

service, both incumbents and new market entrants, whether facilities or non facilities-based providers of telephone exchange service, should be enabled to use the 611 and 811 codes for repair services and business office uses as the incumbent LECs do now; and (2) by dialing these N11 numbers, customers should be able to reach their own carriers' repair or business services.

*It is further ordered*, that a LEC may not itself offer enhanced services using a 411 code, or any other N11 code, unless that LEC offers access to the code on a reasonable, nondiscriminatory basis to competing enhanced service providers in the local service area for which it is using the code to facilitate distribution of their enhanced services.

*It is further ordered*, that the North American Numbering Council will explore how rapidly abbreviated dialing arrangements could be deployed and report back to the Commission on this issue.

*It is further ordered* that GSA's request for a national N11 assignment is denied and that NASTD's request for a national assignment is granted in part as discussed in this *First Report and Order*, and otherwise denied.

#### List of Subjects

##### 47 CFR Part 52

Local exchange carrier, Numbering, Telecommunications.

##### 47 CFR Part 64

Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 97-4787 Filed 2-25-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 285

[Docket No. 960416112-7026-05; I.D. 020597C]

RIN 0648-AJ04

#### Atlantic Tuna Fisheries; Regulatory Adjustments

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

**ACTION:** Interim final rule.

**SUMMARY:** NMFS amends the regulations governing the Atlantic bluefin tuna

(ABT) fisheries to provide authority for NMFS to close and/or reopen all or part of the Angling category in order to provide for equitable distribution of fishing opportunities throughout the species range. The regulatory amendments are necessary to increase the geographic and temporal scope of data collection for the scientific monitoring quota established for the United States under the international ABT stock recovery program. Additionally, this rule allows a more equitable geographic and temporal distribution of fishing opportunities for all fishermen in the Angling category, thus furthering domestic management objectives for the Atlantic tuna fisheries.

**EFFECTIVE DATE:** The interim final rule is effective February 21, 1997.

**ADDRESSES:** Comments on the interim final rule should be directed to, and copies of supporting documents, including an Environmental Assessment/Regulatory Impact Review (EA/RIR) are available from, William Hogarth, Acting 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.

**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). ICCAT has established a stock recovery program for ABT and has recommended an annual scientific monitoring quota of 2,354 metric tons (mt) for nations fishing in the western Atlantic Ocean, of which the United States has been allocated 1,344.4 mt for 1997.

An initial quota of 243 mt was established for the Angling category in 1996 (61 FR 30183, June 14, 1996). NMFS estimated that nearly 60 mt of this quota was harvested in an unprecedented winter fishery off of North Carolina. The high level of landings early in the season had an unanticipated negative impact on traditional ABT fisheries in northern states and resulted in premature closures. Consequently, a number of fishery participants requested that

NMFS take measures to avoid such closures in the future.

This interim final rule responds to comments received in response to an advance notice of proposed rulemaking (ANPR) (61 FR 43518, August 23, 1996). As stated in the ANPR, current regulations require the AA to monitor catch and landings statistics and close a fishery or quota category when it is projected that the quota has been attained. Another regulation enables the AA to adjust the daily catch limit in order to effect a fair allocation of fishing opportunities as the ABT migrate along the Atlantic coast. However, since the regulations do not adequately provide for geographic or temporal distribution of the entire Angling category quota, it is difficult to achieve an equitable distribution of fishing opportunities to all areas.

One of the regulatory options presented in the ANPR was implementation of a June 1 opening of the Angling category fishery. Such a delay in the season opening could ensure fishing opportunities for fishermen participating in the more northern ABT fisheries. This date would coincide with the commencement of the General category season. Under the alternative, fishing for ABT from January 1 to May 31 would be allowed under the tag and release program only.

Alternatively, the ANPR noted that regulations could be amended to allow the AA, upon determining that variations in seasonal distribution, abundance, or migration patterns of ABT, and the catch rate, are preventing fishermen in an identified area from harvesting a portion of the quota, to close the Angling category and reopen it at a later date, when the bluefin have migrated to the identified area.

The ANPR established a 30-day comment period during which NMFS received numerous comments on the options presented. These comments are summarized below.

#### Comments and Responses

*Comment:* Angling category permit holders expressed concern about decreased or loss of fishing opportunities in some areas as a result of increased landings of large school, small medium, and trophy class ABT in the North Carolina winter fishery. Some commenters support NMFS having the authority to close and/or reopen all or part of the Angling category in order to ensure an equitable distribution of fishing opportunities among anglers of all geographic areas. Some commenters felt that this would be a more reasonable solution than delaying the Angling category season until June 1. Still others

suggested that since the winter fishery off North Carolina is not historical, at least at current levels, it should not be allowed to increase if it is likely to jeopardize the ABT recovery program or preclude fisheries in traditional areas.

*Response:* NMFS recognizes that the recent and unprecedented increase in Angling category landings of ABT in the early season North Carolina fishery has caused concern among Angling category permit holders about decreased fishing opportunities further north. This interim final rule is meant to address that concern by allowing NMFS to adjust opening and closing dates as the schools of fish move along the coast to new fishing areas, in order increase the scope of data collection and to allow a more equitable geographic and temporal distribution of fishing opportunities. NMFS believes that this expanded authority for interim closures, combined with geographic subdivisions of the quota currently under consideration, could adequately address the scientific monitoring and fishing opportunity issues without delaying the opening of the fishing season until June.

#### Management Measures

This interim final rule expands NMFS authority to close the ABT Angling category for reasons other than attainment of quota. Upon determining that variations in seasonal distribution, abundance, or migration patterns of ABT, or the catch rate in one area may preclude anglers in another area from a reasonable opportunity to harvest a portion of the quota, NMFS may close all or part of the Angling category, and may reopen it at a later date, to ensure that ABT have migrated to the identified area before the entire Angling category quota is reached.

This regulatory change will improve NMFS' ability to implement ICCAT recommendations, including scientific monitoring of the stock and restricting catch to within the overall quota and the subquota for school size ABT. Additionally, this measure will further the domestic management objectives for the Atlantic tuna fisheries. This interim final rule will allow the North Carolina winter fishery for ABT to be conducted without taking such an inordinate share of any of the three size class quotas that fisheries in other areas are precluded.

#### Classification

This interim final rule is published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations contained in this rule are necessary to implement the recommendations of

ICCAT and are necessary for management of the Atlantic tuna fisheries.

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

NMFS has determined that, under 5 U.S.C. § 553(b)(B), there is good cause to waive the requirement for prior notice and an opportunity for public comment as such procedures would be contrary to the public interest. NMFS was undertaking rulemaking on this, and other, tuna fishery management issues. Specifically, NMFS had published an ANPR on August 23, 1996 seeking public comment on a variety of tuna issues. However, while that process remains ongoing, NMFS has received information from North Carolina that up to 10 metric tons of ABT have been taken by anglers since the fishery started on January 1, 1997. While the total 1997 annual quota for the Angling category of ABT has not yet been established, the historical allocation for this category has been set at approximately 220 mt. If the North Carolina harvest rate continues, it is possible that a significant portion of the entire angling quota might be taken prior to the time that the species migrates north. As such, given the public interest in an equitable distribution of catch among fishermen in the Angling category, the need for scientific data from throughout the species' range, and the fact that NMFS has already received public comment on the subject matter of this rule, further delay in the implementation of this action to provide an opportunity for additional comment is contrary to the public interest.

Further, under 5 U.S.C. § 553(d)(3), NMFS has determined that there is good cause, as explained above, to waive the 30-day delay in effective date. If this new authority results in a closure action for the ABT fishery, NMFS has the ability to rapidly communicate the closure to fishery participants through its FAX network, HMS Information Line, and NOAA weather radio. To the extent practicable, advance notice of such closure will be provided.

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

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

Dated: February 20, 1997.

Rolland A. Schmitten,  
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 § 285.20, paragraph (b)(1) is revised to read as follows:

### § 285.20 Fishing Seasons.

\* \* \* \* \*

(b) *Closure.* (1)(i) NMFS will monitor catch and landing statistics, including catch and landing statistics from previous years and projections based on those statistics, of Atlantic bluefin tuna by vessels other than those permitted in the Purse Seine category. On the basis of these statistics, NMFS will project a date when the catch of Atlantic bluefin tuna will equal any quota established under this section, and will file notification with the Office of the Federal Register stating that fishing for or retaining Atlantic bluefin tuna under the quota must cease on that date at a specified hour.

(ii) Upon determining that variations in seasonal distribution, abundance, or migration patterns of ABT, or the catch rate in one area may preclude anglers in another area from a reasonable opportunity to harvest a portion of the quota, NMFS may close all or part of the Angling category, and may reopen it at a later date if NMFS determines that ABT have migrated into an identified area. In determining the need for any such temporary or area closure, NMFS will consider the following factors:

(A) The usefulness of information obtained from catches of a particular geographic area of the fishery for biological sampling and monitoring the status of the stock;

(B) The current year catches from the particular geographic area relative to the catches recorded for that area during the preceding four years;

(C) The catches from the particular geographic area to date relative to the entire category and the likelihood of closure of that entire category of the fishery if no allocation is made;

(D) The projected ability of the entire category to harvest the remaining amount of Atlantic bluefin tuna before the anticipated end of the fishing season.

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