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For further information concerning this proceeding contact Anthony Serafini at (202) 418-2456, Policy and Rules Division, Office of Engineering and Technology.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway traffic Safety Administration

#### 49 CFR Part 571

#### Federal Motor Vehicle Safety Standards

##### CFR Correction

In title 49 of the Code of Federal Regulations, parts 400 to 999, revised as of October 1, 1996, on page 193, in § 571.105, paragraph S7.1 should be removed and the following paragraph reinstated.

#### § 571.105 Standard No. 105; Hydraulic brake systems.

\* \* \* \* \*

*S7.1 Brake warming.* If the initial brake temperature for the first stop in a test procedure (other than S7.7 and S7.16) has not been reached, heat the brakes to the initial brake temperature by making not more than 10 snubs from not more than 40 to 10 mph, at a deceleration not greater than 10 fpsps.

\* \* \* \* \*

[FR Doc. 55503 Filed 6-25-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 285

[Docket No. 970401075-7141-02; I.D. 121296A]

RIN 0648-AJ69

#### Atlantic Tuna Fisheries; Annual Quotas

**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 set Atlantic bluefin tuna (ABT) fishing category quotas for the 1997 fishing year. The regulatory amendments are necessary to implement the 1996 recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) regarding fishing quotas for bluefin tuna, as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives.

**DATES:** The rule is effective June 25, 1997.

**ADDRESSES:** Copies of supporting documents, including an Environmental Assessment-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.

**FOR FURTHER INFORMATION CONTACT:** John Kelly, 301-713-2347, or Mark Murray-Brown, 508-281-9260.

**SUPPLEMENTARY INFORMATION:** The Atlantic tuna fisheries are managed under the authority of the ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of ICCAT. The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

At its 1996 meeting, ICCAT recommended that the Contracting Parties whose vessels have been actively fishing for bluefin in the western Atlantic institute a scientific monitoring quota of 2,354 mt each year for 1997 and 1998. When allocating the U.S. share of 1344.4 mt for 1997, NMFS takes into consideration the contribution of each fishing category to catch-per-unit-effort (CPUE) indices for the purposes of stock

assessment. However, NMFS also considers the effect of allocations on the traditional user groups and takes into account recent trends in fishing fleet activity.

Background information about the need for revisions to Atlantic tunas fishery regulations was provided in the preamble to the proposed rule (62 FR 19296, April 21, 1997) and is not repeated here. These regulatory changes will improve NMFS' ability to implement the ICCAT recommendations and further the 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 highly migratory species 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**).

#### Fishing Category Quotas

No changes have been made to the proposed quotas. The ABT fishing category quotas for the 1997 fishing year are as follows: General category—633 mt; Harpoon Boat category—53 mt; Purse Seine category—250 mt; Angling category—265 mt; Incidental category—110 mt; and Reserve—33 mt.

The Angling category quota is subdivided as follows: No more than 6 mt may be large medium or giant ABT and no more than 108 mt may be school ABT. The quota for school ABT is further subdivided as 51 mt for the southern area and 57 mt for the northern area. The 151 mt of large school/small medium ABT is further subdivided as 71 mt for the southern area and 80 mt for the northern area.

The Incidental category quota is subdivided as follows: 86 mt to longline vessels operating south of 34° N. lat.; 23 mt to longline vessels operating north of 34° N. lat.; and 1 mt to fishermen using traps, fixed gear, and purse seines in the non-tuna fisheries. Although this final rule establishes a 1997 quota of 1 mt for the Incidental Other category, a catch of

1.46 mt in this category resulted in a closure effective January 17, 1997 (62 FR 3490, January 23, 1997). This final rule does not alter that quota and the closure for the Incidental Other category remains in effect until December 31, 1997.

### Comments and Responses

*Comment:* Many fishery participants supported the increased allocation to the Angling and General categories based on increased participation rates and the usefulness of scientific data obtained. Other comments requested that the number of permit holders rather than past quota levels be the basis for reallocation of the Reserve.

*Response:* NMFS agrees that participation in the General and Angling categories has increased in recent years and has resulted in early closures for these categories. Because of the reliance on the large fish and small fish CPUE indices for stock assessment, the General and Angling category fisheries should be kept open as long as possible to achieve high survey sampling rates over the widest possible geographic area. Also, NMFS, in response to recommendations from the National Research Council, has increased scientific sampling, working with outside organizations in conducting genetic studies, microconstituent analysis, sexual maturity determination, tagging studies, and age and growth studies. For these reasons, NMFS has reallocated the 145 mt that had been in the 1995 Reserve to the Angling and General categories. A total reserve of 33 mt will allow NMFS to transfer tonnage to keep fisheries open for the longest period possible to maximize scientific data collection. The criteria for such inseason transfers are stipulated in the regulations and are not changed by this rule.

*Comment:* Many commenters expressed concern that an increase of Angling category quota would increase the take of small fish, thus increasing fishing mortality. Others commented that NMFS should not "reward" the Angling category participants, who have exceeded their quota in the last 2 years, with an increase in quota.

*Response:* As recommended by ICCAT, NMFS regulations limit the take of school size ABT to 8 percent by weight of the total domestic quota. Therefore, the amount of school size fish available is not directly related to the Angling category allocation. The Angling category is the only source of small fish CPUE data for stock assessment. In addition, the recreational fishery is of significant socioeconomic importance.

*Comment:* NMFS received hundreds of form letters requesting that the Purse Seine category quota be reduced to 125 mt in order to provide greater opportunities for the thousands of fishermen in the Angling and General categories, to provide improved scientific monitoring of ABT, to protect the businesses that support the Angling and General categories, and to provide the greatest economic benefit to the American public. NMFS received several similar comments from fishermen requesting that NMFS reduce the Purse Seine category quota to more "fairly and equitably" allocate the 1997 quota. Others added that the handgear sector of the fishery provides broader scientific data over a greater geographic area than the Purse Seine sector and that it was the recreational community that initiated the archival tagging program this year.

*Response:* NMFS has decided that reallocation issues warrant further consideration by the Atlantic Tunas Advisory Panel (AP) to be created as required under the Magnuson-Stevens Fishery Conservation and Management Act. The AP, required by law to be of balanced representation, would consider comments submitted under these proposed specifications and will discuss reallocation schemes and provide additional opportunities for public comment. For this reason, NMFS intends to use the AP for further discussion and recommendations to the agency, and makes no immediate change to the Purse Seine category quota.

*Comment:* Several Purse Seine industry members requested that NMFS reallocate some of the available quota for 1997 to the Purse Seine category, in light of the 51 mt reduction in 1995. NMFS received comments that the Purse Seine fishery contributed to the establishment of the historical U.S. share of the western Atlantic quota (52 percent), and that in the 1960's and 1970's, purse seiners tagged thousands of juvenile fish for scientific monitoring.

*Response:* The 1992 allocations were established based on historical share of the U.S. catch for the preceding 10 years. In 1995, 51 mt were transferred out of the Purse Seine category quota in order to provide further data for scientific monitoring. As mentioned above, NMFS intends to use the AP for further consideration of ABT allocation schemes.

*Comment:* NMFS received comments that the Reserve should be allocated to fishing categories at the beginning of the fishing season.

*Response:* This year, NMFS greatly reduced the amount held in the Reserve, given existing and recently

implemented quota monitoring measures for the commercial and recreational categories, respectively. NMFS maintains, however, that a base amount of quota should be reserved until later in the season, should any inseason adjustments be necessary to ensure that the 1997 quota set by ICCAT is not exceeded.

*Comment:* NMFS received comments from recreational interests that there is a history of rod and reel fishing back to the early 1900s for the New York Bight area and south and that allocations should be based on real history and scientific monitoring standards.

*Response:* The 1992 baseline quotas were established to reflect recent trends in catch and effort as evidenced from 1983 to 1990. In establishing quotas, NMFS has endeavored to balance historical allocation with the requirements to reduce the catch of small fish, rebuild the western ABT stock, and obtain the most useful scientific information from the fish that are harvested.

*Comment:* Several commenters requested that NMFS allocate a late-season (November-December) General category set-aside to North Carolina in order to provide commercial and charterboat fishermen in that area access to the fishery at a time when no other scientific data are collected and to eliminate conflict between General and Angling categories.

*Response:* In 1991, at the request of North Carolina fishermen, NMFS requested comment on a change in the General category season commencement date (56 FR 20183, May 2, 1991). The fishermen contended that they were precluded from an opportunity to fish for and retain giant ABT because the season begins after giant ABT migrate from the area. These fishermen argued that their low level of catch would not result in early harvest of the General category quota, which had not been fully harvested for several years. NMFS responded that opening the ABT fishery to non-traditional areas would be contrary to sound conservation and management, unless the action were counter-weighted by an equivalent reduction in another sector (e.g., allowing the harvest of giant ABT instead of small ABT) (57 FR 371, January 6, 1992).

Since that time, fishing conditions have changed markedly and the General category quota has been fully utilized. In fact, the quota has become so restrictive relative to fishery participation that effort controls have been established. Also, in the last few years, winter catch rates off North Carolina have risen dramatically. While

increased Angling category participation in the winter fishery has provided additional collection of scientific information, NMFS continues to be concerned that high catch rates in the General category would cause a significant shift in the fishery to a non-traditional area.

*Comment:* Several Harpoon category members requested a proportional share of the proposed allocation of quota from the Reserve. These commenters disagree that harpoon catch data have not been incorporated into any useful index of abundance and add that harpooners have contributed to the NMFS tagging program since 1977.

*Response:* NMFS agrees that data collected from the Harpoon category participants are useful, e.g., bluefin biological sampling and tagging. However, because catch rates are strongly influenced by weather and sea conditions, and because many harpooners use spotter aircraft to assist in the location of fish, it is difficult to standardize CPUE from the harpoon fishery. Although Harpoon fishery data could potentially be incorporated into an index of abundance, given the difficulties in standardization of effort, such an index would be less reliable than the existing rod and reel based index which covers a larger number of years, fishing areas, and size classes.

*Comment:* Some comments were received requesting additional Incidental category quota in order to minimize dead discards, as recommended by ICCAT. One commercial organization suggested allocating a portion of the Reserve to the Incidental category to develop a biological database that will provide useful information. Others opposed any increase, stating that additional Incidental quota encourages a directed fishery for ABT rather than reducing discards.

*Response:* The Incidental category has not filled its quota in the past several years; the constraint to date has been the target catch requirements rather than the actual quota. NMFS is analyzing logbook and observer data in order to consider possible regulatory amendments, if found to be consistent with ICCAT recommendations, to modify target catch requirements for landing ABT by longline, or to make other adjustments in order to minimize dead discards.

#### Classification

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 to implement the ICCAT

recommendation and 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 fishing category allocations, as established by this final rule, are measures that will not have a significant economic impact on a substantial number of businesses. Therefore, no Regulatory Flexibility Analysis was prepared.

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

NMFS has determined that there is good cause to waive the 30-day delay in the effective date normally required by 5 U.S.C. 553(d). This rule imposes no requirements with which a fisherman would have to come into compliance. It merely establishes quotas for the fishing season. As such, it is unnecessary to delay the effective date of the quotas. NMFS will rapidly communicate these rule changes to fishing interests through the FAX network and NOAA weather radio.

#### List of Subjects in 50 CFR Part 285

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

Dated: June 24, 1997.

**C. Karnella,**

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

For the reasons set out in the preamble, 50 CFR part 285 is amended as follows:

#### PART 285—ATLANTIC TUNA FISHERIES

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

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

2. In § 285.22, paragraphs (a)(1), (c), (d), and the heading and first sentence of paragraph (f) are revised to read as follows:

#### § 285.22 Quotas.

\* \* \* \* \*

(a) *General.* (1) The total annual amount of large medium and giant Atlantic bluefin tuna that may be

caught, retained, possessed or landed in the regulatory area by vessels permitted in the General category under § 285.21(b) is 541 mt.

\* \* \* \* \*

(c) *Purse Seine.* The total amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 250 mt.

(d) *Angling.* The total annual amount of Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by anglers is 265 mt. No more than 6 mt of this quota may be large medium or giant bluefin tuna quota and no more than 108 mt of this quota may be school Atlantic bluefin tuna. The size class subquotas for Atlantic bluefin tuna are further subdivided as follows:

(1) 51 mt of school, 71 mt of large school or small medium, and 4 mt of large medium or giant Atlantic bluefin tuna may be caught, retained, possessed, or landed south of 38°47' N. lat.

(2) 57 mt of school, 80 mt of large school or small medium, and 2 mt of large medium or giant Atlantic bluefin tuna may be caught, retained, possessed, or landed north of 38°47' N. lat.

\* \* \* \* \*

(f) *Reserve.* The total amount of Atlantic bluefin tuna that will be held in reserve for inseason adjustments and fishery independent research is 33 mt.

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\* \* \* \* \*

[FR Doc. 97-16964 Filed 6-25-97; 9:18 am]

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 970619143-7143-01; I.D. 061097A]

RIN 0648-AC68

#### Fisheries of the Exclusive Economic Zone Off Alaska; Define Fishing Trip in Groundfish Fisheries

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations that interpret and make clarifying changes consistent with that interpretation to the term "fishing trip" for purposes of