

§ 285.7 Experimental fishing exemption.

(a) Upon a written request received at least 30 days before the desired effective date, the Director, in order to provide for the conduct of experimental fishing to gather data needed to make management decisions for the Atlantic tuna resources or fisheries, may exempt any person or vessel from specific requirements of this part.

(b) A request for an exemption must be in writing and received by the Director at least thirty (30) days before the desired effective date. The request must specify any vessel(s) involved, describe the gear to be used, the manner in which the gear will be fished, the duration of the activity, the area where the activity will be conducted, the species of tuna that will be caught, the anticipated bycatch, the port(s) involved and the disposition of the catch, both domestic and foreign. The request must include any fee specified by the Director pursuant to § 285.7(e).

(c) The Director may not grant such exemption unless it is determined that the purpose, design, and administration of the experimental fishing is consistent with the objectives of the management program, ICCAT recommendations, the provisions of the Atlantic Tunas Convention Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the Atlantic tunas resources and fisheries; or

(2) Create significant enforcement problems.

(d) Each vessel participating in any experimental fishing activity is subject to all provisions of this part except those specified in the exemption granted that activity by the Director. The conditions, duration of the experimental fishing, and the provisions of this part to which the exemption applies, will be specified in a letter issued by the Director to each vessel or person participating in the exempted activity. This letter must be carried aboard the vessel conducting the exempted activity. Any exemption authorization that has been altered, erased, or mutilated is invalid. A letter of exemption issued under this part is not transferable or assignable. Any vio-

lation of any condition in a letter of exemption shall render it null and void upon receipt of written notification from the Director.

(e) The Director may charge a fee to recover the administrative expenses of issuing a letter of exemption. The amount of the fee will be calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs. Persons seeking an exemption may contact the Director at (301) 713-2334 to find out the applicable fee. Failure to pay the fee will preclude issuance of the exemption. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any letter of exemption.

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§ 285.8 At-sea observer coverage.

(a) Notwithstanding the selection for placement or the placement of on-board fishery observers under the authority of any other Federal statute or fisheries regulation, NMFS may require observers for any vessel engaged in directed fishing for, or incidentally taking, Atlantic tunas at any time.

(b) Owners of vessels selected for observer coverage are required to notify the appropriate Fisheries Science Center Director before commencing any fishing trip that may result in the harvest of any Atlantic tuna. Notification procedures will be specified in selection letters to vessel owners.

(c) An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew;

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties;

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position;

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight