

and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in one of the following—

(A) NMFS' Marine Recreational Fishing Vessel Directory Telephone Survey (conducted by the Gulf States Marine Fisheries Commission);

(B) NMFS' Southeast Headboat Survey (as required by § 622.5(b)(1));

(C) Texas Parks and Wildlife Marine Recreational Fishing Survey; or

(D) A data collection system that replaces one or more of the surveys in paragraph (r)(10)(i)(A)(B) or (C) of this section.

(ii) A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that is not renewed or that is revoked will not be reissued during the moratorium. A permit is considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

(11) *Requirement to display a vessel decal.* Upon issuance, renewal, or transfer of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the RA will issue the owner of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal must be displayed on the port side of the deckhouse or hull and must be maintained so that it is clearly visible.

(12) *Requirement and procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish—(i) General.* This paragraph (r)(12) explains the necessity of requiring and the procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of the Gulf and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under the moratorium established by paragraph (r) of this section necessitates that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established effective December 26, 2002, and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided effective as of that same date. The newly required charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish is not subject to the provisions of the moratorium in paragraphs (r)(1) through (11) of this section.

(ii) *Application for and issuance of an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish—(A) Owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish.* On or about June 28, 2002, the RA, based on NMFS' permit records, will mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish must submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners must submit the completed application to the RA postmarked or hand-delivered not later than September 26, 2002. For completed applications received by that deadline, the RA will issue the permit no later than December 16, 2002. Applications will be accepted at any time, but if received after the deadline, the permit may not be issued prior to the date that the permit is first required (i.e., December 26, 2002). These special procedures apply only to the application and issuance of the initial permit; subsequent permitting activities will be conducted in accordance with the standard permitting procedures as specified in paragraphs (b) through (l) of this section.

(B) *Owner or operator of a vessel without a valid charter vessel/headboat permit for coastal migratory pelagic fish.* An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish must obtain a permit application from the RA. For additional permitting procedures, see paragraphs (b) through (l) of this section.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 020325070-3159-06; I.D. 071299C]

RIN 0648-AM91

Atlantic Highly Migratory Species (HMS); Fishing Vessel Permits; Charter Boat Operations; Temporary Rule

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

ACTION: Temporary rule.

SUMMARY: This rule provides a mechanism to correct permit errors for a limited time after permit issuance for all Atlantic Tunas and Atlantic HMS permit holders, excluding Atlantic Tunas longline and Purse seine category permits. This mechanism is meant to provide relief for those vessel operators who were issued permits incorrectly due to confusion resulting from the establishment of the new HMS Angling category, unfamiliarity with the automated permit system, or possible administrative error.

DATES: Effective June 23, 2003, through December 31, 2003. All permit category corrections for Atlantic Tunas and HMS permits issued prior to or on June 23, 2003 must be made by July 3, 2003. All permit category corrections for permits issued subsequent to June 23, 2003 must be made within 10 days of the date of the issuance of the permit.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown or Brad McHale at 978-281-9260.

SUPPLEMENTARY INFORMATION: A final rule published on December 18, 2002 (67 FR 77434), established a new HMS Angling category vessel permit. This new permit category authorizes recreational anglers to fish for, possess, and retain HMS. Further, the final rule specified that the Atlantic Tunas General category permit, a commercial handgear category, would not authorize persons aboard a vessel to fish for, possess, or retain billfish, swordfish, or sharks in the recreational fisheries. The final rule also re-specified that permit category changes could not be made after a permit is issued for a fishing year. A temporary rule that was published on June 12, 2003 (68 FR 35185), provided a limited time during which Atlantic Tunas General category permit holders could make a one-time change to the new Atlantic HMS

Angling category permit. That temporary rule is effective through July 9, 2003.

Since issuance of the June 12, 2003, temporary rule, NMFS has received numerous comments on a daily basis that other permits have been issued in incorrect categories due to confusion about the new HMS Angling category, human error in selecting the permit due to unfamiliarity with the automated permitting system, and possible administrative error. Persons issued permits in the Atlantic Tunas General and Harpoon and Atlantic HMS Angling and Charter/Headboat categories have also contacted NMFS to seek relief for permits issued in incorrect categories. Due to the unique circumstances of the new HMS Angling permit requirements, and the numerous errors in permit category issuance, this temporary rule provides a 10-day period for all Atlantic Tunas General, Harpoon, and Trap categories and Atlantic HMS Angling and Charter/Headboat category permit holders to correct permit category errors. Atlantic Tunas Longline and Purse Seine category permits are limited access permits and are not eligible for changes under this temporary rule.

For persons issued 2003 Atlantic Tunas and Atlantic HMS category permits after the effective date of this temporary rule, corrections to a permit category must be made within 10 days of the date of issuance of the permit (e.g., if a permit is issued on July 1, then corrections to the permit category must be made by July 10). For persons issued 2003 Atlantic Tunas and Atlantic HMS category permits prior to or on the effective date of this temporary rule (excluding Atlantic Tunas Longline and Purse Seine category permits), corrections to permit category errors must be made by July 3, 2003. It is incumbent upon permit holders to carefully review their existing permit category information, as, no further corrections to a permit category may be made after the above-mentioned 10-day periods.

Pending receipt of a new permit, permit holders are subject to the regulations applicable to their currently held permits.

Permit Category Changes

NMFS maintains an automated permitting system for the issuance of Atlantic Tunas vessel permits and HMS Angling vessel permits. To make a permit category correction under this temporary rule, dial (888) 872-8862 and press "0" from the main menu to reach a Customer Service representative.

Classification

This temporary rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA (AA), finds for good cause that providing prior notice and public comment for this temporary rule, as required under 5 U.S.C. 553(b)(B), is impracticable and contrary to the public interest. The Atlantic HMS Fishery opened on June 1, 2003. Over the past 2 weeks, fishermen have been notifying NMFS that, as a result of confusion regarding the new HMS recreational Angling permit requirement and errors in selecting and/or issuing their permits, they had obtained Atlantic Tunas and Atlantic HMS permits in incorrect categories. Current regulations do not provide a mechanism for correcting permit category errors. Delay in issuing this temporary rule would prevent fishermen who intended to fish under the new Angling category or under different categories from being allowed to engage in their intended fishing activities for the next several months.

Because this temporary rule relieves a restriction by allowing an otherwise prohibited permit correction, it is not subject to a 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(1).

NMFS will rapidly communicate this action to fishery participants through its FAX network and HMS Information Line.

Because prior notice and opportunity for public comment are not required for this temporary rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This action is not significant within the meaning of Executive Order 12866.

Dated: June 23, 2003.

Rebecca J. Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030409081-3154-02; I.D. 032103B]

RIN 0648-AQ72

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery

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

ACTION: Final rule.

SUMMARY: This final emergency rule implements emergency measures intended to reduce overfishing on species managed under the NE Multispecies Fishery Management Plan (FMP), under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action continues most interim measures specified in the Settlement Agreement Among Certain Parties (Settlement Agreement), ordered to be implemented by the U.S. District Court for the District of Columbia (Court). The interim measures were implemented through an interim final rule published on August 1, 2002. The final emergency rule contains measures such as: A freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996-2000 and a 20-percent cut from that level; a freeze on the issuance of new open access Hand-gear permits; gear restrictions; modifications and additions to closure areas; and restrictions on yellowtail flounder catch. In addition, in response to public comment, this final emergency rule implements measures pertaining to haddock, including reducing the haddock minimum size limit for private recreational and party/charter vessels to 21 inches (52.5 cm), and relaxing the haddock trip limit (also known as bag limit) for charter/party and open access Handgear permit vessels. NMFS and two of the plaintiffs filed a motion with the Court requesting an extension of the August 22, 2003, implementation of Amendment 13 to the NE Fishery Management Plan (FMP) schedule in the Order until May 1, 2004. On December 4, 2002, the Court granted an extension of the Court-ordered timeline for implementation of Amendment 13 to