

with paragraph (d)(1) of this subsection, to private sector work.

(i) Any smaller amount shall not be less than the sum of the costs specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this subsection.

(ii) Any larger amount shall not exceed the sum of the costs specified in paragraph (d)(1)(i) of this subsection and the amount of indirect costs that would have been allocated to the private sector work in accordance with the contractor's established accounting practices.

(iii) In determining whether such a modification is appropriate, the Navy will consider factors such as the impact of pre-existing firm-fixed-price Navy contracts on the amount of costs that would be reimbursed by the Navy, the impact of pre-existing private sector work on the cost benefit that would be received by the contractor, and the extent to which allocating a smaller or larger portion of costs to private sector work would provide a sufficient incentive for the contractor to obtain additional private sector work.

(e) *Procedure.* A contractor may submit a request for a shipbuilding capability preservation agreement, together with appropriate justification, through the Deputy Assistant Secretary of the Navy for Ships, to the Assistant Secretary of the Navy for Research, Development and Acquisition, who has approval or disapproval authority. The contractor should also provide an informational copy of any such request to the cognizant administrative contracting officer.

Dated: December 16, 1997.

Michael I. Quinn,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Officer.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 121597C]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

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

ACTION: Closure; catch limit adjustment.

SUMMARY: NMFS closes the fishery for large medium and giant Atlantic bluefin

tuna (ABT) conducted by Angling category fishermen in the southern area (the waters off Delaware and states south). Closure of this fishery is necessary because the 4 metric tons (mt) of large medium and giant ABT allocated for this subcategory is projected to be attained by December 17, 1997. The intent of this action is to prevent overharvest of this subcategory. In addition, effective January 1, 1998, the daily catch limit for ABT is adjusted to one fish per vessel, which may be from the school, large school, or small medium size class. This action is being taken to lengthen the fishing season and ensure reasonable fishing opportunities in all geographic areas without risking overharvest of the Angling category.

DATES: The closure is effective 11:30 p.m., local time, December 17, 1997, through December 31, 1997. The daily catch limit adjustment is effective 12:30 a.m., local time, January 1, 1998, until the end of the 1998 winter fishery. NMFS will publish a subsequent document specifying a closure or any additional adjustment.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 301-713-2347, or Pat Scida, 978-281-9208.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Closure

Implementing regulations for the Atlantic tuna fisheries at 50 CFR 285.22 provide for a total annual quota of 4 mt of large medium and giant ABT (measuring greater than 73 inches (185 cm)) to be harvested in the southern area (south of 38°47' N. lat.) by vessels permitted in the Angling category or the Charter/Headboat category. NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota applicable to any period.

As of December 15, 1997, reported recreational fishery landings of large medium and giant ABT in the southern area totaled approximately 3.8 mt. Information on fishing effort and catch rates available to NMFS indicates that the remaining quota is likely to be taken by the closure date. Therefore, fishing for, retaining, possessing, or landing large medium or giant ABT in the southern area by vessels in the Angling category or Charter/Headboat category must cease at 11:30 p.m., local time,

December 17, 1997. This action is to prevent overharvest of the quota established for this subcategory. Recreational anglers may continue to fish for large medium and giant ABT under the NMFS tag and release program (50 CFR 285.27). The Angling category trophy fishery for large medium and giant ABT remains open in the northern area until further notice.

Catch Limit Adjustment

Implementing regulations for the Atlantic tuna fisheries at § 285.24 allow for adjustments to the daily catch limits in order to lengthen the fishing season and ensure reasonable fishing opportunities for all geographic areas. The Assistant Administrator for Fisheries, NOAA, may increase or reduce the per angler catch limit for any size class bluefin tuna or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit.

The 1997 Angling category fishery closed effective October 19, 1997 (62 FR 53247, October 14, 1997). The 1998 Angling category fishery for ABT measuring 27 inches and greater will open January 1, 1998. NMFS adjusts the daily catch limit, effective January 1, 1998 as follows: No more than one bluefin tuna may be retained each day per Angling category vessel, which may be from the school, large school, or small medium size class. Based on the high catch rates and large average size of ABT landed during the first few months of 1997, this action is being taken to lengthen the fishing season and ensure reasonable fishing opportunities in all geographic areas without risking overharvest.

Charter/Headboat vessels, when engaged in recreational fishing for school, large school, and small medium ABT, are subject to the same rules as Angling category vessels. The trophy fish catch limit of one-per-vessel-per-year will remain in effect for 1998.

Subsequent adjustments to the daily catch limit, if any, shall be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 301-713-1279 or 978-281-9305 for updates on quota monitoring and catch limit adjustments.

Classification

This action is taken under 50 CFR 285.20(b)(1) and 285.24(d)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: December 16, 1997.

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 679

[Docket No. 970801188-7288-02; I.D. 070797C]

RIN 0648-AJ45

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Prohibited Species Catch Limit for *Chionoecetes opilio*

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations implementing Amendment 40 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) as recommended by the North Pacific Fishery Management Council (Council). The implementing regulations establish a prohibited species catch (PSC) limit for *Chionoecetes opilio*, a crab species, in a new *C. opilio* Bycatch Limitation Zone (COBLZ) of the Bering Sea. Upon attainment of a *C. opilio* bycatch allowance apportioned to a particular trawl fishery category, the COBLZ will be closed to directed fishing for species in that trawl fishery category. This measure is necessary to further protect the stocks of Bering Sea *C. opilio* by limiting the incidental take of this species thereby mitigating the potential adverse effects of trawl fishing activities on the *C. opilio* stock. This measure is intended to accomplish the objectives of the FMP with respect to the management of the Bering Sea and Aleutian Islands management area (BSAI) groundfish fishery.

DATES: Effective January 21, 1998.

ADDRESSES: Comments should be sent to Chief, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/

RIR/FRFA) prepared for the amendment may be obtained from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252; telephone: 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Kim S. Rivera, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The U.S. groundfish fisheries of the BSAI in the exclusive economic zone are managed by NMFS under the FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and is implemented by regulations for the fisheries off Alaska at 50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Anticipated recruitment of male *C. opilio* crab is at a relatively low level, based on recent NMFS bottom trawl survey data. The 1996 *C. opilio* season produced only 64.6 million lb (29,302 metric tons) for the 235 vessels participating. This is the lowest catch since 1984. Survey data from 1996 indicate that adult males are abundant, but females and pre-recruits (males that have not reached legal commercial size) are becoming less abundant. This was corroborated by the 1997 survey which showed a 78 percent increase in the large male (greater than 102 mm, legal size) population, 45 percent decrease in the pre-recruit (less than 102 mm) male population, and a 22 percent decrease in the small (less than 50 mm) female population. Although the increase in the large male population should lead to a stable abundance of large males, the lack of very small crabs may indicate declining abundance over a longer term.

The groundfish fisheries incidentally catch crab. An objective of the FMP is to minimize the impact of groundfish fisheries on crab and other prohibited species, while providing for rational and optimal use of the region's fishery resources. All gear types used to catch groundfish have some potential to incidentally catch crab, but the large majority of crab bycatch occurs in trawl fisheries for flatfish.

In view of this FMP objective, the Council initiated an assessment in January 1995 of potential measures to further limit crab bycatch in the groundfish fisheries. This Council initiative was also responsive to increasing concern about the potential impact of crab bycatch on declining stocks and future harvests in the commercial crab fisheries. Proposed alternatives included the establishment of bycatch limits for *C. opilio*.

In June 1996, the Council formed an industry work group to review proposed PSC limits for *C. opilio*. This work group consisted of three crab fishery representatives, three trawl fishery representatives, and one shoreside processing representative. The group met November 6-7, 1996, and came to a consensus on a PSC limit for *C. opilio*, based on the best available scientific information on the abundance and distribution of the specified crab species and its rate of bycatch in fisheries for certain species of groundfish. The affected industry groups proposed the following: (1) Establishment of a COBLZ, (2) an annual specification of a PSC limit for *C. opilio* in the COBLZ based on the total abundance of *C. opilio* as indicated by the most recent NMFS bottom trawl survey, and (3) establishment of upper and lower bounds within which the annual *C. opilio* PSC limit must be specified.

At its December 1996 meeting, the Council endorsed the industry work group agreement and adopted it as Amendment 40 to the FMP. The Council recommended that NMFS initiate a rulemaking to implement the amendment. A notice of availability of Amendment 40 was published in the **Federal Register** on July 15, 1997 (62 FR 37860), and invited comment on the amendment through September 15, 1997. One letter containing 3 comments was received during the comment period on the amendment. A proposed rule to implement Amendment 40 was published in the **Federal Register** on August 13, 1997 (62 FR 43307). Comments on the proposed rule were invited through September 29, 1997. No additional comments were received by the end of the comment period on the proposed rule. The comments supported approval of Amendment 40 and the proposed rule with various suggestions for modifications. Comments on the proposed rule are summarized and responded to in the Response to Comments section.

The proposed rule included measures for a *C. opilio* PSC limit in 1997. However, after publication of the proposed rule, it became apparent that the proposed 1997 *C. opilio* PSC limit would not be approached. Consequently, those proposed measures have been removed from this final rule. NMFS anticipates that the Council will specify a 1998 PSC limit (4,654,000 *C. opilio* crab) and the fishery apportionment thereof as part of the 1998 groundfish specification process. *C. opilio* bycatch accrued from January 1, 1998, until the effective date of the final rule would apply to all fisheries that take *C. opilio* in 1998.