

Agreement. The objectives for the West Desert population (one population with an effective population size of 1000 individuals in three out of every five years in each of three subunits, with any and all additional populations maintained with an effective population size of 50 individuals each) are close to being met. In 1997, only one population in the West Desert had an effective population size of less than 50 individuals. Three to five years of monitoring will be required to determine if the objectives have been met. The objectives for the Wasatch Front population are more complex involving three separate management units. However, conservation activities have been completed in each of these management units that has resulted in improved status for the Wasatch Front population, particularly in the Heber Valley population, the largest along the Wasatch Front. Continued implementation of the Conservation Agreement will be monitored closely to ensure improvement in the status of the Wasatch Front population.

The Service has considered the current status of the Wasatch Front and West Desert populations, including evaluating the five listing factors identified in the Act, and has taken into account those efforts being made to protect the species including development of the Conservation Agreement, the extent of implementation of the Conservation Agreement to date, Federal efforts to protect and conserve the species, and the time commitments made by the principal action agencies for completion of conservation actions. The Service believes that a mechanism has been put in place that sufficiently protects the Wasatch Front and West Desert populations of spotted frog and that ongoing actions, including those identified in the Conservation Agreement, have substantially reduced threats to the spotted frog populations in Utah such that they will not become endangered within the foreseeable future and, therefore, no longer warrant listing pursuant to the Act. Furthermore, because the definition of a candidate species, one for which the Service has on file sufficient information on biological vulnerability and threats to support issuance of a proposed rule, no longer applies to the West Desert and Wasatch Front populations of spotted frog, the Service removes these two populations from the candidate species list.

Endangered Species Act Oversight

The Service will continue to monitor these populations of spotted frog

throughout the term of the Conservation Agreement and will maintain oversight. Should the Service deem necessary, an emergency listing of the Wasatch Front and/or West Desert population of spotted frog would not be precluded by the sixty (60) day written notice required to withdraw from the Conservation Agreement. The process for listing the Wasatch Front and/or West Desert populations of spotted frog will be reinitiated if:

1. An emergency which poses a significant threat to the spotted frog is identified and not immediately and adequately addressed;
2. The biological status of the spotted frog is such that it is in danger of extinction throughout all or a significant portion of its range; or
3. The biological status of the spotted frog is such that it is likely to become endangered in the foreseeable future throughout all or a significant portion of its range.

References Cited

A complete list of all references cited is available upon request from the Utah Field Office (see ADDRESSES above).

Authors

The primary author of this document is Janet A. Mizzi (see ADDRESSES above).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: March 27, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 980320071-8071-01; I.D. 012198C]

RIN 0648-AK87

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Annual Quota Specifications and Effort Controls

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the Atlantic tuna fisheries to: Set

annual Atlantic bluefin tuna (ABT) fishing category quotas and General category effort controls. The proposed specifications 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. NMFS will hold public hearings to receive comments from fishery participants and other members of the public regarding these proposed specifications.

DATES: Comments are invited and must be received on or before May 4, 1998.

ADDRESSES: Comments on the proposed specifications should be sent to, and copies of supporting documents, including a Draft 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: Mark Murray-Brown at 978-281-9260; Sarah McLaughlin at 301-713-2347.

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

ICCAT has identified the western stock of ABT as overexploited and recommends fishing quotas for contracting parties. Based on the 1996 revised stock assessment, parties at the 1996 meeting of ICCAT adopted a recommendation to increase the annual scientific monitoring quota of ABT in the western Atlantic Ocean from 2,200 metric tons (mt) to 2,354 mt. The share allocated to the United States was increased from 1306 mt to 1,344 mt to apply each year for the 1997 and 1998 fishing years. NMFS amended the Atlantic tuna fisheries regulations in 1997 to implement that ICCAT recommendation as required by ATCA.

These proposed specifications would implement the ICCAT quota recommendation and allocate the total among the several established fishing categories. NMFS proposes no changes to the baseline quotas established for 1997. However, the ICCAT recommendation allows, and U.S. regulations require, the addition of any

underharvest in 1997 to that same category for 1998. Therefore, NMFS proposes to adjust the annual quota specifications for the ABT fishery to account for underharvest in 1997. NMFS would maintain the proposed annual quota specifications (i.e., the baseline 1997–1998 category allocations) until further changes are deemed necessary, in order to achieve domestic management objectives, or in implementing ICCAT quotas.

NMFS also proposes to maintain the General category quota subdivisions and restricted-fishing day pattern established in 1997. Given the carryover quota for the General category, adjustments are necessary to allocate the carryover across the established subperiods. Additionally, calendar adjustments are necessary to match restricted-fishing days with the pattern established in 1997.

Background

The 1992 ABT allocations were established based on historical share of the U.S. catch for the preceding 10 years (57 FR 2905, July 24, 1992). In 1995, 51 mt were transferred out of the Purse Seine category quota to account for increased participation in the handgear fisheries and to provide further data collection opportunities for scientific monitoring (60 FR 38505, July 27, 1995). In 1997, public comments on the proposed quota allocations indicated support for increased allocation to the Angling and General categories based on increased participation rates and the usefulness of scientific data obtained. NMFS agreed that 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. For this reason, NMFS reallocated the 145 mt that had been in the 1995 Reserve to the Angling and General categories (62 FR 35107, June 30, 1997). A total of 33 mt was maintained in the Reserve to allow NMFS to transfer tonnage to keep fisheries open for the longest period possible without exceeding the quota set by ICCAT.

In making the 1997 quota allocations, NMFS attempted to balance the needs for scientific monitoring with enhanced fishing opportunities for traditional user groups. However, many fishery participants have continued to express concerns that the allocations and/or tuna regulations have increased fishing mortality, excluded traditional user groups from recent ICCAT quota increases, or contributed to increased regulatory discards. NMFS continues to research alternative management measures to address these concerns and

anticipates further public input during the course of developing the Highly Migratory Species Fishery Management Plan utilizing the input of the HMS Advisory Panel.

While FMP development continues, NMFS must take action for the current year. The 1998 fishery is underway and advance notice of quota allocations and effort controls is important to fishery participants for planning purposes. With no new ICCAT recommendation on western ABT quotas at the 1997 meeting, extensive public comment during rulemaking in 1997, and no new, specific information arising that would cause NMFS to alter current allocations and General category effort controls, NMFS proposes to maintain the status quo for quota specifications and effort controls as established in 1997.

HMS Advisory Panel

In accordance with the Magnuson-Stevens Fishery Conservation and Management Act, NMFS created the Highly Migratory Species Advisory Panel (HMS AP), required by law to be of balanced representation, to assist in the development of an HMS FMP to implement measures designed to rebuild stocks of all Atlantic HMS. NMFS held 21 public scoping meetings throughout the Atlantic, Gulf of Mexico, and Caribbean regions to solicit public input on these fisheries, particularly on existing management measures and on what the U.S. long-term strategy should be both nationally and internationally in managing these species. At its second meeting on January 11 and 12, 1998, the HMS AP considered the scoping comments, and long-term allocation and effort control issues for ABT, including: Quota reallocation, reduced catch of small fish, limited access, additional set-asides for the General category for Connecticut/Rhode Island/New York and for North Carolina, realignment of Angling category areas, the use of spotter aircraft, North Carolina fishery quotas, and readjusting boundaries for geographic subquotas. These issues are important for consideration in FMP development; however, because the required analyses are still under development, NMFS is not proposing any modifications based on these issues. The HMS AP and NMFS will continue deliberations on these issues in the context of addressing overfishing and developing the FMP. NMFS encourages further public comment on issues to be considered by the HMS AP for the HMS FMP and to implement future ICCAT recommendations.

While there was no clear consensus on allocation and effort controls during the scoping process and AP meeting,

there was some support for the status quo. Even with the proposed continuation of the 1997 management program, some of the concerns raised at the scoping and AP meetings could still be addressed through inseason actions: Catch limit adjustments, transfer from the Reserve or between categories, and interim closures of the Angling category.

Proposed Fishing Category Quotas

On June 30, 1997 (62 FR 35107), NMFS issued the regulations that implemented the ICCAT recommendation for 1997 and 1998. ICCAT's recommendations for the 1997–98 quota shares included the recommendation that any unused quota or overage in 1997 may be added or subtracted, as appropriate, from the 1998 quota. Fishing category quotas for ABT are established at 50 CFR 285.22. Under § 285.22(h), the AA is authorized to adjust annual categories or subcategories based on landing statistics and other available information and subtract overharvest from or add underharvest to that category for the following year, provided that the total of the adjusted quotas and the reserve is consistent with ICCAT recommendations.

At the end of 1997, the following subquotas had not been harvested: 19 mt in the Reserve, 4 mt in the Incidental category, 24 mt in the General category, and 12 mt in the Angling category. NMFS proposes that no changes be made to the baseline quotas established for 1997, and that underharvest from 1997 be added to the respective quota categories. Therefore, the proposed specifications would set the Reserve at 52 mt, would maintain the Purse Seine category quota at 250 mt, would increase the Incidental category quota to 114 mt, would increase the General category quota to 657 mt, would maintain the Harpoon category quota at 53 mt, and would increase the Angling category quota to 277 mt.

NMFS proposes to subdivide the Angling category quota of 277 mt as follows: School bluefin—108 mt (consistent with the ICCAT limitation on annual catch of school bluefin to 8 percent by weight of the total annual domestic quota, i.e., 1,344 mt), with 57 mt to the northern area (New Jersey and north) and 51 mt to the southern area (Delaware and south); large school/small medium bluefin—161 mt, with 85 mt to the northern area and 76 mt to the southern area; large medium/giant bluefin—8 mt, with 3 mt to the northern area and 5 mt to the southern area.

Incidental Category

NMFS proposes that the adjusted Incidental category quota of 114 mt be subdivided as follows: 89 mt to longline vessels operating south of 34° N. lat.; 24 mt to longline vessels operating north of 34° N. lat.; and 1 mt to fishermen using other gear authorized for incidental take.

Proposed General Category Quota Subdivision

In the last three years, NMFS has implemented General category time period subquotas and restricted-fishing days to increase the likelihood that fishing would continue throughout the summer and fall for scientific monitoring purposes. These subquotas also were designed to address concerns regarding allocation of fishing opportunities, to allow for a late season fishery, and to improve market conditions.

As in 1997, NMFS proposes three General category subquotas, based upon historical catch patterns (1983-96), distributed as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-December. These percentages would be applied only to the adjusted coastwide General category of 647 mt, with the remaining 10 mt being reserved for the New York Bight fishery in October. Thus, of the 647 mt, 388 mt would be available in the period beginning June 1 and ending August 31, 194 mt would be available in the period beginning September 1 and ending September 30, and 65 mt would be available in the period beginning October 1 and ending December 31.

When the October through December General category catch is projected to have reached 65 mt, NMFS would set aside the remaining 10 mt of the General category quota 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 would be prohibited in all waters outside the set-aside area. The New York Bight set-aside area was redefined in 1997 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.

Attainment of the subquota in any fishing period would result in a closure until the beginning of the following fishing period, whereupon any underharvest or overharvest would be carried over to the following period, with the subquota for the following period adjusted accordingly.

Announcements of inseason closures would 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 Atlantic Tunas Information Line, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of closure would be provided as far in advance as possible, fishermen are encouraged to call the Atlantic Tunas Information Line to check the status of the fishery before leaving for a fishing trip. The phone numbers for the Atlantic Tunas Information Line are (301) 713-1279 and (978) 281-9305. Information regarding the Atlantic tuna fisheries is also available through NextLink Interactive, Inc., at (888) USA-TUNA.

Proposed Restricted-Fishing Days

In 1997, NMFS implemented restricted-fishing days for July and August based on proposals received from three associations representing General category fishermen and dealers and, after receiving numerous comments on the need to lengthen the General category fishery, implemented additional restricted-fishing days for September. NMFS proposes a schedule of restricted-fishing days similar to that of 1997, making the necessary calendar adjustments to coordinate with Japanese market holidays. Persons aboard vessels permitted in the General category would be prohibited from fishing (including tag and release fishing) for ABT of all sizes on the following days: July 15, 16, 22, and 29; August 2, 5, 9, 11, 12, 13, 16, 19, 23, 26, and 30; and September 2, 6, 9, 13, 16, 19, 20, 23, 27, and 30. These proposed restricted-fishing days would improve distribution of fishing opportunities without increasing ABT mortality.

A Reminder of Recent Changes for the General and Charter/Headboat Permit Categories

NMFS published by final rule on June 5, 1997 (62 FR 30741) a measure that was effective January 1, 1998, prohibiting persons aboard vessels permitted in the General category from retaining ABT less than the large medium size class. This action effectively separated the commercial and recreational fisheries, with the exception of charter/headboats.

In the same final rule, NMFS specified that 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 all persons aboard the vessel, and the applicable catch limits, for that day. On 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 Angling category catch limits in effect.

Public Hearings

NMFS will hold public hearings to receive comments on these proposed specifications. These hearings will be scheduled at a later date and before the end of the comment period. Advanced notice of these hearings will be published in the **Federal Register** and will be announced via the HMS Fax Network.

Classification

These proposed specifications are published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* Preliminarily, the AA has determined that these specifications are necessary to implement the recommendations of ICCAT and are necessary for management of the Atlantic tuna fisheries.

NMFS prepared a draft EA for these proposed specifications with a preliminary finding of no significant impact on the human environment. In addition, a draft RIR was prepared with a preliminary finding of no significant impact.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed specifications, if implemented, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed specifications would set quota specifications and General category effort controls for the Atlantic bluefin tuna fishery in accordance with the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and domestic fishery management objectives. Because quota allocations would remain the same or increase, and 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 many small businesses as market prices received by U.S. fishermen may improve.

Because of this certification, an Initial Regulatory Flexibility Analysis was not prepared.

These proposed specifications have been determined to be not significant for purposes of E.O. 12866.

NMFS reinitiated consultation on the Atlantic tuna fishery under section 7 of the Endangered Species Act on September 25, 1996. This consultation considered new information concerning the status of the northern right whale. On May 29, 1997, NMFS issued a biological opinion, which concluded that: Continued operation of the longline and purse seine component may adversely affect but is not likely to jeopardize the continued existence of any endangered or threatened species under NMFS jurisdiction, and 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 biological opinion was amended August 29, 1997 by the identification of a reasonable and prudent alternative regarding the driftnet component of the swordfish and tuna fisheries, and therefore is not relevant to the Atlantic bluefin tuna fishery. NMFS has determined that proceeding with these proposed specifications would not result in any irreversible and irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures to reduce adverse impacts on protected resources. These proposed specifications would implement effort controls (time period quotas and restricted-fishing days) and implement a domestic quota equal to that of 1997, with minor quota adjustments to individual category quotas to account for underharvest in 1997, and therefore would not likely increase fishing effort nor shift activities to new fishing areas. Therefore, the proposed specifications are not expected to increase endangered species or marine mammal interaction rates.

Dated: March 27, 1998.

David L. Evans,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 032698A]

RIN 0648-AJ99

Fisheries of the Exclusive Economic Zone Off Alaska; Gear Allocation of Shortraker and Rougheye Rockfish in the Aleutian Islands Subarea

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

ACTION: Notice of availability, request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 53 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) for Secretarial review. This amendment would allocate shortraker rockfish and rougheye rockfish (SR/RE) in the Aleutian Islands subarea (AI) between vessels using trawl gear and vessels using non-trawl gear. This action is necessary to prevent SR/RE bycatch in trawl fisheries from causing closure of non-trawl fisheries and is intended to further the objectives of the FMP.

DATES: Comments on Amendment 53 must be submitted by June 1, 1998.

ADDRESSES: Comments on the FMP amendment should be submitted to Susan Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 53, the environmental assessment and the regulatory impact review prepared for the proposed action are available from

NMFS, at the above address, or by calling the Alaska Region, NMFS at 907-586-7228.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or amendment, immediately publish a document in the **Federal Register** that the fishery management plan or amendment is available for public review and comment. This action constitutes such notice for Amendment 53 to the FMP.

Amendment 53 was adopted by the Council at its February 1998 meeting. If approved by NMFS, this amendment would allocate 30 percent of the total allowable catch of SR/RE in the Aleutian Islands subarea to non-trawl gear and 70 percent to trawl gear. This action is necessary to prevent SR/RE bycatch in the Atka mackerel and Pacific ocean perch trawl fisheries from closing non-trawl fisheries in which SR/RE are also taken.

NMFS will consider the public comments received during the comment period in determining whether to approve the proposed amendment. A proposed rule to implement Amendment 53 has been submitted for Secretarial review and approval. The proposed rule to implement this amendment is scheduled to be published within 15 days of this document. Public comments on the proposed rule must be received by the end of the comment period on the FMP/amendment to be considered in the approval/disapproval decision on the FMP/amendment.

Dated: March 27, 1998.

Gary C. Matlock,

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

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