

DATES: Comments must be submitted in writing by November 19, 2002.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Sustainable Fisheries Division, Southwest Region, NMFS, 562-980-4040.

SUPPLEMENTARY INFORMATION: The United States is a member of the IATTC, which was established under the Convention for the Establishment of an IATTC signed in 1949. The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of highly migratory species of fish in the Convention Area. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the status of stocks of tuna and the fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of the stocks and promote viable fisheries. The Convention Area is defined to include waters of the eastern Pacific ocean (EPO) bounded by the coast of the Americas, the 40° N. and 40° S. parallels, and the 150° W. meridian.

At its annual meeting June 26-28, 2002, the IATTC adopted a resolution dealing with conservation of ETP tuna stocks. The IATTC considered the use of quotas and partial fishery closures as in 1999, 2000, and 2001 but, after reviewing the history of administration of these quotas and partial closures and the occasions of non-compliance, the IATTC recommended that the Convention Area be closed to all purse seine fishing for the month of December 2002. This approach will provide substantial protection against overfishing in a manner that is fair and equitable manner and is readily enforceable. There will be no need to investigate catch records to determine if incidental catch limits have been exceeded or to distinguish between activities inside and outside the IATTC's Commission Yellowfin Regulatory Area. The DOS has approved this recommendation.

The closure is based on 2002 assessments of the condition of the tuna stocks in the ETP and the administrative records relating to implementation of quotas in prior years. The assessments indicate that the stocks are healthy, though there is substantial uncertainty with respect to the bigeye assessment. The closure is believed to be sufficient to prevent overfishing of any tuna stock.

Classification

This action is authorized by the Tuna Conventions Act, 16 U.S.C. 951-961 and 971 *et seq.*

NMFS prepared a biological opinion (BO) assessing the impacts of the fisheries as they would operate under the regulations (65 FR 47, January 3, 2000) implementing the International Dolphin Conservation Program. NMFS concluded that the fishing activities conducted under those regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This rule will not result in any changes in the fisheries such that there would be impacts beyond those considered in that BO and further consultation is not necessary.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The U.S. tuna purse seine fleet in the ETP consists of 10-20 small vessels and 4-6 large vessels. The large vessels generally fish outside U.S. waters and deliver their catch to foreign ports or transship to processors outside the mainland United States. The small vessels fish most of the year for small pelagic fish (sardine, mackerel) but harvest tuna in the U.S. exclusive economic zone seasonally when they are available. The large vessels are categorized as large business entities. They have been actively regulated for many years and have complied with IATTC recommendations without difficulty. The closure may have less adverse impact than alternative conservation measures (e.g., a yellowfin quota) could have had because it will be uniformly applied to all purse seine fleets in all areas rather than being more selectively applied. There should be no substantial increase in costs due to the bycatch reduction program extension. The small fleet should not be affected at all by the closure. Tuna would only very rarely be available to these smaller vessels in December, and in December many if not most of the fleet will be targeting market squid. The bycatch reduction program also should not pose significant difficulties for this fleet, which uses smaller nets and generally harvests fairly discrete schools of bluefin tuna which would be expected to have relatively little bycatch. In the rest of the Convention Area however, fishing has often been heavy during the month of December. Therefore, the closure in the purse seine fishery will limit fishing mortality.

As a result, an Initial Regulatory Flexibility Analysis was not prepared.

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

Authority: 16 U.S.C. 951-961 and 971 *et seq.*

Dated: October 30, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 102802B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow two vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would exempt two vessels from the days-at-sea (DAS) requirements, and the Gulf of Maine (GOM) Rolling Closure Area IV restrictions. The experiment proposes to conduct a study to target flatfish using a large mesh trawl net (8-inch (20.32-cm) mesh throughout the net) in order to develop otter trawl gear for the NE multispecies fishery that would result in reduced catch of Atlantic cod. The EFP would allow these exemptions for two commercial vessels, for not more than 8 days of sea trials per vessel. All experimental work would be monitored by a project

coordinator for the Northeast Consortium-funded project.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before November 19, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Northeast Consortium-funded EFP Proposal for 8" Square Mesh Bottom Trawl." Comments may also be sent via facsimile (fax) to (978) 281-9135.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, Fisheries Management Specialist, 978-281-9141.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted by Phil Averill as part of a Northeast Consortium-funded project on

September 23, 2002. The EFP would exempt two federally permitted commercial fishing vessels from the following NE multispecies provisions: The Rolling Closure Area IV restriction; and the NE multispecies DAS restrictions.

The goal of this study is to assess the applicability of using 8-inch (20.32-cm) square mesh throughout the entire trawl net in the inshore GOM groundfish fishery. The vessels would be primarily targeting grey sole and American plaice. The incidental catch is expected to be primarily Atlantic cod.

The applicant has proposed that the research be conducted within the GOM in the area defined as follows: Between 43°00' and 44°00' N. lat. and between 69°00' and 70°00' W. long. Each vessel, one fishing with the experimental 8-inch (20.32-cm) square mesh net and one fishing with a conventional 6.5-inch (16.51-cm) diamond mesh cod-end trawl net, would conduct a total of 24 side-by-side tows of between 1 and 2 hours duration over a period of 8 sea days (3 tows per day). The tows would

take place between November 1 and December 31, 2002, and between May 15 and July 15, 2003. These areas, during these specific times, have been selected because it is expected that there will be significant concentrations of both flat and round fish available. Fish retained by the experimental net and the control net would be enumerated, weighed and measured, and returned to the sea as quickly as possible. Length frequencies of the fish retained and an estimate of escapement would be recorded for each tow. Each vessel would be exempted from 8 NE multispecies DAS in order to compensate for a portion of the cost of the research.

Based on the results of the EFPs, this action may lead to future rulemaking.

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

Dated: October 29, 2002.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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