

I, title 50 of the Code of Federal Regulations, as set forth below:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

whooping” under BIRDS, to read as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

2. Section 17.11(h) is amended by revising the entry for “Crane,

§ 17.11 Endangered and threatened wildlife.

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * *		*	*	*	*		*
BIRDS							
* * *		*	*	*	*		*
Crane, Whooping ...	<i>Grus americana</i> ...	Canada, U.S.A. (Rocky Mountains East to Carolinas), Mexico.	Entire, except where listed as an experimental population.	E	1.3,487,621	17.95(b)	NA
Do	do	do	U.S.A. (FL)	NX	487	NA	17.84(h)
Do	do	do	U.S.A. (CO, ID, NM, UT, WY).	NX	621	NA	17.84(h)

3. Section 17.84 is amended by revising paragraphs (h)(1), (h)(3), (h)(4)(ii), and (h)(8) to read as follows:

§ 17.84 Special rules-vertebrates.

(h) * * *

(1) The whooping crane populations identified in paragraphs (h)(8)(i) and (h)(8)(ii) of this section are nonessential experimental populations.

* * *

(3) Any person with a valid permit issued by the Fish and Wildlife Service (Service) under § 17.32 may take whooping cranes in the wild in the experimental population area for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, and other conservation purposes consistent with the Act and in accordance with applicable State fish and wildlife conservation laws and regulations.

(4) * * *

(ii) Relocate a whooping crane that has moved outside the Kissimmee Prairie or the Rocky Mountain range of the experimental population when removal is necessary or requested;

* * *

(8) Geographic areas that nonessential experimental populations inhabit include the following—

(i) The entire State of Florida. The reintroduction site will be the Kissimmee Prairie portions of Polk, Osceola, Highlands, and Okeechobee counties. Current information indicates that the Kissimmee Prairie is within the historic range of the whooping crane in Florida. There are no other extant

populations of whooping cranes that could come into contact with the experimental population. The only two extant populations occur well west of the Mississippi River. The Aransas/Wood Buffalo National Park population nests in the Northwest Territories and adjacent areas of Alberta, Canada, primarily within the boundaries of the Wood Buffalo National Park, and winters along the Central Texas Gulf of Mexico coast at Aransas National Wildlife Refuge. Whooping cranes adhere to ancestral breeding grounds leaving little possibility that individuals from the extant population will stray into Florida or the Rocky Mountain Population. Studies of whooping cranes have shown that migration is a learned rather than an innate behavior. The experimental population released at Kissimmee Prairie is expected to remain within the prairie region of central Florida; and

(ii) The States of Colorado, Idaho, New Mexico, Utah and the western half of Wyoming. Birds in this area do not come in contact with whooping cranes of the Aransas/Wood Buffalo Population.

* * *

Dated: June 3, 1997

William Leary,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–19058 Filed 7–18–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 970626157–7176–01; I.D. 041697C]

RIN 0648–AJ65

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Effort Controls

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) General category effort controls for the 1997 fishing year. The regulatory amendments are necessary to achieve domestic management objectives.

DATES: Effective July 15, 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: Sarah McLaughlin, 301–713–2347, or Pat Scida, 508–281–9260.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the Atlantic

Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* The ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations to carry out 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 36040, July 3, 1997) and is not repeated here. These regulatory changes will improve NMFS' ability to further the management objectives for the Atlantic tuna fisheries.

Quota Subdivision

In this final rule, the 1997 General category quota is split, based upon historical catch patterns (1983–96), into three subquotas and distributed as follows: 60 percent for June–August, 30 percent for September, and 10 percent for October–December. These percentages are applied only to 623 metric tons (mt) out of the total General category quota of 633 mt. The remaining 10 mt is reserved for the New York Bight fishery in October. Thus, of the 623 mt, 374 mt is available in the period beginning June 1 and ending August 31, 187 mt is available in the period beginning September 1 and ending September 30, and 62 mt is available in the period beginning October 1 and ending December 31. When the October through December period General category catch is projected to have reached 62 mt, NMFS will set aside the remaining 10 mt for the New York Bight only. Upon the effective date of the New York Bight set-aside, fishing for, retaining, or landing large medium or giant ABT is prohibited in all waters outside the set-aside area.

Attainment of the subquota in any fishing period will result in a closure until the beginning of the following fishing period, whereupon any underharvest or overharvest will be carried over to the following period, with the subquota for the following period adjusted accordingly. Announcements of inseason closures will be filed with the Office of the Federal Register, stating the effective date of closure, and further communicated through the Highly Migratory Species (HMS) Fax Network, the HMS Information Line, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of closure will be provided as far in

advance as possible, fishermen are encouraged to call the HMS Information Line to check the status of the fishery before leaving for a fishing trip. The phone numbers for the HMS Information Line are (301) 713–1279 and (508) 281–9305. Information regarding the Atlantic tuna fisheries is also available through Nextlink Interactive, Inc., at (888) USA–TUNA.

The New York Bight area is redefined as the area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat.

Restricted-Fishing Days

NMFS also establishes the 1997 schedule of restricted-fishing days for vessels permitted in the General category. In 1996, the restricted-fishing days followed the pattern of Sunday, Monday, and Tuesday (with some exceptions for market closures and holidays) from mid-July to mid-September. This rule reflects the restricted-fishing days mutually agreed upon by associations representing General category fishermen and dealers for July and August, and specifies restricted-fishing days for September in order to lengthen the General category fishery. Persons aboard vessels permitted in the General category are prohibited from fishing (including tag and release fishing) for ABT of all sizes on the following days for the 1997 season: July 16, 17, 23, and 30; August 6, 10, 11, 12, 17, 20, 24, and 27; and September 1, 3, 6, 7, 10, 11, 14, 17, 19, 21, 24, and 28. On these designated restricted-fishing days, persons aboard vessels permitted in the Charter/Headboat category may fish for school, large school, and small medium ABT only, provided the Angling category remains open, and are subject to the catch limits in effect.

Changes From the Proposed Rule

Based on consideration of the comments received, several changes were made to the proposed rule. Restricted-fishing days have been added for the fishing period beginning September 1 and ending September 30. In addition, a southern boundary line for the New York Bight set-aside area is established at 38°47' N. lat.

Comments and Responses

NMFS conducted three public hearings on the proposed rule and received written and oral comments over a 14-day comment period. Responses to the comments are provided below.

Proposed Quota Subdivision

Comment: Some commenters requested that there be no quota allocated for October–December, and that the quota allocated for that period be redistributed to the July–August or September subquotas. Other fishery participants supported quota for the October–December period.

Response: NMFS has established a subquota for the October–December period for the past two seasons based on comments received in 1995 and 1996 that extending General category fishing into October could result in the landing of higher quality bluefin and therefore could improve prices received by fishermen. Due to the lack of agreement among industry representatives on ways to improve this apportionment consistent with management objectives, no change is made from the proposed rule.

Comment: Some commenters suggested that the proposed 60 percent–40 percent quota subdivision for before and after September 1 is inappropriate because it incorporates data from 1995 and 1996 when effort controls were in place, thus the landings patterns were influenced by the regulations. In addition, comments were received stating that school and medium sized fish should not be counted in calculating the historical average, since those fish can no longer be sold.

Response: NMFS has re-evaluated the landings data from 1983–96, by excluding from the analysis (1) the data from 1995 and 1996, and (2) landings of school and medium bluefin by General category vessels (prior to July 1992). Neither of these adjustments significantly alters the historical proportion of landings before and after September 1. Therefore, the quota distribution is not changed.

Comment: Many commenters supported a southern boundary for the New York Bight set-aside area. Many fishery participants stated that the purpose of the New York Bight set-aside was to provide for the historical late-season General category fishery for the Mud Hole region off New York and New Jersey. Most commenters suggested that the boundary be established at a point in southern New Jersey.

Response: NMFS agrees that there should be a southern boundary for the New York Bight set-aside area in order to preserve fishing opportunities for the traditional Mud Hole fishery. The southern boundary is set at 38°47' N. lat.

General Category Restricted-Fishing Days

Comment: Most commenters requested the establishment of

restricted-fishing days, similar to those proposed for July and August, for September since catch rates in that month can be extremely high.

Response: NMFS acknowledges that since September catch rates can be high, extending restricted-fishing days into September would lengthen the General category season. Therefore, Sundays, Wednesdays, and the three days corresponding to Japanese market closure are established as restricted-fishing days for September with this final rule.

Comment: Some commenters warned that effort on Labor Day (September 1) will be extremely high due to holiday fishing by part-time fishermen, and because it is the first day of the September fishing period, and they suggested that September 1 should be designated as a restricted-fishing day.

Response: In order to lengthen the September fishery for commercial bluefin fishermen, NMFS also includes September 1 as a restricted-fishing day.

Comment: Some commenters requested additional restricted-fishing days off for July and August.

Response: NMFS chooses to adhere to the schedule of July and August dates mutually agreed upon by associations representing a significant portion of General category fishermen and dealers.

Comment: Some commenters requested restricted-fishing days for the fishing period beginning October 1.

Response: Due to the deterioration of weather conditions as the fall progresses, and due to the fact that there was no clear agreement among industry groups, NMFS feels that restricted-fishing days in October are not warranted. If necessary, regulations allow for inseason adjustments to the effort control schedule.

Classification

This rule is published under the authority of ATCA. The AA has determined that the regulations contained 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. Because many of the designated

restricted-fishing days have been scheduled to correspond directly to Japanese market closures, the likelihood of extending the fishing season is increased and additional revenues may accrue to small businesses as market prices received by U.S. fishermen are improved. Thus, an Initial Regulatory Flexibility Analysis was not prepared.

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

On May 29, 1997, NMFS issued a biological opinion, which concluded that continued operation of the hand gear fisheries is not likely to adversely affect the continued existence of any endangered or threatened species under NMFS jurisdiction. The rule implements effort controls similar to prior years, making minor changes in the restricted-fishing day schedule and in period subquotas, and likely will not increase fishing effort or shift activities to new fishing areas. Therefore, the final rule is not expected to increase endangered species or marine-mammal interaction rates.

The AA 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). While this rule establishes effort controls for the General category, the only requirements with which a fisherman would have to come into compliance is not to fish on the restricted-fishing days or during a closed period. While 8 of the restricted-fishing days would have fallen within the 30-day delay in effective date period, these days have been agreed to by General category industry representatives and are consistent with the suggestions of affected constituents received during the public comment period. NMFS will rapidly communicate these dates and closures to fishing interests through the FAX network and NOAA weather radio. As such, it is unnecessary to delay the effective date of this rule.

List of Subjects in 50 CFR Part 285

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

Dated: July 15, 1997.

David L. Evans,

Deputy 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, paragraph (a)(1) and the first sentence of paragraph (a)(3) 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 633 mt, of which 374 mt are available in the period beginning June 1 and ending August 31; 187 mt are available in the period beginning September 1 and ending September 30; and 72 mt are available in the period beginning October 1.

* * * * *

(3) When the October General category catch is projected to have reached a total of 10 mt less than the overall October quota, the Director will publish a notification in the **Federal Register** to set aside the remaining quota for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat. * * *

* * * * *

3. In § 285.24, paragraph (a)(1) 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. For calendar year 1997, designated restricted-fishing days are: July 16, 17, 23, and 30; August 6, 10, 11, 12, 17, 20, 24, and 27; and September 1, 3, 6, 7, 10, 11, 14, 17, 19, 21, 24, and 28.

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