

Done in Washington, DC, this 30th day of May 1997.

**Donald W. Luchsinger,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97-14725 Filed 6-4-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Part 285

[Docket No. 960816226-7124-03; I.D. 111396A]

RIN 0648-AJ04

#### Atlantic Tuna Fisheries; Regulatory Adjustments

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

**ACTION:** Final rule.

**SUMMARY:** NMFS amends the 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) Angling category into north and south regional subquotas; establish a new tuna permit program to provide for category changes, annual renewals, and the collection of fees; require 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; and prohibit fishing for ABT by persons aboard vessels permitted in the General category on designated restricted-fishing days. The regulatory amendments are necessary to achieve domestic management objectives for the Atlantic tuna fisheries.

**DATES:** Effective June 16, 1997.

**ADDRESSES:** Copies of supporting documents, including an Environmental Assessment and Regulatory Impact Review (EA/RIR), are available from, Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282.

Comments regarding the collection-of-information requirement contained in this rule should be sent to Rebecca Lent, Chief, Highly Migratory Species Division 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:** 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).

Background information about the need for revisions to Atlantic tunas fishery regulations was provided in the preamble to the proposed rule (62 FR 9726, March 4, 1997) and is not repeated here. These regulatory changes will improve NMFS' ability to achieve domestic management objectives for the Atlantic tuna fisheries.

#### Relation to Proposed Consolidation

The regulatory amendments contained in this final rule were originally written to be consistent with a proposed rule consolidating all regulations pertaining to Atlantic HMS under 50 CFR part 630 (61 FR 57361, November 6, 1996). A final rule consolidating the regulations has not yet been issued. Thus, for the Atlantic tunas regulations contained in this final rule to be effective prior to the consolidation, they must be written to conform with existing text at 50 CFR part 285. The regulatory amendments contained in this final rule will eventually be incorporated into the final consolidated regulations at 50 CFR 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**).

#### Angling Category

In this final rule, the large school-small medium and large medium-giant ABT Angling category quotas are subdivided, allocating 53 percent of landings to the northern region and 47 percent to the southern region. Subdividing the quotas serves to minimize impacts on northern fisheries and increases the temporal and geographic scope of scientific monitoring. The effect of this measure has been included in the proposed ABT 1997 quota specifications (62 FR 19296, April 21, 1997).

#### General Category

This final rule prohibits persons aboard vessels permitted in the General category from retaining ABT less than the large medium size class. This action effectively separates the commercial and recreational fisheries, with the exception of charter/headboats. Anglers aboard vessels permitted in the Charter/Headboat category may collectively 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 will determine the fishing category of the vessel, and the applicable catch limits, for that day. This action will not be effective until 1998 to provide time for all vessel owners to change permit categories.

Additionally, this rule prohibits persons aboard vessels permitted in the General category from fishing for, catching, retaining, or landing large medium or giant ABT on designated restricted-fishing days. As explained below, the prohibition has been modified from the proposed rule, which would have prohibited all fishing for any fish species on restricted fishing days. Fee-paying anglers aboard vessels permitted in the Charter/Headboat category may fish only under the Angling category rules on designated restricted-fishing days.

#### Permits and Catch Reporting

This rule revises the Atlantic tunas permit and reporting program to provide for annual permit renewals, collection of fees, and mandatory reporting for ABT landed under the Angling category. Under the new permit system, reissued 1997 tuna permits are required for all permit holders, regardless of the date of expiration indicated on current permits. Vessel owners holding valid Atlantic Tunas permits issued prior to January 1, 1997 must obtain a renewal permit through the automated system by September 1, 1997 and may fish under the old permit only until that date.

Beginning in calendar year 1997, a fee is assessed to recover the administrative costs of permit issuance. The permit fee has been established according to the NOAA schedule for recovery of administrative costs. All new permit applications, renewals and requests for category changes must be made under the automated system. Recorded information and instructions on the automated permit system can be obtained by phone (toll-free, 1-888-USA-TUNA) or over the internet (<http://www.usatuna.com>).

The automated system implemented for the permit program will also provide

for automated catch reporting by telephone. Angling, Charter/Headboat, and General category permit holders will be notified of applicable reporting procedures for 1997. Additional reporting procedures under consideration in cooperation with individual states may involve catch reports by tagging fish, using punch cards or requiring fish to be reported at designated check-in stations. Improvements in quota monitoring are necessary to meet ICCAT obligations and domestic management objectives.

Finally, this rule revises the provisions for tag and release fishing for ABT. Current regulations allow for catch and release fishing for ABT after fishery closures provided that fish are tagged and that NMFS-approved tagging kits are on board the participating vessel. This rule would restrict such catch-and-release activity to persons aboard vessels permitted in the Atlantic tuna fisheries. Requiring vessel permits in addition to tagging kits recognizes that these situations are in fact directed fisheries for ABT, and facilitates enforcement of ABT regulations and collection of catch and effort information.

#### **Changes From the Proposed Rule**

Based on consideration of comments received, several changes were made to the proposed rule. The prohibition on fishing by persons aboard vessels permitted in the General category on designated restricted-fishing days has been redefined to prohibit fishing for ABT only, as opposed to restricting all fishing activity for any species. Because a considerable number of General category permit holders have already renewed permits that expired in the first quarter of 1997, and a significant number of these vessel owners may elect to switch to the Angling category under the new catch limit rules, the prohibition on retaining small ABT by General category vessels is delayed until January 1, 1998. However, this delay in effectiveness does not apply to the prohibition on fishing for or retention of ABT by persons aboard General category vessels on restricted-fishing days. Finally, the proposed prohibition on the use of aircraft to assist fishing vessel operators in the location and capture of ABT, with the exception of purse seine vessels, is still under consideration by NMFS and is not addressed by this action.

NMFS issued an interim final rule (62 FR 27518, May 20, 1997) to suspend, for 1997 only, the deadline for Atlantic tunas permit category changes in order to provide vessel owners the opportunity to consider changes after

the effective dates of the 1997 final rules and quota specifications. Vessel owners will be notified of the last date to effect permit category changes after all relevant final rules are issued.

#### **Comments and Responses**

NMFS conducted four public hearings on the proposed rule and received written and oral comments over a 30-day comment period. Responses to major comments are provided below.

##### *North and South Regional Subquotas*

*Comment:* Many fishery participants expressed concern that further division of the Angling category size classes amounts to the creation of a "new" fishery (the Hatteras winter ABT fishery).

*Response:* ABT catch has been occurring off North Carolina for many years, although more intensely over the past few years, and the fishery provides an excellent opportunity for expanding the scientific monitoring of ABT through intensive tagging and sampling programs. Subdividing the quota serves to minimize impacts on northern fisheries and increases the scope of scientific monitoring both in time and location.

*Comment:* North Carolina charterboat operators requested that a portion of the Angling quota be set aside for the Hatteras fishery.

*Response:* Due to the difficulty of monitoring small area subquotas in a precise and timely manner, and the problem of accounting for underharvest or overharvest if initial catch projections are later found to be inaccurate, NMFS rejected the option of separate quotas for each state or small area. Instead, NMFS has divided the large school-small medium and large medium-giant size class Angling category quotas into North and South regional subquotas as was done in 1992 for school bluefin.

##### *New Permit Program*

*Comment:* Some commenters opposed annual permitting and the requirement to renew old permits that have not yet expired.

*Response:* Annual permitting is a key element in improving the monitoring of the ABT recreational fishery as well as the commercial component. An accurate permit database is an integral part of NMFS' commitment to improve ABT catch monitoring.

*Comment:* Numerous comments were received in opposition to the permit fee. Some stated that the money should be used to fund tuna management as is done with other fish and wildlife permit fees.

*Response:* Administrative cost recovery is NOAA policy and the fee is calculated to recover the costs of the automated permit and reporting system. Under current law, these funds cannot be dedicated to NMFS programs but must be deposited into the General Fund of the United States Treasury.

*Comment:* The Director of the New Jersey Division of Fish, Game, and Wildlife submitted a comment questioning NMFS' authority to require an \$18 license for recreational Atlantic tuna fishing on the basis that this action would preclude state efforts to implement a license system in territorial waters.

*Response:* NMFS is authorized to charge fees for permits issued to participants in fisheries conducted in the U.S. exclusive economic zone. Following the procedures set forth under section 971g(d) of ATCA, the Assistant Administrator (AA) determined that provisions of 50 CFR part 285 apply within the territorial sea of Atlantic coast and Gulf of Mexico States, including New Jersey (§ 285.1(d)). Each State was notified of this determination and afforded the opportunity for a public hearing. Should any State implement a permit system that adequately provides for ABT quota monitoring, NMFS could consider exempting those licensees from the federal permit requirement.

##### *Self-Reporting*

*Comment:* Several commenters expressed reservations on the effectiveness of self-reporting systems. Others stated that it is redundant with the current Large Pelagic Survey (LPS) and charter/headboat logbooks. Some commenters believe that there will be no incentive for anglers to report their catch.

*Response:* A call-in system is a logical extension of the new automated permitting system and redundancy with the LPS (estimated at 20 percent overlap) is necessary for validation of catch reports. Duplication with logbooks is unavoidable, since those reporting requirements are derived from other FMPs and are not universal or timely relative to tuna catch monitoring. NMFS is currently working with the states under the Atlantic Coast Cooperative Statistics Program to reduce duplication of reporting programs.

*Comment:* While the recreational constituency has expressed support for self-reporting systems, some are concerned that other methods (e.g., tags, cards, check-in stations) are not being tested and that without pilot studies a "buy-in" by rank-and-file anglers will be impossible.

*Response:* In responding to constituent concerns regarding the accuracy of ABT catch monitoring and premature closures, the telephone reporting system is the most expedient solution for 1997. NMFS, in consultation with the Atlantic Tunas Advisory Panel to be formed under the requirements of the Magnuson-Stevens Fishery Conservation and Management Act, may consider other options based on the results of the 1997 fishing season telephone reports.

#### *General Category Prohibitions*

*Comment:* Opposition to the no-fishing definition of a restricted day was nearly universal. Many General category tuna permit holders participate in other commercial fisheries, and it was argued that this proposal would have a significant adverse economic impact when considering effort controls already in effect for other commercial fisheries.

*Response:* NMFS agrees that the proposal to prohibit all fishing would preclude fishing for other species on restricted-fishing days. Therefore, the regulation has been modified to allow fishing on other species from General category vessels on restricted days, but to prohibit catch-and-release fishing for ABT or the retention of ABT on restricted days. This absolute prohibition on retention of ABT is necessary to effectively enforce restricted-fishing days as well as closures.

*Comment:* Some fishery participants, particularly those from the Mid-Atlantic area, objected to the prohibition on retention of small ABT by General category vessels. Fishermen in some areas alternately target large or small ABT depending on weather conditions and availability of fish.

*Response:* Allowing fishing for school ABT makes enforcement of General category rules, particularly restricted-fishing days and daily catch limits, more difficult and has diminished the effectiveness of the effort controls. In addition, it is difficult to monitor the Angling category quota when General category vessels are included in the sample frame for the telephone and dockside surveys. Separation of the two fishing categories is necessary to address these concerns about quota monitoring and effective effort controls. Giant ABT could still be landed by Angling category vessels under the trophy fish subquota, though these fish cannot be sold. Additionally, Charter/Headboat operators will be allowed to target either school ABT or commercial size classes, reflecting the particular needs of these enterprises. Due to concern for vessel owners who may

have already renewed permits for 1997 but would consider a different category under these rules, the effective date of this measure will be delayed until 1998.

#### **Classification**

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the AA.

This rule is published under the authority of ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations in this final rule are necessary for management of the Atlantic tuna fisheries.

NMFS prepared an EA for this final rule with a finding of no significant impact on the human environment. In addition, an RIR was prepared with a finding of no significant impact. The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The division of the Angling category ABT quota into regional subquotas, changes in the Atlantic tunas permitting program, establishment of an Angling category self-reporting system, and prohibition on fishing for ABT and on retention of ABT under 73 inches by vessels permitted in the General category, as established by this final rule, are measures that will not have a significant economic impact on a substantial number of businesses. No comments were received that changed the basis for the certification. Therefore, no Regulatory Flexibility Analysis was prepared.

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

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 Office of Management and Budget Control Number.

This final rule implements new collections and restates or revises existing collection-of-information requirements subject to OMB review under the PRA. Atlantic tuna vessel permits required under § 285.21(a) had previously been approved under OMB Control Number 0648-0202 and were estimated at 30 minutes per permit

action. Vessel reporting and recordkeeping requirements for commercial vessels under § 285.54 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 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 these permitting and reporting requirements have been approved by OMB for the indicated fisheries, this rule modifies or extends these information collections. First, the new annual 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. The new annual permit program has been approved by OMB under Control Number 0648-0327. 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 under OMB Control Number 0648-0016. Purse seine, harpoon or handgear vessels could be affected, but NMFS must first develop a statistical sampling program. NMFS would request OMB approval prior to selecting vessels from these categories. Finally, ABT catch reporting by recreational anglers will 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, when fully implemented, will increase the number of respondents. The direct reporting program has been approved by OMB under Control Number 0648-0328.

NMFS has determined that there is good cause to waive partially the 30-day delay in the effective date normally required by section 553(d) of the Administrative Procedure Act. Since the Angling category fishery is underway, early implementation of the annual permitting program will ensure effective implementation of the mandatory reporting system, enabling NMFS to monitor the ABT Angling category catch and effect a fair distribution of fishing opportunities. Implementation of the division of the large school-small medium and the large medium-giant size class quotas of ABT will improve scientific data collection over all regions

and the entire fishing season. Given NMFS' ability to rapidly communicate these rule changes to fishing interests through the FAX network and NOAA weather radio, a 14 day notice is deemed sufficient.

### List of Subjects

#### 15 CFR Part 902

Reporting and recordkeeping requirements.

#### 50 CFR Part 285

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

Dated: May 30, 1997.

**Rolland A. Schmitt,**

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

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter II are amended as follows:

#### 15 CFR Chapter IX

### PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b), the table, is amended by removing in the left column under 50 CFR, the entries "285.21," "285.29," "285.53," and "285.54" and in the right column, in corresponding positions, the control numbers "–0202," "–0239," "0168," and "–0239", and by adding, in numerical order, the following entries to read as follows:

#### § 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
50 CFR	
285.21 .....	–0327.
285.29 .....	–0239 and –0328.
285.54 .....	–0016.
50 CFR Chapter II	

### PART 285—ATLANTIC TUNA FISHERIES

3. The authority citation for part 285 continues to read as follows:

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

4. In § 285.2, the definition for "Restricted-fishing day" is added to read as follows:

#### § 285.2 Definitions.

*Restricted-fishing day* means a date, beginning at 0001 hours and ending at 2400 hours, after the commencement date of the General category fishing season and before the effective date of fishery closure on attaining the annual or subperiod quota, designated by the Director under § 285.24(a) upon which no fishing for, possession or retention of Atlantic bluefin tuna may be conducted by persons aboard vessels permitted in the Atlantic tunas General category.

5. In § 285.21, paragraphs (c), (d), (e), (g), (k) and (l) are revised to read as follows:

#### § 285.21 Vessel permits.

(c) *Application procedure.* A vessel owner applying for a permit under 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) 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.

(2) Applicants must also submit a copy of the official state registration or United States Coast Guard documentation, charter/headboat license, and, if a boat is owned by a corporation or partnership, the corporate or partnership documents (copy of Certificate of Incorporation and Articles of Association or Incorporation), along with the names of all shareholders owning 5 percent or more of the corporation's stock.

(3) 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 (j) of this section.

(4) 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, reports, information, sworn statements and supporting documentation have been received.

(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 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.

(g) *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 (k) of this section, may be charged for issuance of the replacement permit.

(k) *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.

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner 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. In case of failure to report changes, the permit shall be void as of the sixteenth day after a change in the permit information should have been reported as found in an action under 15 CFR part 904.

\* \* \* \* \*

6. In § 285.24, paragraph (a)(1) is revised, the phrase "For calendar year 1997," is added at the beginning of paragraph (a)(4), and paragraph (e) is revised to read as follows:

**§ 285.24 Catch limits.**

(a) *General category.* (1) 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 this part. On designated restricted-fishing days, persons aboard such vessels may not fish for, possess or retain Atlantic bluefin tuna. NMFS will publish in the **Federal Register** a schedule of designated restricted-fishing days applicable for that fishing season.

\* \* \* \* \*

(4) For calendar year 1997, \* \* \*

\* \* \* \* \*

(e) *Charter/Headboat category.* (1) Persons aboard vessels for which a Charter/Headboat category permit has been issued under this part 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)(1) of this section, or the Angling category quota, if landed under paragraph (d)(2) of this section.

(2) When commercial fishing by vessels for which General category permits have been issued under this part is authorized, except when fishing

in the Gulf of Mexico, operators of vessels for which a Charter/Headboat category permit has been issued under this part 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 this part must cease fishing and the vessel must proceed to port. Large medium or giant ABT landed under this paragraph (e)(2) may be sold.

(3) 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 this part 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 (d)(2) 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.

(4) At any time when fishing in the Gulf of Mexico, operators of vessels for which Charter/Headboat category permits have been issued under this part may not fish for, catch, retain or possess bluefin tuna except that large medium and giant Atlantic 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 (d)(2) 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.

7. In § 285.27, the first sentence of paragraph (a) is revised to read as follows:

**§ 285.27 Tag and release program.**

(a) Notwithstanding other provisions of this part, a person aboard a vessel permitted under this part, 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. \* \* \*

\* \* \* \* \*

8. In § 285.29, the heading is revised, the introductory text is removed, the phrase "Any person issued a dealer permit under § 285.28" is added at the beginning of paragraphs (a), (b) introductory text, (c) and (d), and paragraph (f) is added, to read as follows:

**§ 285.29 Recordkeeping and reporting.**

(a) Any person issued a dealer permit under § 285.28 \* \* \*

(b) Any person issued a dealer permit under § 285.28 \* \* \*

(c) Any person issued a dealer permit under § 285.28 \* \* \*

(d) Any person issued a dealer permit under § 285.28 \* \* \*

\* \* \* \* \*

(f) Beginning July 1, 1997 anglers are required to report directly to NMFS all ABT landed under the Angling category quota. Permittees will be notified by the Director of the applicable reporting requirements and procedures. Alternative reporting procedures may 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 these alternative reporting programs.

9. In § 285.31, paragraphs (a)(4) and (a)(37) are revised and paragraph (a)(39) is added to read as follows:

**§ 285.31 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(4) Fish for, catch, or possess or retain Atlantic bluefin tuna in excess of the catch limits specified in § 285.24, except that fish may be caught and released under the provisions of § 285.27.

\* \* \* \* \*

(37) 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 § 285.21, or a permit for the Purse Seine category under § 285.21 as authorized under § 285.23(d), or, for calendar year 1997, a permit for the General category under § 285.21.

\* \* \* \* \*

(39) For owners or operators of General category permitted vessels, and persons aboard vessels permitted in the

General category under § 285.21, to fish for, catch, possess, or retain, or to attempt to fish for, catch, possess, or retain Atlantic bluefin tuna on designated restricted-fishing days.

\* \* \* \* \*

10. In § 285.54, the heading and paragraph (a) are revised to read as follows:

**§ 285.54 Vessel recordkeeping and reporting.**

(a)(1) *Logbooks.* If selected and so notified in writing by the Director, the owner and/or operator of a vessel for which a permit has been issued under § 285.21 or § 285.53, 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. Such forms must be submitted to the Science and Research Director postmarked not later than the seventh day after sale of the fish offloaded from a trip. If no fishing occurred during a month, a report so stating must be submitted in accordance with instructions provided with the forms.

(2) *Tally sheets.* The owner and/or operator of a vessel for which a permit has been issued under § 285.21 or § 285.53, 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. Each tally sheet must show the dealer to whom the fish were transferred, the date they were transferred, and the carcass weight of each fish for which individual carcass weights are normally recorded. For species not individually weighed, tally sheets must record total weights by market category. Copies of tally sheets must be submitted with the logbook forms required under paragraph (a)(1) of this section.

\* \* \* \* \*

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Regulations No. 4]

RIN 0960-AE70

### Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Dates for Several Body System Listings

AGENCY: Social Security Administration.

ACTION: Final rule.

**SUMMARY:** The Social Security Administration (SSA) adjudicates claims at the third step of its sequential process for evaluating disability using the Listing of Impairments (the listings) under the Social Security and supplemental security income (SSI) programs. This rule extends the dates on which several body system listings will no longer be effective and makes two related nonsubstantive technical changes. We have made no revisions to the medical criteria in these listings; they remain the same as they now appear in the Code of Federal Regulations. These extensions will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on impairments in these body systems at step three of our sequential evaluation process.

**EFFECTIVE DATE:** This regulation is effective June 5, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Regarding this **Federal Register** document—Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1758; regarding eligibility or filing for benefits—our national toll-free number, 1-800-772-1213.

**SUPPLEMENTARY INFORMATION:** We use the listings in Appendix 1 (Listing of Impairments) to subpart P of part 404 at the third step of the sequential evaluation process to evaluate claims filed by adults and individuals under age 18 for benefits based on disability under the Social Security and SSI programs. The listings are divided into parts A and B. We use the criteria in part A to evaluate impairments of adults. We use the criteria in part B first to evaluate impairments of individuals under age 18. If those criteria do not apply, then the medical criteria in part A will be used.

When we published revised listings in 1985 and subsequently, we indicated that medical advances in disability evaluation and treatment and program experience would require that the listings be periodically reviewed and updated. Accordingly, we established dates ranging from 3 to 8 years on which the various body system listings would no longer be effective unless extended by the Secretary of Health and Human Services or revised and promulgated again. Effective March 31, 1995, the authority to issue regulations was transferred to the Commissioner of Social Security by section 102 of Public Law 103-296, the Social Security

Independence and Program Improvements Act of 1994.

In this final rule we are extending the dates on which several body system listings will no longer be effective as follows:

*June 7, 1999:* Musculoskeletal System (1.00 and 101.00); Hemic and Lymphatic System (7.00 and 107.00); Skin (8.00); Endocrine System and Obesity (9.00) and Endocrine System (109.00); and Neoplastic Diseases, Malignant (13.00 and 113.00).

*August 27, 1999:* Mental Disorders (12.00 and 112.00).

*December 6, 1999:* Digestive System (5.00 and 105.00) and Genito-Urinary System (6.00 and 106.00).

We are making the expiration date for the adult and childhood mental disorders listings the same. For several years, the mental disorders listings have been the only body system listings to have different expiration dates for parts A and B. We are now making this body system listing consistent with all the others.

We last extended the dates on which these body system listings would no longer be effective in final rules published as follows:

*December 6, 1993* (58 FR 64121): Digestive System; Genito-Urinary System; Skin; and Endocrine System and Obesity and Endocrine System.

*August 23, 1995* (60 FR 43709): Mental Disorders (12.00 only).

*December 6, 1995* (60 FR 62329): Hemic and Lymphatic System; Mental Disorders (112.00 only); and Neoplastic Diseases, Malignant.

*June 4, 1996* (61 FR 28046): Musculoskeletal System.

We believe that the requirements in these listings are still valid for our program purposes. Specifically, if we find that an individual has an impairment that meets the statutory duration requirement and also meets or is medically or functionally equivalent in severity to an impairment in the listings, we will find that the individual is disabled at the third step of the sequential evaluation process.

We also are making two nonsubstantive technical changes in the listings. First, we are removing the introductory paragraph at the beginning of 12.00 Mental Disorders because it merely repeats, in narrative form, the same expiration date information contained in the list at the beginning of appendix 1. No other body system listing contains such a paragraph.

Second, in the list of body system listings at the beginning of part B of appendix 1, we are correcting the entry for "112.00 Mental and Emotional Disorders" to "112.00 Mental