

or what alternative measures will be considered to effect a permanent solution to the problem addressed by the emergency rule.

The process of implementing emergency regulations limits substantially the public participation in rulemaking that Congress intended under the Magnuson-Stevens Act and the Administrative Procedure Act. The Councils and the Secretary must, whenever possible, afford the full scope of public participation in rulemaking. In addition, an emergency rule may delay the review of non-emergency rules, because the emergency rule takes precedence. Clearly, an emergency action should not be a routine event.

Guidelines

NMFS provides the following guidelines for the Councils to use in determining whether an emergency exists:

Emergency Criteria

For the purpose of section 305(c) of the Magnuson-Stevens Act, the phrase "an emergency exists involving any fishery" is defined as a situation that:

- (1) Results from recent, unforeseen events or recently discovered circumstances; and
- (2) Presents serious conservation or management problems in the fishery; and
- (3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

Emergency Justification

If the time it would take to complete notice-and-comment rulemaking would result in substantial damage or loss to a living marine resource, habitat, fishery, industry participants or communities, or substantial adverse effect to the public health, emergency action might be justified under one or more of the following situations:

- (1) Ecological—(A) to prevent overfishing as defined in an FMP, or as defined by the Secretary in the absence of an FMP, or (B) to prevent other serious damage to the fishery resource or habitat; or
- (2) Economic—to prevent significant direct economic loss or to preserve a significant economic opportunity that otherwise might be foregone; or
- (3) Social—to prevent significant community impacts or conflict between user groups; or

(4) Public health—to prevent significant adverse effects to health of participants in a fishery or to the consumers of seafood products.

Dated: August 14, 1997.

Gary C. Matlock,

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

[FR Doc. 97-22094 Filed 8-20-97; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 970702161-7197-02; I.D. 041097C]

RIN 0648-AJ93

Atlantic Highly Migratory Species Fisheries; Import Restrictions

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing the Atlantic highly migratory species fisheries to prohibit importation of Atlantic bluefin tuna (ABT) and its products in any form harvested by vessels of Panama, Honduras, and Belize. The amendments are necessary to implement International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations designed to help achieve the conservation and management objectives for ABT fisheries.

DATES: Effective August 20, 1997. Restrictions on Honduras and Belize are applicable August 20, 1997; restrictions on Panama are applicable January 1, 1998.

ADDRESSES: Copies of the supporting documentation 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: Chris Rogers or Jill Stevenson, 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). Section 971d(c)(1) of the ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of the

ICCAT. The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background information about the need to implement trade restrictions and the related ICCAT recommendation was provided in the preamble to the proposed rule (62 FR 38246, July 17, 1997) and is not repeated here. These regulatory changes will further NMFS' management objectives for the Atlantic tuna fisheries.

Proposed Import Restrictions

In order to conserve and manage North Atlantic bluefin tuna, ICCAT adopted two recommendations at its 1996 meeting requiring its Contracting Parties to take the appropriate measures to prohibit the import of ABT and its products in any form from Belize, Honduras, and Panama. The first recommendation was that its Contracting Parties take appropriate steps to prohibit the import of ABT and its products in any form harvested by vessels of Belize and Honduras as soon as possible following the entry into force of the ICCAT recommendation. Accordingly, the prohibition with respect to these countries is effective August 20, 1997. The second recommendation was that the Contracting Parties take appropriate steps to prohibit such imports harvested by vessels of Panama effective January 1, 1998. This would allow Panama an opportunity to present documentary evidence to ICCAT, at its 1997 meeting or before, that Panama has brought its fishing practices for ABT into consistency with ICCAT conservation and management measures. Accordingly, the prohibition with respect to Panama will become effective January 1, 1998.

Under current regulations, all ABT shipments imported into the United States are required to be accompanied by a Bluefin Statistical Document (BSD). Under this final rule, United States Customs officials, using the BSD, will deny entry into the customs territory of the United States of shipments of ABT harvested by vessels of Panama, Honduras, and Belize and exported after the effective dates of the trade restrictions. Entry will not be denied for any shipment in transit prior to the effective date of trade restrictions.

Upon determination by ICCAT that Panama, Honduras, and/or Belize has brought its fishing practices into consistency with ICCAT conservation and management measures, NMFS will publish a final rule in the **Federal Register** that will remove import restrictions for the relevant party. In

such case, ABT harvested by Panama, Honduras, and Belize and exported prior to the effective date of the removal of import restrictions would continue to be prohibited from entry.

Changes From the Proposed Rule

No changes were made to the proposed rule. NMFS conducted a public hearing on the proposed rule where one oral comment was received. NMFS also received one written comment over the 14-day comment period. The oral comment suggested that the rule would be ineffective at furthering management objectives considering that the United States imports no ABT from the affected countries. NMFS acknowledges that no ABT are imported from these countries; however, it is necessary to close a potential market when other existing markets, such as Japan, are closed. Therefore, it is necessary to take this action. The written comment supported the rule as necessary to encourage other Contracting Parties to do the same.

Relation to Proposed Consolidation

The regulatory amendments contained in this final rule, when proposed, were drafted to be consistent with a proposed rule to consolidate all of the regulations for Atlantic highly migratory species (HMS) fisheries, published on November 6, 1996 (61 FR 57361). The proposed consolidation would group all regulations pertaining to Atlantic HMS under 50 CFR part 630. The final consolidated regulations have not yet been issued. Accordingly, the regulatory amendments contained in this final rule were revised to make the appropriate changes to the 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).

Classification

This 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 the conservation and management of the Atlantic tuna fisheries.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief of Advocacy of the Small Business Administration when this rule

was proposed, that, if adopted, it would not have a significant economic impact on a substantial number of small entities. No comments were received that would change the basis for that certification and accordingly, a final regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB Control Number. This final rule restates an information collection requirement subject to the PRA that is currently approved under OMB Control Number 0648-0040. The burden to complete and transmit a Bluefin Tuna Statistical Document is estimated at 20 minutes per document.

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

The AA has determined that with respect to the prohibitions on imports by vessels of Belize or Honduras, there is good cause to waive the 30-day delay in the effective date required by 5 U.S.C. 553(d). This rule implements an ICCAT recommendation with respect to these countries that must be implemented as soon as possible after August 4, 1997, the date the ICCAT recommendation entered into force. NMFS will rapidly communicate these dates to tuna importers and trade representatives through the FAX network and a press release. As such, there is good cause to delay the effective date of this rule with respect to those two countries. The effective date with respect to Panama is January 1, 1998.

List of Subjects in 50 CFR Part 285

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

Dated: August 14, 1997.

Rolland A. Schmitt,
Assistant Administrator for Fisheries,
National Marine Fisheries Services.

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. New § 285.87 is added to subpart D to read as follows:

§ 285.87 Import restrictions for Belize, Honduras, and Panama.

(a) Effective August 20, 1997 all shipments of Atlantic bluefin tuna or Atlantic bluefin tuna products in any form harvested by a vessel of Honduras or Belize will be denied entry into the United States, unless a validated Bluefin Statistical Document required under subpart F of this part, §§ 285.200 through 285.205, shows that a particular shipment of such bluefin tuna was exported prior to August 20, 1997.

(b) Effective January 1, 1998, all shipments of Atlantic bluefin tuna or Atlantic bluefin tuna products in any form harvested by a vessel of Panama will be denied entry into the United States, unless a validated Bluefin Statistical Document required under subpart F of this part, §§ 285.200 through 285.205, shows that a particular shipment of such bluefin tuna was exported prior to January 1, 1998.

3. In § 285.205, paragraphs (k) and (l) are added to read as follows:

§ 285.205 Prohibitions.

* * * * *

(k) Import any Atlantic bluefin tuna or Atlantic bluefin tuna products into the United States from Belize or Honduras after August 20, 1997 unless a validated Bluefin Statistical Document required under this subpart F, §§ 285.200 through 285.205, shows that a particular shipment of such bluefin tuna was exported prior to August 20, 1997.

(l) Import any Atlantic bluefin tuna or Atlantic bluefin tuna products into the United States from Panama after January 1, 1998, unless a validated Bluefin Statistical Document required under this subpart F, §§ 285.200 through 285.205, shows that a particular shipment of such bluefin tuna was exported prior to January 1, 1998.

[FR Doc. 97-21984 Filed 8-20-97; 8:45 am]
BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 081597B]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Fishery

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

ACTION: Closure.

SUMMARY: NMFS closes the fishery for school Atlantic bluefin tuna (ABT)