

comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <get form <your e-mail address>." A sample form and directions will be sent in reply. After filing your comments electronically, please notify Sheryl Todd at stodd@fcc.gov that comments have been filed.

18. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

19. In addition, one copy of each pleading must be sent to the Commission's duplicating contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893.

20. Comments in this proceeding will be available on ECFS. They will also be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. They may also be purchased from the

Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. Documents may also be purchased from the Commission's duplicating contractor. Alternative formats (computer diskette, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer and Governmental Affairs Bureau, at (202) 418-7426 (voice) or (202) 418-7365 (TTY), or at bmillin@fcc.gov. This Public Notice can also be downloaded in Text and ASCII formats at: <http://www.fcc.gov/cib/dro>.

III. Ordering Clauses

21. Pursuant to the authority contained in sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201-205, and 251, this Fourth Report and Order is hereby adopted and part 52 of the Commission's rules are amended and adopted as set forth in the Final rule document (Published elsewhere in this issue).

22. Pursuant to the authority contained in sections 1, 2, 3, 4, 251(e), 254(e), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 153, 154, 251(e), 254(e), and 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, the petition for reconsideration filed by AT&T on May 6, 2002 is denied.

23. It is further ordered that, pursuant to the authority contained in Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201-205, and 251, this FNPRM of proposed rulemaking is hereby adopted.

24. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Further Notice of Proposed Rulemaking in CC Docket No. 99-200, including the Final Regulatory Flexibility Analysis and Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration.

List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 071003A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP)

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 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) and the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (Highly Migratory Species (HMS) 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 EFPs in response to an application submitted by the East Coast Tuna Association (ECTA) that would allow five purse seine vessels to fish for giant Atlantic bluefin tuna (*Thunnus thynnus*) in NE multispecies year-round Closed Area I, where use of purse seine gear is currently prohibited. The EFP would exempt these vessels from the gear restrictions for the Georges Bank Regulated Mesh Area. The purpose of the study is to collect information regarding bycatch of, and interactions of purse seine gear with, groundfish species, other species, and marine mammals, and to record contact with the ocean bottom or with any Essential Fish Habitat (EFH). The results of this EFP would allow NMFS and the New England Fishery Management Council (Council) to evaluate the feasibility of allowing purse seine gear in Closed Area I as an exempted gear on a permanent basis. 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 August 5, 2003.

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 EFP Proposal." Comments may also be sent via facsimile (fax) to (978) 281-9135.

Copies of the draft Environmental Assessment (EA) are available from the Northeast Regional Office at the same address.

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

SUPPLEMENTARY INFORMATION:

Background

The Georges Bank and Southern New England (GB/SNE) NE multispecies year-round closed areas were established under the FMP to provide protection to concentrations of regulated multispecies—particularly cod, haddock, and yellowtail flounder. Consequently, all fishing in these year-round closed areas was prohibited, with a few exceptions. The only exceptions allowing access to the closed areas were fishing activities known to have a very low incidence of NE multispecies bycatch. For example, pelagic midwater trawl gear was determined to have a negligible catch of NE regulated multispecies because the gear fishes well off the ocean floor. As a result, it is an allowed gear in the GB/SNE NE multispecies closed areas.

Purse seine gear is typically used to target pelagic species such as herring, mackerel, and tuna that are concentrated at or near the surface of the ocean. This type of gear is not designed or intended to fish for species at or near the ocean floor, and is typically considered to have very little interaction with bottom-dwelling species such as groundfish.

Observer data from the 1996 tuna purse seine fishery, the last year the fishery carried full-time observers, documented a small catch of NE regulated groundfish, other demersal species, and bottom debris (i.e., sponges and empty shells) in 20 out of 39 observed sets. Out of these 20 sets, only 4 occurred inside Closed Area I, in depths ranging from 28 to 35 fathoms (fm) (51 - 64 meters (m)). In 2000, EFPs were issued to four purse seine vessels to collect information on the interaction between purse seine gear and demersal species and their habitat, specifically in

Closed Area I. Data from the five observed trips in Closed Area I from the 2000 tuna purse seine experimental fishery did not show any bycatch of demersal species. These sets occurred in depths ranging from 55 to 86 fm (100 - 157 m). In 2001, EFPs were issued to all five vessels authorized to fish for bluefin tuna with purse seine gear. During this experiment, four trips were made into Closed Area I. On a single trip, one of the participating vessels made three sets inside Closed Area I in depths ranging from 40 to 60 fm (73 - 110 m). Although one basking shark was caught and later released alive, no other interactions with non-target or protected species and no bycatch of NE regulated multispecies occurred during the 2001 experimental fishery. During the 2002 experimental fishery, four of the five purse seine boats issued EFPs made 32 sets in Closed Area I. There was no bycatch of demersal finfish, no interaction with the bottom, and no interaction with either marine mammals or sharks.

A fourth experimental fishery has been requested by ECTA in order to ascertain, definitively, whether there will be any significant interactions between purse seine gear and NE multispecies and EFH. The Council is considering an exemption for tuna purse seine gear within all groundfish closed areas as part of Amendment 13 to the FMP.

Proposed EFP

The proposed EFP would exempt five purse seine vessels fishing for giant Atlantic bluefin tuna under 50 CFR part 635 from the gear restrictions of Closed Area I, as described at 50 CFR 648.81(a). Similar to the 2000, 2001, and 2002 purse seine experimental fisheries in Closed Area I, no more than five vessels would be authorized to participate.

The applicant has requested that the experimental fishery begin on July 15, 2003, and continue through the end of the calendar year on December 31, 2003. However, because of the timing of the application and the length of time required to fully review the application, this EFP, if approved, would be issued as soon as possible, but necessarily after the requested July 15, 2003, date.

The tuna purse seine fishing season is not scheduled to begin until August 15, 2003. However, NMFS is reviewing another request by the ECTA to issue an EFP that would start the tuna purse seine fishing season on July 15, 2003, instead of August 15, 2003. Therefore, the exempted fishery that would allow tuna purse seine vessels into Closed Area I may begin prior to August 15, 2003, contingent upon the approval of

the EFP to begin the purse seine fishing season earlier. The EFP would continue in effect until the five vessels have achieved their individual fishing quotas, or the end of the 2003 calendar year, whichever occurs first. Although these individual quotas may be taken prior to December 31, they are typically taken by the middle of October. Because the bluefin tuna fishery takes place throughout the waters off New England, and the concentrations of fish often move between areas, it is likely that the fishery would take place within Closed Area I for only a few weeks, at the most.

Vessel captains would be required to record information on bottom depth, depth of net, mesh size used, location of set, information on any bycatch species, any interactions between the net and the bottom, and any incidental take of marine mammals or protected species. Any NE multispecies that are captured during fishing activities would be required to be discarded after measurement.

EAs that analyzed the impacts of the experimental tuna purse seine fishery on the human environment were prepared for the 2000 and 2001 experimental fisheries. A supplement to the 2001 EA was prepared for the 2002 EFP. These documents concluded that the activities that were conducted under the EFP are consistent with the goals and objectives of the FMP, are consistent with the HMS FMP, and will have no significant environmental impacts. The EAs also considered the impacts of the EFP activities on EFH, marine mammals, and protected species and found that the proposed exempted tuna purse seine fishery would have no significant impact on EFH, marine mammals, or protected species. An EA was prepared for the 2003 experimental fishery, which incorporates the results of the 2001 and 2002 exempted fisheries, addresses the cumulative impacts of the proposed 2003 exempted fishery, and recommends a finding of no significant impact.

NOAA Fisheries believes that one additional EFP will provide the necessary data to determine conclusively that there is minimal interaction between purse seine gear and NE multispecies and EFH. The Regional Administrator, therefore, has made a preliminary determination to issue an Exempted Fishing Permit to ECTA.

If approved, EFPs would be issued to the five participating vessels to exempt them from the restrictions of Closed Area I of the FMP.

Based on the results of this EFP, this action may lead to further rulemaking.

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

Dated: July 15, 2003.

Virginia M. Fay,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 030714172-3172-01; I.D. 063003A]

RIN 0648-AR33

Atlantic Striped Bass Conservation Act; Atlantic Striped Bass Fishery

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

ACTION: Advance Notice of Proposed Rulemaking (ANPR); request for comments.

SUMMARY: NMFS announces that it is considering potential revisions to the Federal Atlantic striped bass regulations for the U.S. Exclusive Economic Zone (EEZ) in response to recommendations from the Atlantic States Marine Fisheries Commission (Commission) to the Secretary of Commerce (Secretary). The Commission recommended that the Secretary remove the moratorium on the harvest of Atlantic striped bass in the EEZ after a 13-year closure; implement a 28-inch (71.1-cm) minimum size limit for the recreational and commercial Atlantic striped bass fisheries in the EEZ; and allow states the ability to adopt more restrictive rules for fishermen and vessels licensed in their jurisdiction. NMFS is soliciting comments with this notice regarding possible management measures and issues that NMFS should consider relative to these recommendations.

DATES: Written comments must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on or before August 20, 2003.

ADDRESSES: Written comments must be sent to: Anne Lange, Chief, State-Federal Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Room 13317, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 713-0596. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, Fishery Management Biologist, (301) 713-2334, fax (301) 713-0596.

SUPPLEMENTARY INFORMATION:

Background

This ANPR is promulgated under the Atlantic Striped Bass Conservation Act (Act), Public Law 100-589, reproduced at 16 U.S.C. 1851 note. Section 9 of the Act requires the Secretary to promulgate regulations governing fishing for Atlantic striped bass in the EEZ that the Secretary determines: (1) are consistent with the national standards in Section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1851); (2) are compatible with the fishery management plan for managing Atlantic striped bass and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal state; (3) ensure the effectiveness of State regulations on fishing for Atlantic striped bass within the coastal waters of a coastal state; and (4) are sufficient to assure the long-term conservation of Atlantic striped bass populations. In developing the regulations, the Secretary is to consult with the Commission, the appropriate Regional Fishery Management Councils (Councils), and each affected Federal, state and local government entity.

Atlantic Striped Bass management is based on the Commission's Atlantic Striped Bass Interstate Fishery Management Plan (ISFMP), first adopted in 1981. From 1981 - 1994, four ISFMP Amendments were developed that provided a series of management measures that led to the rebuilding of the stocks. In 1995, the Commission declared the Atlantic striped bass population fully restored and implemented Amendment 5 to the ISFMP to perpetuate the stock so as to allow a commercial and recreational harvest consistent with the long-term maintenance of the striped bass stock. Since then the population has expanded to record levels of abundance. To maintain this recovered population, the Commission approved Amendment 6 to the ISFMP (Amendment 6) in February 2003 (copies of Amendment 6 are available via the Commission's website at www.asmfc.org). The Commission believes that the measures contained in Amendment 6 are necessary to prevent the overfishing of the Atlantic striped bass resource while allowing growth in both the commercial and recreational fishery. Development of Amendment 6 took almost four years and involved extensive input from technical and industry advisors, and provided

numerous opportunities for the public to comment on the future management of the species.

Amendment 6 incorporates results of the most recent Atlantic striped bass stock assessment, developed by the Atlantic Coast States, the Commission, NMFS, and the U.S. Fish and Wildlife Service (see section 1.2.2 of Amendment 6). In summary, the 2001 stock assessment concluded that the overall abundance of the stock is very high and fishing mortality remains below the target rate. The stock's abundance increased steadily between 1982 and 1997 and since then has remained stable. The fishing mortality rate increased steadily until 1999, but decreased slightly in 2000. Amendment 6 also includes recommendations to the Secretary on the development of complementary measures in the EEZ. Management of Atlantic striped bass in the EEZ was one of the issues that was considered throughout development of Amendment 6.

Recommendation to the Secretary

On April 24, 2003, the Secretary received a letter from the Commission with the following three recommendations for implementation of regulations in the EEZ: (1) Remove the moratorium on the harvest of Atlantic striped bass in the EEZ; (2) implement a 28-inch (71.1 cm) minimum size limit for recreational and commercial Atlantic striped bass fisheries in the EEZ; and (3) allow states the ability to adopt more restrictive rules for fishermen and vessels licensed in their jurisdictions.

In support of its request, the Commission provided a number of reasons to justify opening the EEZ to striped bass fishing. These reasons include:

(1) In 1995, due in part to a closure of the EEZ in 1990 to striped bass harvest, the population of this species was declared fully restored by the Commission. The purpose of closing the EEZ was to protect strong year classes entering the population and to promote rebuilding of the overfished population.

(2) The commercial harvest is controlled by hard quotas; when they are reached the fishery is closed; and overages are taken out of next year's quotas. The Commercial quota will be landed regardless of whether or not the EEZ is opened.

(3) Currently, recreational and commercial catches are occurring in the EEZ and these fish are required to be discarded. Opening the EEZ will convert discarded bycatch of striped bass to landings.

(4) Because of management measures implemented since 1990, the striped