes to Atlantic tunas permit categories will be accepted after 11:59 p.m. on May 31, 2001. After the deadline, vessel operators who have not renewed permits for 2001 will be allowed to renew only in the same category as that issued in 2000.

Please note that regulations require that Atlantic tunas permits be carried on board the vessel and be displayed to dealers purchasing tunas. Therefore, changes in permit category are not effective until the new permit has been issued and is carried on board the vessel. Upon receipt of a new Atlantic tunas permit, any previously issued Atlantic tunas permit is rendered invalid.

**Classification**

This temporary rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations contained in this temporary rule are consistent with the HMS Fishery Management Plan, the Magnuson-Stevens Act, and the 1998 ICCAT recommendation (ICCAT Rebuilding Program).

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 temporary rule restates, without change, a collection of information requirement subject to the PRA and approved by OMB under Control Number 0648-0327. The burden associated with Atlantic tunas vessel permits is estimated at 30 minutes per initial permit application and 6 minutes per renewal, including 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 this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

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

NMFS has determined that, under 5 U.S.C. 553(b)(B), there is good cause to waive the requirement for prior notice and an opportunity for public comment on this temporary rule as such procedures would be impracticable and contrary to the public interest. Given the public interest in affording vessel owners adequate time to make necessary permit category changes, further delay in the implementation of this action to provide an opportunity for public comment would be impracticable and contrary to the public interest.

Because this temporary rule relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date. NMFS has the ability to rapidly communicate the new deadline to fishery participants through its FAX network and HMS Information Line.

Because prior notice and opportunity for public comment for this temporary rule is not required under 5 U.S.C. 553 or by any other law, it is not subject to the analytical requirements of the Regulatory Flexibility Act. Accordingly, a Regulatory Flexibility Analysis has not been was not prepared.

#### List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: May 25, 2001.

#### Rolland A. Schmiten,

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

#### PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.4, paragraph (d)(3) is suspended and a new paragraph (d)(6) is added to read as follows:

#### § 635.4 Permits and fees.

\* \* \* \* \*

(d) \* \* \*

(6) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas or HMS Charter/Headboat permit to another category through the automated call-in permitting system at 888-872-8862 or through the internet at <http://www.usatuna.com> before the specified deadline. A vessel owner may change

the category of the vessel's permit no more than once each year and only from January 1 through the deadline. After the deadline through December 31, the vessel's permit category may not be changed, regardless of a change in the vessel's ownership. In 2001, the deadline for category changes is 11:59 p.m. on May 31. In years after 2001, the deadline for category changes is 11:59 p.m. on May 15.

[FR Doc. 01-13662 Filed 5-25-01; 3:46 pm]

**BILLING CODE 3510-22-S**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 052501D]

#### Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been caught.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), May 25, 2001, until 1200 hrs, A.l.t., July 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone 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-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by the Final 2001 Harvest Specifications

and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) for the second season, the period April 1, 2001, through June 10, 2001, as 300 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: all rockfish of the genera *Sebastes* and *Sebastolobus*, deep water flatfish, rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: May 25, 2001.

#### Richard W. Surdi,

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

[FR Doc. 01-13661 Filed 5-25-01; 3:33 pm]

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