

The applicant intends that the results of this gear work will be the basis for a gear modification request to the New England Fishery Management Council for use in the Northeast Multispecies fishery.

An EFP would be issued to exempt one vessel from the DAS requirements and gear restrictions of the FMP found at 50 CFR part 648, subpart F.

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

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

Dated: July 20, 2001.

Bruce C. Morehead,

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 600

[I.D. 071701D]

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

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

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

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has determined that an application for EFPs contains all of the required information and warrants further consideration. The Regional Administrator is considering the impacts of the activities to be authorized under the EFPs with respect to the Northeast Multispecies Fishery Management Plan (Multispecies 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 EFPs. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs in response to an application

submitted by the East Coast Tuna Association that would allow five purse seine vessels to fish for giant Atlantic bluefin tuna (*Thunnus thynnus*) in Northeast Multispecies year-round Closed Area I, where use of purse seine gear is currently prohibited for the remainder of 2001. 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.

DATES: Comments on this action must be received at the appropriate address or fax number (see **ADDRESSES**) on or before August 13, 2001.

ADDRESSES: Written comments should be sent to Patricia 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 fax to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the Environmental Assessment and the Regulatory Impact Review (EA/RIR) are available from the Northeast Regional Office at the same address.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Policy Analyst, phone: 978-281-9103, fax: 978-281-9135, email: allison.ferreira@noaa.gov

SUPPLEMENTARY INFORMATION:

Background

The Georges Bank and Southern New England (GB/SNE) multispecies year-round closed areas were established under the Multispecies FMP to provide protection to concentrations of regulated multispecies, particularly for 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 multispecies bycatch. For example, pelagic midwater trawl gear was determined to have a negligible catch of regulated multispecies because the gear fishes well off the ocean floor. As a result, it is an allowed gear in the GB/SNE 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 the 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 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 fm. 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, particularly 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 fm to 86 fm. Due to the lingering questions concerning the degree of interactions between purse seine gear used in this fishery and the sea floor, and its interactions with regulated groundfish species, a second experimental fishery has been requested. The Council is considering an exemption for tuna purse seine gear within all groundfish closed areas as part of Framework Adjustment 36 to the Multispecies FMP. Information collected through this experimental fishery would be used in development of Framework Adjustment 36.

Proposed EFP

The proposed EFP would exempt 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 purse seine experimental fishery in Closed Area I, no more than five vessels would be authorized to participate. The experimental fishery would begin on August 15, 2001, and continue until the five vessels have achieved their individual fishing quotas, or the end of the calendar year, whichever occurs first. Although these individual quotas may be taken through the end of the fishing year (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.

NMFS-certified observers would be required on all trips into Closed Area I. These observers would document the catch of all species, interactions between the net and the bottom, and any incidental take of marine mammals and protected species. After any sampling requested by an observer, all multispecies would be required to be discarded.

An EA was prepared to analyze the impacts of the experimental fishery on the human environment. The EA has preliminarily concluded that the activities that would be conducted under the EFP are consistent with the goals and objectives of the Multispecies FMP, and are consistent with the HMS FMP. The EA also considers the impacts of the EFP activities on EFH and protected species.

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

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. Based on the outcome of this EFP, this action may lead to future rulemaking.

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

Dated: July 23, 2001.

Dean Swanson,

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 660

[Docket No. 010712174-1174-01; I.D. 062701D]

RIN 0648-AP36

Eligibility Criteria and Definitions for the Western Pacific Community Development Program and Western Pacific Demonstration Projects

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

ACTION: Proposed rule; Request for comments.

SUMMARY: NMFS proposes criteria developed by the Council to determine

what communities will be eligible to participate in western Pacific community development programs to be established by the Council and the Secretary of Commerce (Secretary) for fisheries under the Council's jurisdiction in order to promote access to such fisheries by western Pacific communities and to apply for and receive grants for related demonstration projects. NMFS also proposes definitions, developed with the Council, for certain terms appearing in section 305(i)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the section authorizing the Council and the Secretary to establish such programs, and in the criteria developed by the Council. NMFS is proposing these criteria and definitions so that it may have the benefit of public comment before deciding whether to approve the criteria and adopt the definitions. The intent of this proposal is to implement section 305(i)(2) so that appropriate programs may be established in the future.

DATES: Comments on this proposed rule must be received before 5 p.m. Eastern Daylight Savings Time on August 27, 2001. Faxed comments received before the deadline will be accepted provided the signed original is received for the record by September 5, 2001.

ADDRESSES: Written comments on this proposed rule must be sent to Robert Ziobro, Western Pacific Project - F, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, or faxed to 301-713-2258. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Robert C. Ziobro at 301-713-2239 or by facsimile at 301-713-2258.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available through the NMFS Pacific Island Area Office Home Page at: <http://swr.nmfs.noaa.gov/piao/index.htm> and the Western Pacific Council Home Page at: <http://www.wpcouncil.org>.

I. Background

Under the authority of section 305(i)(2) of the Magnuson-Stevens Act, 16 U.S.C. 1855(i)(2), the Council and the Secretary may establish western Pacific community development programs for any fishery under the authority of the Council in order to provide access to such fishery for western Pacific communities. Section 305(i)(2)(B) specifies that in order to be eligible to participate in western Pacific

community development programs, a community must:

1. Be located within the Western Pacific Regional Fishery Management Area;

2. Meet criteria developed by the Council, approved by the Secretary and published in the **Federal Register**;

3. Consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

4. Not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

5. Develop and submit a Community Development Plan to the Council and the Secretary.

Section 305(i)(2)(D) defines the Western Pacific Regional Fishery Management Area as the area under the jurisdiction of the Council or an island within such area.

Under section 305 note of the Magnuson-Stevens Act (Section 111(b) of the Sustainable Fisheries Act, Public Law 104-297) western Pacific communities eligible to participate in western Pacific community development programs are eligible to apply for and receive grants for related demonstration projects. To be eligible for funding, a project must foster and promote the use of traditional indigenous fishing practices of western Pacific communities found on American Samoa, Guam, Hawaii or the Northern Mariana Islands. A project must also identify and apply traditional indigenous fishing practices, develop or enhance western Pacific community-based fishing opportunities, and involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

NMFS is developing the grants application process by which communities may apply for grants to fund projects. This process will be announced in a subsequent **Federal Register** document; that notification will also solicit proposals for project grants.

The Council has developed criteria to determine what communities are eligible to participate in western Pacific community development programs and NMFS and the Council have developed definitions for certain terms appearing in section 305(i)(2) of the Magnuson-Stevens Act and the criteria.