

HB

502

Michael C. O'Leary
P.O. Box 1052
Cordova, Alaska
99574

House Resources Committee
Co-Chair Rep. Curt Menard
Rep. Cliff Davidson
Rm. 124, Capitol

March 20, 1990

Dear Sirs;

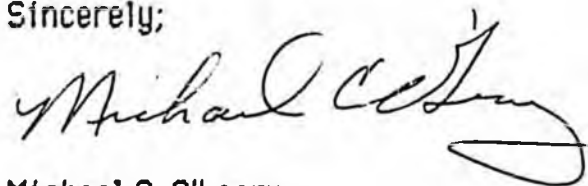
I am writing you concerning the spotter pilot issue, House Bill No. 502. My interest in this bill is a reaction to the Board of Fish's move to outlaw fish spotting in Bristol Bay. My comments are from a fisherman's point of view, which I noticed were missing in your March 16th teleconference.

As a 12 year fisherman in Bristol Bay I see the Board of Fish's decision to outlaw spotting, not as an allocation issue between gear types, but as a reallocation between those drift boats who will obey this new law and those who won't. This law which the Board of Fish, and the Dept. of Fish and Wildlife Protection both acknowledge is not enforceable and will not be enforced, will just allow the boats with no respect for the law to have airplanes therefore allowing them to be more competitive. Also having a law on the books that no one pays attention to, and isn't enforced just contributes to a general disregard for the law. Since Bristol Bay is a wild and sometimes lawless fishery any further degradation of law and order greatly concerns me. Since a great number of the permits being sold in Bristol Bay are being sold by "old timers" who cannot stand the general lawlessness this is an important issue.

In closing I would like to state that I support House Bill No. 502. Spotter pilots have been contributing to the fisheries of the state for 25 years or more. They as well as the fisherman deserve some stability on this issue.

Thank you for your time on this matter, and for taking time to listen to my views.

Sincerely;



Michael C. O'Leary



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Commercial Fish/Admin	BILL NUMBER HB 502	SPONSOR Menard
SHORT TITLE OF BILL Regulation of Fish Spotters			
DEPARTMENT POSITION Neutral, note letter from Board of Fisheries opposing section two.			
PREPARED BY Robert C. Clasby	DATE 3/5/90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/15/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Unknown	CONSTITUENT GROUP(S) AFFECTED BY BILL Fish Spotters Commercial Salmon and Herring Fishermen
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown
FISCAL IMPACT: <input type="checkbox"/> NONE <input checked="" type="checkbox"/> FISCAL NOTE ATTACHED	

BACKGROUND/LEGISLATIVE INTENT

The intent of the legislation appears to be two pronged. The legislation places requirements on fish spotters that are directed towards safety concerns. The legislation would also prohibit the Board of Fisheries from regulating fish spotters for allocative reasons.

ANALYSIS OF BILL/PROGRAM EFFECTS

The legislation establishes within the Department of Fish and Game licensing and registration systems for fish spotters. These systems will have an effect on the department's programs. The department will have to expend human and fiscal resources to establish and maintain the licensing and registration systems. Information gained from the system may be of some use to the Division of Commercial Fisheries in evaluating inseason fleet efficiency.

- AMENDMENTS PROPOSED
1. Since the department has no expertise in determining aircraft liability matters, we recommend that requirement be deleted. Perhaps the legislature or Division of Insurance can make that determination.
 2. Delete section two as recommended in the enclosed letter from the Board of Fisheries.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Regulation of Fish Spotters
Sponsor: Representative Menard
Requestor: Governor

Agency Affected: Fish and Game
BRU: Commercial Fisheries
Components: Commercial Fisheries

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	2.0	2.0	2.0	2.0	2.0	2.0
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	3.0	3.0	3.0	3.0	3.0	3.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	3.0	3.0	3.0	3.0	3.0	3.0
FEDERAL FUNDS						
OTHER						
TOTAL	3.0	3.0	3.0	3.0	3.0	3.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Division of Commercial Fisheries will need about \$3.0 Thousand per year for personnel time and forms to conduct the spotter registration. Any costs for FY 90 will be minimal.

Prepared by: Robert C. Clasby Phone: 465-4210
Division: Commercial Fisheries Date: March 5, 1990
Approved by Commissioner: *[Signature]* Date: 3/15/90
Agency: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

BOARD OF FISHERIES

STEVE COWPER, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000
PHONE: (907) 465-4110

The Alaska Board of Fisheries discussed House Bill No. 502 this morning at its regulatory meeting in Anchorage.

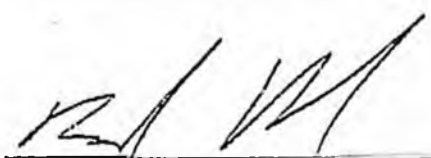
The Board has decided not to comment on HB 502 as a whole. The overall merits of the bill are up to the legislature. However, the board unanimously objected to:

"Section 2. AS 16.05.251 is amended by adding a new subsection to read:

(g) The Board of Fisheries may restrict the operations of fish spotters in a fishery when restrictions are necessary to protect the conservation of a resource."

if the intent of this new subsection is to restrict the boards authority to manage fish spotters only for conservation reasons. This would be undermining and erode the authority of the Board to manage the resource.

The Board of Fisheries implements regulations to conserve the resource, to provide for orderly fisheries, and to allocate the resource among the various user groups and gear types. The proposed new subsection (g) would eliminate some "tools" the board uses to manage the fisheries and we are strongly opposed to being charged with the responsibility of regulating the fisheries without having the full authority to do so.



Bud Hodson
Chairman

March 15, 1990



U.S. Department
of Transportation
Federal Aviation
Administration

Alaskan Region

222 W. 7th Avenue # 14
Anchorage, Alaska
99513-7587

DEC 8 1985

Mr. Dan Plano
HC33, Box 2872
Wasilla, Alaska 99687

Dear Mr. Plano:

This is in response to your letter regarding the airman certification required to engage in aerial fish spotting. Enclosed with your letter was a contract, typical of those used by aerial fish spotters, outlining the terms under which they conduct such activity.

Review of the contract indicates that the aircraft to be used is provided by the spotter. The spotter is compensated for all fuel and oil expenditures associated with the aircraft's operation. In addition, the spotter receives room and board and is paid a percentage of each boat's catch.


Section 61.118 of the Federal Aviation Regulations (FAR) precludes a private pilot from acting as pilot-in-command of an aircraft for compensation or hire. A private pilot may, for compensation or hire, act as pilot-in-command of an aircraft in connection with any business or employment if the flight is only incidental to that business or employment.

Operation of an aircraft is not merely incidental to aerial fish spotting, it is an integral part of that activity without which it could not occur. For this reason, a private pilot may not act as pilot-in-command of an aircraft so engaged.

FAR Section 61.139 provides that the holder of a commercial pilot certificate may act as pilot-in-command of an aircraft for compensation or hire.

We hope you find this information helpful. If further assistance is required, please advise.

Sincerely,


Thomas S. Westall
Manager, Flight Standards
Division

STANDARD OPERATING PROCEDURES FOR FISH SPOTTING

1. Commercial Pilot Qualifications
 - a. Current medical
 - b. Rated in type of aircraft
 - c. Biennial flight review
2. Airworthy Aircraft
 - a. Registration
 - b. F.C.C. radio license
 - c. Airworthiness certificate
 - d. Owners manual
 - e. Weight and balance data
3. Aircraft Recommendations
 - a. 3-point strobe system
 - b. Forward landing light
 - c. Two-place aircraft
 1. recommend pilot in command and observer in congested area
 - d. Recommend skylights installed
 - e. Recommend emergency parachutes for each occupant or for entire aircraft
 - f. Radios: minimum, 1 aircraft VHF, 1 Marine VHF
 - g. Contrasting color pattern/paint scheme
 - h. Recommend large 12" numbers
4. Operating Procedures
 - a. Climb-out and descents away from traffic area (left hand)
 - b. All turns in pattern to left
 - c. Maintain altitude
 - d. Recommend take-off and landings away from moored boats, on beaches away from foot traffic
 - e. Be aware of small speeding skiffs, motorcycles, 3-wheelers, etc.
5. Safety Seminars
 - a. The Association encourages "on the fishing grounds" safety seminars prior to any salmon or herring fisheries
 1. included in seminar: F.A.A.
Protection Officers
Management Personnel
Other interested parties

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 163-3991
Fax: (907) 163-3351

January 17, 1990

MEMORANDUM

TO: Representative Curt Menard
ATTN: Bill Fieldler
FROM: Glenn Gray ^{GTG}
Legislative Analyst
RE: Regulating Aerial Fish Spotters
Research Request 90.157

You requested information about the use and regulation in other states of aerial fish spotters by commercial fishermen. You asked specifically about required safety training courses, minimum liability insurance requirements, or other regulations states may have imposed on those engaged in aerial fish spotting.

Background

The practice of using air reconnaissance to locate fish by commercial fishermen occurs on the East, West and Gulf Coasts of the U.S. On the East Coast, fish spotters are employed in the tuna, herring and menhaden fisheries. This practice occurs along Florida's coasts for mackerel and bait fish. Along the Gulf Coast, fish spotters are commonly used to locate red and black drum (herring-like fish) and menhaden. On the West Coast, the use of fish spotters is common in California and Alaska and also occurs to a lesser degree in Washington and Oregon. California fishermen use this technique to locate swordfish, tuna, anchovies, mackerel, and other pelagic fish. Fish spotters are used in Alaska for the herring and salmon fisheries. Aerial fish spotters were once common in Oregon and Washington but are seldom used today due to closures in fisheries where it is practical to employ pilots.

Issues

The use of commercial fish spotters has sparked controversy on all coasts. The three most common concerns are possible resource depletion, safety and

fairness. Many people are concerned that the use of fish spotters will lead to over-harvest of a particular fishery. Safety concerns have been expressed in most areas where aerial spotters are used. During fishery openings large numbers of planes are clustered in a localized area resulting in accidents and near misses. The use of fish spotters also tends to concentrate boats and adds to a safety problem on the water. The issue of fairness is often voiced by fishermen who can't afford to hire pilots. They feel that those fishermen using spotters have an unfair advantage. Other concerns include the use of planes to herd fish towards nets, to scare fish away from other fishermen's nets, to spy on other fishermen's catches, and to signal fishermen when law enforcement agents are approaching.

Regulation of Commercial Fish Spotters

Although there are significant controversies related to aerial fish spotting, few states have regulated this practice. Those states that have regulated fish spotting have done so primarily as an aspect of the management of a particular fishery. Although safety issues are sometimes mentioned as a justification for state action, regulations most often relate to conservation and fisheries management concerns. A discussion of some regulatory attempts follows.

The California State Legislature gave the Fish and Game Commission authority to regulate fish spotters during the mid-1970s. This resulted in a prohibition to use planes to spot swordfish. This decision was later reversed but some stipulations still exist. Because California law requires anyone assisting in the taking of fish to be licensed, pilots who spot fish are required to have a commercial fishing license. Planes used in fish spotting operations must be clearly marked on the underside of the wings. Fishermen are also required to notify the Department of Fish and Game prior to any change in pilots or aircraft (see Attachment A).

Regulations are currently being considered by the National Marine Fisheries Service (NMFS) to limit aerial fish spotters in the Northeast Coast tuna fishery (see Attachment B). Because tuna is not covered by the 1976 Magnuson Fishery Conservation and Management Act, the proposed regulations would be applicable within the state's three mile limit and possibly beyond the 200 mile federal limit. Federal involvement in this area was initiated after the Maine State legislature failed to pass legislation banning spotter planes. State legislators thought that such regulation was best handled at the federal level (see Attachment C).

Alaska also has some experience in regulating fish spotters. The use of aircraft to locate salmon was prohibited in June 1988 by the Board of Fisheries (5 AAC 39.292). During June 1989, this provision was removed for Cook Inlet and during July 1989, the entire regulation was repealed. The board removed the blanket prohibition although it may still close specific management units

Representative Menard
January 17, 1990
Page 3

on a case-by-case basis. A bill was introduced in the 14th Alaska State Legislature to regulate the practice of herding fish by aircraft but it did not become law. [CS SS HB167(JUD) passed the House but was not passed out of the Senate Resources Committee.]

Few regulations concern safety considerations and insurance requirements specifically for fish spotters. State fishery agencies are reluctant to address anything but resource concerns. The Federal Aviation Administration (FAA), however, requires fish spotters to obtain a commercial pilot certificate. This document is issued only after a written examination and flight test have been passed. Pilots are also required to have received training from an authorized flight instructor and to have logged at least 250 hours of flight time (see Attachment D). Currently no requirement exists for insurance or specific safety training for fish spotters. The FAA would not regulate a specific group of commercial pilots such as fish spotters. Any requirements for insurance or safety training would apply to all commercial pilots within a particular aircraft rating.

Although states are reluctant to become involved in regulating anything other than resource issues, there appears to be some room for state intervention in this area as long as it does not conflict with federal legislation. As an example, the legislature recently required guide outfitters to obtain insurance for the air transport of clients (see Attachment E).

I hope this information answers your questions. Please contact us if you desire additional information.

Attachments

Attachment A

**California Fish and Game Regulations
Relating to the Use of Airplanes in the Swordfish Fishery**

107. Broadbill Swordfish.

(a) Permit Required.

(1) The owner or operator of a vessel taking broadbill swordfish for commercial purposes shall have obtained a valid swordfish permit and shall be in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue a permit to the owner or operator of a currently registered vessel. The applicant, if the holder of an expired swordfish permit, shall have complied with subsection (e) dealing with records during the preceding year, or during the last year such applicant held a permit, in order to be eligible for a permit.

(3) Where Issued. Permits will be issued at department offices in Long Beach and San Diego.

(b) Limitations of Permit. Not more than one permit shall be issued to any operator. No permit shall be valid for more than one vessel. Permits shall not be assigned or transferred from person to person or from vessel to vessel unless so authorized by the department.

(c) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations shall be in force from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.

(d) Vessel Identification. Permittee's vessel shall display its assigned permit number in 10" high x 2" wide black Roman alphabet letters and Arabic numerals. Figures shall be black on a white background on both sides of the superstructure of the vessel. Numbers shall be displayed at all times while operating under a swordfish permit.

(e) Each permittee shall complete an accurate record of all swordfishing activities at the end of each day of operation under this permit on forms provided by the department. Such record shall be sent to the nearest Fish and Game office on a monthly basis and must be postmarked no later than the fifth day of the next month. Information required on these forms shall include, but not be limited to:

(1) Permittee did or did not actively fish swordfish during the previous month;

(2) Location of fishing operations;

(3) Number of swordfish sighted;

(4) Number of swordfish attempted to be taken;

(5) Number of swordfish landed;

(6) Approximate weight of fish taken;

(7) Such other information as the department may request.

All such records shall be deemed confidential.

(f) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

(g) Cost of Permit. The fee for the permit shall be \$150.00.

(h) Methods of Take.

(1) Swordfish may be taken only with hand-held hook and line or hand-thrusted harpoon.

(2) Aircraft may be used to directly assist a permittee or any person in the taking of any species of fish while operating under a swordfish permit.

(A) Only aircraft with current FAA registration and aircraft pilots licensed pursuant to Section 1050, Fish and Game Code, may conduct flights for permittees. FAA identification number of all aircraft and names and commercial fishing license numbers of pilots shall be shown on the swordfish application and permit. Such aircraft shall display the letters "SW" on the underside of each wing in block Roman alphabet at least 24 inches high x 3 inches wide, black in color and on a white background.

(B) Permittees shall notify the department in writing 48 hours prior to fishing operations of any changes or additions of pilots and/or aircraft.

(i) Notification Procedure. The department shall notify permittees if the director, pursuant to Section 8577 of the Fish and Game Code, closes the swordfish harpoon fishery or any area where the fishery is conducted. The department shall notify permittees by certified mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

(j) Revocation of Permits. Any permit may be revoked and canceled by the commission upon breach or violation of any fish and game law or regulation or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

NOTE: Authority cited: Sections 1050, 8394 and 8578, Fish and Game Code. Reference: Sections 1050, 8394, 8394.5, 8577 and 8578, Fish and Game Code.

HISTORY:

1. Amendment filed 6-9-77 as an emergency; effective upon filing (Register 77, No. 24). For prior history, see Register 76, No. 30.

2. Certificate of Compliance filed 7-28-77 (Register 77, No. 31).

3. Amendment filed 3-25-81; effective thirtieth day thereafter (Register 81, No. 13).

4. Amendment filed 1-19-81; effective thirtieth day thereafter (Register 81, No. 43).

5. Relettering of subsection (i) to subsection (j) and new subsection (l) filed 5-17-83; effective thirtieth day thereafter (Register 83, No. 21).

6. Amendment of subsection (b) (2) filed 10-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 42).

107.1. Possession of Gill Nets by Swordfish Permittees.

(a) Except as provided in subsection (b), any person operating under the authority of a swordfish permit as specified in Section 107 of these regulations may not possess a gill net aboard a swordfish permit vessel, except that set gill nets may be possessed, provided that the intent to use such gear has been declared on the application for a swordfish permit.

*Commercial
Fishing Permit
Required*

Attachment B

Proposed Regulations by the National Marine Fisheries Service

Clay, Duval, St. Johns, and Union Counties. The species is threatened by habitat loss due to residential land development, by habitat alteration due to the planting of dense stands of pine for pulpwood, and by suppression of naturally-occurring fires that formerly maintained open, grassy understory vegetation beneath the pines.

Salpingostylis coelestina was proposed for listing as an endangered species, with no critical habitat, in the Federal Register of May 19, 1989 (54 FR 21832).

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. On June 30, 1989, the Service received a written request for a public hearing from Mr. Armond R. Tomassetti, vice president of Rayland Company, Inc., a subsidiary of ITT Rayonier. On July 3, the Service received written requests from Mr. W.D. Ericksen, Director, Forest Resources Southeast, RTOC Limited Partnership (ITT Rayonier Inc. Southeast Forest Resources), and from Mr. William E. Durham, General Manager, Southwood Properties (a division of St. Joe Paper Company).

The Service has scheduled this public hearing for August 3, 1989, from 7:00 p.m. to 9:00 p.m. in the conference room of the Beaches Branch Library on highway A1A (Third Street) three blocks south of its junction with U.S. Highway 90 (Atlantic Boulevard), in Neptune Beach, Florida. Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. The comment period for this proposal closes on August 17, 1989. Written comments should be submitted to the Service office in the ADDRESSES section.

Author

The primary author of this notice is David Martin, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216 (904/791-2580 or FTS 946-2580).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 et seq., Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411; Pub. L. 99-

625, 100 Stat. 3500; Pub. L. 100-478, 102 Stat. 2306, unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

David B. Allen,

Acting Regional Director.

Dated: July 11, 1989.

[FR Doc. 89-16646 Filed 7-14-89; 8:45 am]

BILLING CODE 4310-45-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 89649-9149]

RIN 0648-AC40

Atlantic Bluefin Tuna Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to change the time frame during which the daily catch rate for giant Atlantic bluefin tuna in the General category may be adjusted, and to prohibit the use of spotter aircraft as an aid to fishing for Atlantic bluefin tuna in all but the Purse seine category. For the past several years the General category quota has not been taken. Allowing an adjustment of the daily catch rate from the beginning of the fishing season should provide for full use of the quota. Banning the use of spotter aircraft should maintain the traditional nature of the Harpoon Boat category and prevent the catch from being concentrated among fewer vessels.

DATE: Comments on this proposed rule must be received on or before August 7, 1989.

ADDRESSES: Comments on the proposed rule should be sent to Richard Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Atlantic Bluefin Tuna Regulations."

FOR FURTHER INFORMATION CONTACT: Kathi Rodrigues, Atlantic Bluefin Tuna Policy Analyst, Plan Administration Branch, NMFS Northeast Regional Office, 508-281-8324.

SUPPLEMENTARY INFORMATION: The regulations that govern the Atlantic bluefin tuna fishery at 50 CFR Part 285 provide at § 285.24(a), that the Assistant

Administrator for Fisheries, NOAA (Assistant Administrator), on or about September 1, may adjust the daily catch limit for the General category to a maximum of three giant Atlantic bluefin tuna (ABT) per day per vessel.

This provision was first implemented in 1984 (49 FR 29706, July 24, 1984). At that time, the availability of ABT to fishermen was much higher than it has been the last 3 years. An objective of the ABT regulations is to provide an opportunity to fish for ABT to as many participants in the fishery as possible. To foster this objective, the catch limit was set at one ABT per day per vessel for the General category. A multiple catch limit would have resulted in an early attainment of the quota and closure of the fishery due to the relatively greater availability of ABT and the ability of a small number of experienced and successful participants in the fishery to catch large numbers of these fish. The September 1 date was chosen because most of the occasional participants in the fishery would have finished their fishing for the season by that date. After September 1, there was no compelling reason to keep the daily catch limit at one ABT per day if a sufficient portion of the quota remained.

The circumstances of the fishery have changed dramatically since the daily catch limit was first implemented. In 1988, only a little over one-half of the quota for the General category was harvested. NOAA has concluded that the daily catch limit was a factor in not harvesting the quota. Since the purpose of the catch limit is to allow for the maximum use of the quota while ensuring that the season remains open from June to October, a more flexible approach to adjusting the daily catch limit seems appropriate. This rule would remove the reference to the September 1 date in the regulation, and allow the Assistant Administrator to adjust the daily catch limit upward or downward at any time during the season as circumstances warrant.

In 1986, NMFS received a petition from a number of harpoon fishermen to ban the use of spotter aircraft in all but the Purse Seine category. (Banning the use of spotter aircraft in the Purse Seine category would essentially prevent the harvest of the quota for that category.) A meeting was held with representatives of the harpoon fishermen to explore the issue. They complained that the proliferation of spotter aircraft, particularly in the Harpoon Boat category, was changing the traditional nature of the fishery. On March 31, 1988, NMFS published a notice (53 FR 10415) soliciting comments on the petition.

Many comments were received, the majority of which supported the ban. A meeting was also held with a number of spotter pilots who presented information in rebuttal to the information provided by the harpoon fishermen.

The Harpoon Boat category was established in 1980 based upon information supplied by a small number of harpoon fishermen. They presented evidence that supported the conclusion that there was a small traditional fishery that should be segregated from the General category. The harpoon fishery could only be pursued under optimal weather and sea conditions since one had to be able to see the fish to make an accurate strike with a harpoon. The fact that there are a limited number of days during the season that permit the fish to be harvested by this technique supports a multiple daily catch allowance. Applying the General category daily catch limit could severely hamper the ability of traditional harpooners to take even the small quota that was set aside for the Harpoon Boat category.

After a review of all the information presented on this issue, NMFS believes that it is in the best interests of the fishery to prohibit the use of spotter aircraft to aid in the harvest of ABT, except in the Purse Seine category. NMFS believes that the growing use of these aircraft changes the traditional nature of both the Harpoon Boat and General categories since optimal weather and sea conditions are less important for harpooners fishing with the aid of aircraft. The use of these aircraft, together with the large increase of vessels permitted in the Harpoon Boat category, has greatly accelerated the rate at which their quota is caught. NOAA believes that a number of boats are attracted to this category because of the lack of a daily catch limit and the possibility of enhancing their catch through the use of an airplane.

NMFS is also concerned that the use of aircraft will concentrate the catch among fewer vessels. Information provided to NMFS indicates that roughly 80 percent of the 1988 catch in the Harpoon Boat category was harvested by the 4% of the vessels in the category assisted by aircraft.

In addition to fewer individuals catching most of the fish, an increased catch rate may cause a premature closure of the fishery, precluding many others a reasonable opportunity to fish. There is also concern that the increased pressure represented by the use of these aircraft will cause the fish to sound, thereby decreasing opportunity for their capture by traditional methods.

The use of spotter aircraft also poses safety concerns. NMFS has an

obligation to manage this fishery through regulations that do not jeopardize the safety of participants. This concern is currently reflected in the requirement that only a vessel that is capable of travelling to and from the fishing grounds under its own power is eligible for a permit. To allow otherwise, given the value of these fish and the distance of the fishing grounds from shore, could induce someone to take an unreasonable risk. The use of a spotter aircraft allegedly attracts other vessels. This could prove dangerous if several vessels converge in the area. The experience that gave rise to the requirement that vessels had to stay 100 yards (91.4 m) or more from the corkline of a purse seine net fishing for ABT provides ample evidence of the risk to vessel and personal safety represented by several boats attempting to harvest the same fish.

Consequently, NMFS believes that a ban on the use of spotter airplanes is necessary to ameliorate the problems cited above.

Classification

The Northeast Regional Office is preparing an environmental assessment for this rule. You may obtain a copy of the environmental assessment from the address listed above: The Under Secretary for Oceans and Atmosphere, NOAA (Under Secretary) has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The proposed action will not have a cumulative effect on the economy of \$100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investment, productivity, innovation, or competitiveness of U.S. based enterprises are anticipated.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposal to ban the use of aircraft to assist ABT fishing operations will not affect a substantial number of entities because only about ten of the estimated 10,000 vessels in the fleet use aircraft at the present time. Therefore, approximately ten pilots will be affected as well. These pilots generally derive the bulk of their employment from the swordfish, menhaden, and bluefin tuna purse seine fisheries. Because the use of aircraft in the bluefin tuna handgear fisheries is a new development, the degree of investment has not been such

that a substantial economic impact would result. However, it does appear that the introduction of spotter aircraft may have a significant impact on the traditional fishermen who are being displaced. Furthermore, the purpose of the proposed change in the daily catch limit time frame is to relieve a regulatory restriction on the participants in the General category to allow full use of the quota. Removing the reference date for a decision to adjust the daily catch limit will allow the Assistant Administrator to set the daily catch limit to reflect the availability of the fish during a fishing season. As a result, a regulatory flexibility analysis was not prepared.

The Under Secretary determined that this proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: July 11, 1989.

James E. Douglas, Jr.,
Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 285 is proposed to be amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for Part 285 continues to read as follows:

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

2. Section 285.24 is amended by revising paragraph (a) to read as follows:

§ 285.24 Catch limits.

(a) From June 1, vessels permitted in the General category under § 285.21(b) may catch only one giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator may adjust the daily catch rate limit to a maximum of three giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota. The Assistant Administrator will publish a notice in the Federal Register of any adjustment in the allowable daily catch limit made under this paragraph. Operators of vessels permitted in the General category may

possess giant Atlantic bluefin tuna in an amount not to exceed a single day's catch as allowed by the daily catch limit in effect at that time.

3. Section 285.31 is amended by adding a new paragraph (a)(30) to read as follows:

§ 285.31 Prohibitions.

(a) . . .

(30) Use an aircraft as an aid to fish for Atlantic bluefin tuna, unless a valid permit for the Purse Seine category has been issued to the vessel.

[FR Doc. 69-16630 Filed 7-14-69; 8:45 am]
BILLING CODE 3510-22-M

Attachment C

Article About a Proposed Spotter Plane Ban
in the Commercial Fisheries News, August 1989

AH: Glen Gray

Portland for, Falmouth against

In response to your phone request.

Tuna spotter plane ban gets mixed reviews

PORTLAND, ME - For reasons ranging from safety to economics, fishermen attending a July 6 public hearing in Portland voiced strong support for a ban on the use of spotter planes in the tuna fishery for all gear categories except purse seiners.

But at a hearing the following night in Falmouth, MA, fishermen, buyers, and pilots unanimously opposed the proposed ban. They argued that those who supported a spotter plane ban were trying to return to a style of fishing that is gone forever.

The National Marine Fisheries Service (NMFS) conducted several public hearings early in July to solicit input on two proposed changes to Atlantic bluefin tuna regulations:

- To ban spotter planes as aids to tuna fishing for vessels in the hand gear categories (harpoons, kegs, hand lines, and rods and reels); and
- To allow the NMFS regional director to adjust the daily catch limit for the general category up or down at any time during the season. Tuna season starts with a one-fish-per-day limit, which cannot be adjusted until "on or about Sept. 1," more than half-way through the tuna season.

Critical timing

The proposed rule outlining these two changes was expected to be published in the *Federal Register* during the second week in July.

Once the proposed rule is published, a 21-day comment period follows. After that, the final rule can be published and implemented as soon as the paperwork is completed by NMFS.

Standard procedure requires a "cool-

ing-off period," a 30-day delay in actual implementation of the new regulations, after the final rule is published.

However, according to Joel MacDonald, attorney with the NOAA General Counsel's office at NMFS in Gloucester, the cooling off period can be waived.

"My legal opinion is that there is little justification to waive the cooling-off period on the spotter plane issue," he said. "But there is no reason not to waive it" for the two-fish adjustment issue.

Spotter pilots and those who use them could successfully argue that a ban on spotter planes instituted in midseason would cause them economic losses, MacDonald explained.

However, the early daily catch adjustment has wide support, he said. If the cooling-off period is waived, the NMFS regional director could conceivably allow fishermen in the general category to take two fish per day as early as Aug. 1.

Hearing comments

Besides the Portland and Falmouth hearings, NMFS also held public hearings in Newport, RI (attended by 2 people); Gloucester, MA; and Riverhead, NY (each attended by 25 people).

The hearing in Portland, attended by some 110 fishermen, was sweet satisfaction for many in the room. The movement to ban spotter planes was initiated in Maine.

In the spring of 1988, a bill was introduced in the Maine Legislature to ban the use of spotter planes in state waters. But the bill was labeled as an issue that should be handled on the federal level and never got off the ground.

Some of Maine's most skillful tuna fishermen, including veteran harpooners, attended the Portland hearing. They testified about the need to preserve the traditional nature of the fishery, keep the airways safe, and keep tuna from being spooked. Applause filled the room after each speaker.

Raleigh Edgerly of Rochester, NH, spoke of witnessing near collisions among spotter planes. "People are going out there in weather they shouldn't be out there in," he said.

David Linney of York Harbor guessed there might be as many as 30 planes looking for tuna this season - all flying within a finite amount of air space.

"This was not part of the tradition," said Linney, who also testified that planes influence the behavior of tuna. "They drive fish down. The fish'll stay 20' down."

Steve Weiner, who has been tuna fishing for more than 25 years, was the first fisherman in Maine to hire a spotter pilot. But since then, and after listening to the objections of his peer group, Weiner said he had put some serious thought into the matter.

"After a lot of soul searching, I favor the ban on airplanes," he said.

The tone in Falmouth, however, was quite different. Of the nearly 30 people who attended, not one spoke in favor of a ban on spotter planes.

"Spotter planes are a divisive issue, but, as a group, we are opposed to any further restrictions," said Steve Moreton, president of the East Coast Tuna Association.

"People say it's a change in tradition, but the real change is in dollars," he con-

tinued. "More boats are trying to make money. It's a business. (Use of) spotter planes is an emotional issue, not a fishery management issue."

If safety is the real concern, then NMFS should "qualify and register" spotter plane pilots, Moreton suggested.

Cape Cod fisherman William Chaprales characterized the proposed ban on spotter planes as "outright discrimination," and said that what harpooners really need is a larger quota.

"The reason people in Maine are going crazy over this is competition; 75 tons is not enough," he said of the harpoon boat category's bluefin allocation. "We should go back to a 150-ton quota for the harpooners so they can fish."

Catch adjustment

Almost everyone at both hearings supported allowing an earlier adjustment of the daily catch limit. They said they should have the opportunity to catch two fish per day rather than one, especially considering that the general category quota of 650 tons has not been filled in three years.

NMFS also asked for comments on two alternative proposals to discourage the use of spotter planes: a daily catch limit on the harpoon boat category; and elimination of the harpoon category with that quota reassigned to the general category.

Anyone with questions regarding bluefin tuna management can contact Kathi Rodrigues, NMFS policy analyst, at (508) 281-9324.

Janice M. Plante
Lorelei Savona

Attachment D

Federal Aviation Administration Regulations
Concerning Commercial Pilot Certificates

placed on the certificate of an applicant who qualifies under paragraph (d) or (e) of this section.

(d) Until May 1, 1987, for a helicopter rating an applicant must have at least a total of 40 hours of flight instruction and solo flight time in aircraft with at least 15 hours of solo flight time in helicopters, which must include—

(1) A takeoff and landing at an airport that serves both airplanes and helicopters;

(2) A flight with a landing at a point other than an airport; and

(3) Three hours of cross-country flying, including one flight with landings at three or more points, each of which must be more than 25 nautical miles from each of the other two points.

(e) Until May 1, 1987, for a gyroplane rating an applicant must have at least a total of 40 hours of flight instruction and solo flight time in aircraft with at least 10 hours of solo flight time in a gyroplane, which must include—

(1) Flights with takeoffs and landings at paved and unpaved airports; and

(2) Three hours of cross-country flying, including a flight with landings at three or more points, each of which must be more than 25 nautical miles from each of the other two points.

[Doc. No. 24650, Amdt. 61-77, 51 FR 40704, Nov. 7, 1986, as amended by Amdt. 61-78, 52 FR 4846, Feb. 17, 1987]

§ 61.115 Glider rating: Aeronautical experience.

An applicant for a private pilot certificate with a glider rating must have logged at least one of the following:

(a) Seventy solo glider flights, including 20 flights during which 360° turns were made.

(b) Seven hours of solo flight in gliders, including 35 glider flights launched by ground tows, or 20 glider flights launched by aero tows.

(c) Forty hours of flight time in gliders and single-engine airplanes, including 10 solo glider flights during which

§ 61.117 Lighter-than-air rating: Aeronautical experience.

An applicant for a private pilot certificate with a lighter-than-air category rating must have at least the aeronautical experience prescribed in paragraph (a) or (b) of this section, appropriate to the rating sought.

(a) *Airships.* A total of 50 hours of flight time as pilot with at least 25 hours in airships, which must include 5 hours of solo flight time in airships, or time performing the functions of pilot in command of an airship for which more than one pilot is required.

(b) *Free balloons.* (1) If a gas balloon or a hot air balloon with an airborne heater is used, a total of 10 hours in free balloons with at least six flights under the supervision of a person holding a commercial pilot certificate with a free balloon rating. These flights must include—

(i) Two flights, each of at least 1 hour's duration, if a gas balloon is used, or of 30 minutes' duration, if a hot air balloon with an airborne heater is used;

(ii) One ascent under control to 5,000 feet above the point of takeoff, if a gas balloon is used, or 3,000 feet above the point of takeoff, if a hot air balloon with an airborne heater is used; and

(iii) One solo flight in a free balloon.

(2) If a hot air balloon without an airborne heater is used, six flights in a free balloon under the supervision of a commercial balloon pilot, including at least one solo flight.

[Doc. No. 11802, Amdt. 61-60, 38 FR 3181, Feb. 1, 1973, as amended at 38 FR 9292, Apr. 13, 1973]

§ 61.118 Private pilot privileges and limitations: Pilot in command.

Except as provided in paragraphs (a) through (d) of this section, a private pilot may not act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may he, for compensation or hire, act as pilot in command of an aircraft.

(a) A private pilot may, for compensation or hire, act as pilot in command of an aircraft in connection with any business or employment if the flight is

Federal Aviation Administration, DOT

only incidental to that business or employment and the aircraft does not carry passengers or property for compensation or hire.

(b) A private pilot may share the operating expenses of a flight with his passengers.

(c) A private pilot who is an aircraft salesman and who has at least 200 hours of logged flight time may demonstrate an aircraft in flight to a prospective buyer.

(d) A private pilot may act as pilot in command of an aircraft used in a passenger-carrying airlift sponsored by a charitable organization, and for which the passengers make a donation to the organization, if—

(1) The sponsor of the airlift notifies the FAA General Aviation District Office having jurisdiction over the area concerned, at least 7 days before the flight, and furnishes any essential information that the office requests;

(2) The flight is conducted from a public airport adequate for the aircraft used, or from another airport that has been approved for the operation by an FAA inspector;

(3) He has logged at least 200 hours of flight time;

(4) No acrobatic or formation flights are conducted;

(5) Each aircraft used is certificated in the standard category and complies with the 100-hour inspection requirement of § 91.169 of this chapter; and

(6) The flight is made under VFR during the day.

For the purpose of paragraph (d) of this section, a "charitable organization" means an organization listed in Publication No. 78 of the Department of the Treasury called the "Cumulative List of Organizations described in section 170(c) of the Internal Revenue Code of 1954," as amended from time to time by published supplemental lists.

§ 61.119 Free balloon rating: Limitations.

(a) If the applicant for a free balloon rating takes his flight test in a hot air balloon with an airborne heater, his pilot certificate contains an endorsement restricting the exercise of the privilege of that rating to hot air balloons with airborne heaters. The restriction may be deleted when the

holder of the certificate obtains the pilot experience required for a rating on a gas balloon.

(b) If the applicant for a free balloon rating takes his flight test in a hot air balloon without an airborne heater, his pilot certificate contains an endorsement restricting the exercise of the privileges of that rating to hot air balloons without airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience and passes the tests required for a rating on a free balloon with an airborne heater or a gas balloon.

§ 61.120 Private pilot privileges and limitations: Second in command of aircraft requiring more than one required pilot.

Except as provided in paragraphs (a) through (d) of § 61.118 a private pilot may not, for compensation or hire, act as second in command of an aircraft that is type certificated for more than one required pilot, nor may he act as second in command of such an aircraft that is carrying passengers or property for compensation or hire.

Subpart E—Commercial Pilots

§ 61.121 Applicability.

This subpart prescribes the requirements for the issuance of commercial pilot certificates and ratings, the conditions under which those certificates and ratings are necessary, and the limitations upon those certificates and ratings.

§ 61.123 Eligibility requirements: General.

To be eligible for a commercial pilot certificate, a person must—

(a) Be at least 18 years of age;

(b) Be able to read, speak, and understand the English language, or have such operating limitations placed on his pilot certificate as are necessary for safety, to be removed when he shows that he can read, speak, and understand the English language;

(c) Hold at least a valid second-class medical certificate issued under Part 67 of this chapter, or, in the case of a glider or free balloon rating, certify that he has no known medical deficiency that makes him unable to pilot

a glider or a free balloon, as appropriate;

(d) Pass a written examination appropriate to the aircraft rating sought on the subjects in which ground instruction is required by § 61.125;

(e) Pass an oral and flight test appropriate to the rating he seeks, covering items selected by the inspector or examiner from those on which training is required by § 61.127; and

(f) Comply with the provisions of this subpart which apply to the rating he seeks.

(Doc. No. 11802, Amdt. 61-60, 38 FR 3161, Feb. 1, 1973, as amended by Amdt. 61-64, 41 FR 61392, Nov. 22, 1976)

§ 61.125 Aeronautical knowledge.

An applicant for a commercial pilot certificate must have logged ground instruction from an authorized instructor, or must present evidence showing that he has satisfactorily completed a course of instruction or home study, in at least the following areas of aeronautical knowledge appropriate to the category of aircraft for which a rating is sought.

(a) *Airplanes.* (1) The regulations of this chapter governing the operations, privileges, and limitations of a commercial pilot, and the accident reporting requirements of the National Transportation Safety Board;

(2) Basic aerodynamics and the principles of flight which apply to airplanes; and

(3) Airplane operations, including the use of flaps, retractable landing gears, controllable propellers, high altitude operation with and without pressurization, loading and balance computations, and the significance and use of airplane performance speeds.

(b) *Rotorcraft.* (1) The regulations of this chapter which apply to the operations, privileges, and limitations of a commercial rotorcraft pilot, and the accident reporting requirements of the National Transportation Safety Board;

(2) Meteorology, including the characteristics of air masses and fronts, elements of weather forecasting, and the procurement and use of aeronautical weather reports and forecasts;

(3) The use of aeronautical charts and the magnetic compass for pilotage

and dead reckoning, and the use of radio aids for VFR navigation;

(4) The safe and efficient operation of helicopters or gyroplanes, as appropriate to the rating sought; and

(5) Basic aerodynamics and principles of flight which apply to rotorcraft and the significance and use of performance charts.

(c) *Glider.* (1) The regulations of this chapter pertinent to commercial glider pilot operations, privileges, and limitations, and the accident reporting requirements of the National Transportation Safety Board;

(2) Glider navigation, including the use of aeronautical charts and the magnetic compass, and radio orientation;

(3) The recognition of weather situations of concern to the glider pilot from the ground and in flight, and the procurement and use of aeronautical weather reports and forecasts; and

(4) The safe and efficient operation of gliders, including ground and aerotow procedures, signals, critical sailplane performance speeds, and safety precautions.

(d) *Airships.* (1) The regulations of this chapter pertinent to airship operations, VFR and IFR, including the privileges and limitations of a commercial airship pilot;

(2) Airship navigation, including pilotage, dead reckoning, and the use of radio aids for VFR and IFR navigation, and IFR approaches;

(3) The use and limitations of the required flight instruments;

(4) ATC procedures for VFR and IFR operations, and the use of IFR charts and approach plates;

(5) Meteorology, including the characteristics of air masses and fronts and the procurement and use of aeronautical weather reports and forecasts;

(6) Airship ground and flight instruction procedures; and

(7) Airship operating procedures and emergency operations, including free ballooning procedures.

(e) *Free balloons.* (1) The regulations of this chapter pertinent to commercial free balloon piloting privileges, limitations, and flight operations;

(2) The use of aeronautical charts and the magnetic compass for free balloon navigation;

(3) The recognition of weather conditions significant to free balloon flight operations, and the procurement and use of aeronautical weather reports and forecasts appropriate to free ballooning;

(4) Free balloon flight and ground instruction procedures; and

(5) Operating principles and procedures for free balloons, including emergency procedures such as crowd control and protection, high wind and water landings, and operations in proximity to buildings and power lines.

(Doc. No. 11802, Amdt. 61-60, 38 FR 3161, Feb. 1, 1973, as amended by Amdt. 61-77, 51 FR 40704, Nov. 7, 1986)

§ 61.127 Flight proficiency.

The applicant for a commercial pilot certificate must have logged instruction from an authorized flight instructor in at least the following pilot operations. In addition, his logbook must contain an endorsement by an authorized flight instructor who has given him the instruction certifying that he has found the applicant prepared to perform each of those operations competently as a commercial pilot.

(a) *Airplanes.* (1) Preflight duties, including load and balance determination, line inspection, and aircraft servicing;

(2) Flight at critically slow airspeeds, recognition of imminent stalls, and recovery from stalls with and without power;

(3) Normal and crosswind takeoffs and landings, using precision approaches, flaps, power as appropriate, and specified approach speeds;

(4) Maximum performance takeoffs and landings, climbs, and descents;

(5) Operation of an airplane equipped with a retractable landing gear, flaps, and controllable propeller(s), including normal and emergency operations; and

(6) Emergency procedures, such as coping with power loss or equipment malfunctions, fire in flight, collision avoidance precautions, and engine-out procedures if a multiengine airplane is used.

(b) *Helicopters.* (1) Preflight duties, including line inspection and helicopter servicing;

(2) Straight and level flight, climbs, turns, and descents;

(3) Air taxiing, hovering, and maneuvering by ground references;

(4) Normal and crosswind takeoffs and landings;

(5) Recognition of and recovery from imminent flight at critical/rapid descent with power (settling with power);

(6) Airport and traffic pattern operations, including collision avoidance precautions and radio communications;

(7) Cross-country flight operations;

(8) Operations in confined areas and on pinnacles, rapid decelerations, landing on slopes, high-altitude takeoffs, and run-on landings; and

(9) Simulated emergency procedures, including failure of an engine or other component or system, and approaches to a hover or landing with one engine inoperative in multiengine helicopters, or autorotational descents with a power recovery to a hover in single-engine helicopters.

(c) *Gyroplanes.* (1) Preflight operations, including line inspection and gyroplane servicing;

(2) Straight and level flight, turns, climbs, and descents;

(3) Flight maneuvering by ground references;

(4) Maneuvering at critically slow airspeeds, and the recognition of and recovery from high rates of descent at slow airspeeds;

(5) Normal and crosswind takeoffs and landings;

(6) Airport and traffic pattern operations, including collision avoidance precautions and radio communications;

(7) Cross-country flight operations; and

(8) Emergency procedures, such as power failures, equipment malfunctions, maximum performance takeoffs and landings and simulated liftoffs at low airspeed and high angles of attack.

(d) *Glider.* (1) Preflight duties, including glider assembly and preflight inspection;

(2) Glider launches by ground (auto or winch) or by aerotows (the appli-

cant's certificate is limited to the kind of tow selected);

(3) Precision maneuvering, including straight glides, turns to headings, steep turns, and spirals in both directions;

(4) The correct use of sailplane performance speeds, flight at critically slow airspeeds, and the recognition of and recovery from stalls entered from straight flight and from turns; and

(5) Accuracy approaches and landings, with the nose of the glider coming to rest short of and within 100 feet of a line or mark.

(e) *Airships.* (1) Ground handling, mooring, and preflight operations;

(2) Straight and level flight, turns, climbs, and descents, under VFR and simulated IFR conditions;

(3) Takeoffs and landings with positive and with negative static lift;

(4) Turns and figure eights;

(5) Precision turns to headings under simulated IFR conditions;

(6) Preparing and filing IFR flight plans, and complying with IFR clearances;

(7) IFR radio navigation and instrument approach procedures;

(8) Cross-country flight operations, using pilotage, dead reckoning, and radio aids; and

(9) Emergency operations, including engine-out operations, free ballooning an airship, and ripcord procedures (may be simulated).

(f) *Free balloons.* (1) Assembly of basket and burner to the envelope, and rigging, inflating, and tethering of a free balloon;

(2) Ground and flight crew briefing;

(3) Ascents;

(4) Descents;

(5) Landings;

(6) Operation of airborne heater, if balloon is so equipped; and

(7) Emergency operations, including the use of the ripcord (may be simulated), and recovery from a terminal velocity descent if a balloon with an airborne heater is used.

[Doc. No. 11802, Amdt. 61-60, 38 FR 3161, Feb. 1, 1973, as amended by Amdt. 61-77, 51 FR 40704, Nov. 7, 1986; Amdt. 61-79, 52 FR

§ 61.129 Airplane rating: Aeronautical experience.

(a) *General.* An applicant for a commercial pilot certificate with an airplane rating must hold a private pilot certificate with an airplane rating. If he does not hold that certificate and rating he must meet the flight experience requirements for a private pilot certificate and airplane rating and pass the applicable written and practical test prescribed in Subpart D of this part. In addition, the applicant must hold an instrument rating (airplane), or the commercial pilot certificate that is issued is endorsed with a limitation prohibiting the carriage of passengers for hire in airplanes on cross-country flights of more than 50 nautical miles, or at night.

(b) *Flight time as pilot.* An applicant for a commercial pilot certificate with an airplane rating must have a total of at least 250 hours of flight time as pilot, which may include not more than 50 hours of instruction from an authorized instructor in a ground trainer acceptable to the Administrator. The total flight time as pilot must include—

(1) 100 hours in powered aircraft, including at least—

(i) 50 hours in airplanes, and

(ii) 10 hours of flight instruction and practice given by an authorized flight instructor in an airplane having a retractable landing gear, flaps, and a controllable pitch propeller; and

(2) 50 hours of flight instruction given by an authorized flight instructor, including—

(i) 10 hours of instrument instruction, of which at least 5 hours must be in flight in airplanes, and

(ii) 10 hours of instruction in preparation for the commercial pilot flight test; and

(3) 100 hours of pilot in command time, including at least:

(i) 50 hours in airplanes.

(ii) 50 hours of cross-country flights, each flight with a landing at a point more than 50 nautical miles from the original departure point. One flight must have landings at a minimum of three points, one of which is at least 150 nautical miles from the original departure point if the flight is con-

ducted in Hawaii, or at least 250 nautical miles from the original departure point if it is conducted elsewhere.

(iii) 5 hours of night flying including at least 10 takeoffs and landings as sole manipulator of the controls.

[Doc. No. 11802, Amdt. 61-60, 38 FR 3161, Feb. 1, 1973, as amended by Amdt. 61-73, 47 FR 46066, Oct. 14, 1982]

§ 61.131 Rotorcraft ratings: Aeronautical experience.

An applicant for a commercial pilot certificate with a rotorcraft category rating must have at least the following aeronautical experience as a pilot:

(a) After April 30, 1987, for a helicopter class rating, 150 hours of flight time, including at least 100 hours in powered aircraft, 50 hours of which must be in a helicopter, including at least—

(1) 40 hours of flight instruction from an authorized flight instructor, 15 hours of which must be in a helicopter, including—

(i) 3 hours of cross-country flying in helicopters;

(ii) 3 hours of night flying in helicopters, including 10 takeoffs and landings, each of which must be separated by an en route phase of flight;

(iii) 3 hours in helicopters preparing for the commercial pilot flight test within 60 days before that test; and

(iv) Takeoffs and landings at three points other than airports; and

(2) 100 hours of pilot-in-command flight time, 35 hours of which must be in a helicopter, including at least—

(i) 10 hours of cross-country flying in helicopters, including one flight with a landing at three or more points, each of which must be more than 50 nautical miles from each of the other two points; and

(ii) Three takeoffs and landings in helicopters, each of which must be separated by an en route phase of flight, at an airport with an operating control tower.

(b) After April 30, 1987, for a gyroplane class rating, 150 hours of flight time in aircraft, including at least 100 hours in powered aircraft, 25 hours of which must be in a gyroplane, including at least—

(1) 40 hours of flight instruction

10 hours of which must be in a gyroplane, including at least—

(i) 3 hours of cross-country flying in gyroplanes;

(ii) 3 hours of night flying in gyroplanes, including 10 takeoffs and landings; and

(iii) 3 hours in gyroplanes preparing for the commercial pilot flight test within 60 days before that test; and

(2) 100 hours of pilot-in-command flight time, 15 hours of which must be in a gyroplane, including at least—

(i) 10 hours of cross-country flying in gyroplanes, including one flight with a landing at three or more points, each of which is more than 50 nautical miles from each of the other two points; and

(ii) Three takeoffs and landings in gyroplanes at an airport with an operating control tower.

(c) Until May 1, 1987, for a helicopter rating at least 150 hours of flight time as pilot, including at least—

(1) 100 hours in powered aircraft and at least 50 hours in helicopters;

(2) 100 hours of pilot in command time, including a cross-country flight with landings at three points, each of which is more than 50 nautical miles from each of the other points;

(3) 40 hours of flight instruction from an authorized flight instructor, including 15 hours in helicopters; and

(4) 10 hours as pilot in command in helicopters, including—

(i) Five takeoffs and landings at night;

(ii) Takeoffs and landings at three different airports that serve both airplanes and helicopters; and

(iii) Takeoffs and landings at three points other than airports.

(d) Until May 1, 1987, for a gyroplane rating at least 200 hours of flight time as pilot, including—

(1) 100 hours in powered aircraft;

(2) 100 hours as pilot in command, including a cross-country flight with landings at three points, each of which is more than 50 nautical miles from each of the other two points;

(3) 75 hours as pilot in command in gyroplanes, including—

(i) Flights with takeoffs and landings at three different paved airports

(ll) Three flights with takeoffs and landings at an airport with an operating control tower; and

(4) Twenty hours of flight instruction in gyroplanes, including 5 hours in preparation for the commercial pilot flight test.

[Doc. No. 24860, Amdt. No. 61-77, 51 FR 40704, Nov. 7, 1986, as amended by Amdt. 61-78, 52 FR 4847, Feb. 17, 1987]

§ 61.133 Glider rating: Aeronautical experience.

An applicant for a commercial pilot certificate with a glider rating must meet either of the following aeronautical experience requirements:

(a) A total of at least 25 hours of pilot time in aircraft, including 20 hours in gliders, and a total of 100 glider flights as pilot in command, including 25 flights during which 360° turns were made; or

(b) A total of 200 hours of pilot time in heavier-than-air aircraft, including 20 glider flights as pilot in command during which 360° turns were made.

§ 61.135 Airship rating: Aeronautical experience.

An applicant for a commercial pilot certificate with an airship rating must have a total of at least 200 hours of flight time as pilot, including—

(a) Fifty hours of flight time as pilot in airships;

(b) 30 hours of flight time performing the duties of pilot in command in airships, including—

(1) 10 hours of cross-country flight; and

(2) 10 hours of night flight; and

(c) 40 hours of instrument time, of which at least 20 hours must be in flight with 10 hours of that flight time in airships.

§ 61.137 Free balloon rating: Aeronautical experience.

An applicant for a commercial pilot certificate with a free balloon rating must have the following flight time as pilot:

(a) If a gas balloon or a hot air balloon with an airborne heater is used, a total of at least 35 hours of flight time

(2) 10 flights in free balloons, including—

(i) Six flights under the supervision of a commercial free balloon pilot;

(ii) Two solo flights;

(iii) Two flights of at least 2 hours duration if a gas balloon is used, or at least 1 hour duration if a hot air balloon with an airborne heater is used; and

(iv) One ascent under control to more than 10,000 feet above the take-off point if a gas balloon is used or 5,000 feet above the take off point if a hot air balloon with an airborne heater is used.

(b) If a hot air balloon without an airborne heater is used, 10 flights in free balloons including—

(1) Six flights under the supervision of a commercial free balloon pilot; and

(2) Two solo flights.

§ 61.139 Commercial pilot privileges and limitations: General.

The holder of a commercial pilot certificate may:

(a) Act as pilot in command of an aircraft carrying persons or property for compensation or hire;

(b) Act as pilot in command of an aircraft for compensation or hire; and

(c) Give flight instruction in an airship if he holds a lighter-than-air category and an airship class rating, or in a free balloon if he holds a free balloon class rating.

§ 61.141 Airship and free balloon ratings: Limitations.

(a) If the applicant for a free balloon class rating takes his flight test in a hot air balloon without an airborne heater, his pilot certificate contains an endorsement restricting the exercise of the privileges of that rating to hot air balloons without airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience and passes the test required for a rating on a free balloon with an airborne heater or a gas balloon.

(b) If the applicant for a free balloon class rating takes his flight test in a hot air balloon with an airborne heater, his pilot certificate contains an

of the privileges of that rating to hot air balloons with airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience required for a rating on a gas balloon.

Subpart F—Airline Transport Pilots

AUTHORITY: Secs. 313(a), 314, 601, and 607; 49 U.S.C. 1354(a), 1355, 1421, and 1427.

§ 61.151 Eligibility requirements: General.

To be eligible for an airline transport pilot certificate, a person must—

(a) Be at least 23 years of age;

(b) Be of good moral character;

(c) Be able to read, write, and understand the English language and speak it without accent or impediment of speech that would interfere with two-way radio conversation;

(d) Be a high school graduate, or its equivalent in the Administrator's opinion, based on the applicant's general experience and aeronautical experience, knowledge, and skill;

(e) Have a first-class medical certificate issued under Part 67 of this chapter within the 6 months before the date he applies; and

(f) Comply with the sections of this part that apply to the rating he seeks.

[Doc. No. 1179, 27 FR 7985, Aug. 10, 1962. Redesignated by Doc. No. 11802, Amdt. 61-60, 38 FR 3161, Feb. 1, 1973]

§ 61.153 Airplane rating: Aeronautical knowledge.

An applicant for an airline transport pilot certificate with an airplane rating must, after meeting the requirements of §§ 61.151 (except paragraph (a) thereof) and 61.155, pass a written test on—

(a) The sections of this part relating to airline transport pilots and Part 121, Subpart C of Part 65, and §§ 91.1 through 91.9 and Subpart B of Part 91 of this chapter, and so much of Parts 21 and 25 of this chapter as relate to the operations of air carrier aircraft;

(b) The fundamentals of air navigation and use of formulas, instruments, and other navigational aids, both in aircraft and on the ground, that are necessary for navigating aircraft by in-

(c) The general system of weather collection and dissemination;

(d) Weather maps, weather forecasting, and weather sequence abbreviations symbols, and nomenclature;

(e) Elementary meteorology, including knowledge of cyclones as associated with fronts;

(f) Cloud forms;

(g) National Weather Service Federal Meteorological Handbook No. 1, as amended;

(h) Weather conditions, including icing conditions and upper-air winds, that affect aeronautical activities;

(i) Air navigation facilities used on Federal airways, including rotating beacons, course lights, radio ranges, and radio marker beacons;

(j) Information from airplane weather observations and meteorological data reported from observations made by pilots on air carrier flights;

(k) The influence of terrain on meteorological conditions and developments, and their relation to air carrier flight operations;

(l) Radio communication procedure in aircraft operations; and

(m) Basic principles of loading and weight distribution and their effect on flight characteristics.

[Doc. No. 1179, 27 FR 7985, Aug. 10, 1962, as amended by Amdt. 61-11, 29 FR 14916, Nov. 4, 1964; Amdt. 61-30, 32 FR 5770, Apr. 11, 1967; Amdt. 61-64, 36 FR 13911, July 22, 1971. Redesignated by Doc. No. 11802, Amdt. 61-60, 38 FR 3161, Feb. 1, 1973, as amended by Amdt. 61-64, 41 FR 51392, Nov. 22, 1976]

§ 61.155 Airplane rating: Aeronautical experience.

(a) An application for an airline transport pilot certificate with an airplane rating must hold a commercial pilot certificate or a foreign airline transport pilot or commercial pilot license without limitations, issued by a member state of ICAO, or he must be a pilot in an Armed Force of the United States whose military experience qualifies him for a commercial pilot certificate under § 61.73.

(b) An applicant must have had—
(1) At least 250 hours of flight time as pilot in command of an airplane, or as copilot of an airplane performing

Attachment E

**State of Alaska Statutes Concerning Regulation
of Pilots Engaged in Outfitter/Guide Operations**

(2) shall be employed by a guide-outfitter and under the supervision of a guide-outfitter or class-A assistant guide-outfitter at all times while the assistant guide-outfitter is in the field on guide-outfitted hunts. (§ 3 ch 37 SLA 1989)

Sec. 08.54.395. Insurance and other requirements for guide-outfitters. (a) A guide-outfitter or marine mammal guide-outfitter, while engaged in providing big game commercial hunting services shall carry, as a minimum, comprehensive general liability insurance of \$300,000 per occurrence or \$500,000 per annual aggregate or post a financial bond in those amounts.

(b) If a guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or an assistant guide-outfitter personally pilots an aircraft to transport clients during the provision of big game commercial hunting services, the guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter shall have a commercial pilot's rating or a minimum of 250 hours of flying time in the state.

(c) During the provision of big game commercial hunting services, an aircraft used by a guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter to transport clients must carry aviation passenger liability insurance of at least \$100,000 per seat or must be subject to a financial bond in that amount. (§ 3 ch 37 SLA 1989)

Effective dates. — Section 21, ch. 37, SLA 1989, provides: "AS 08.54.395, as enacted by sec. 3 of this Act *** takes effect July 15, 1989."

Sec. 08.54.400. Transporter license. (a) A person is entitled to a transporter license if the person

- (1) applies on a form provided by the department;
- (2) pays the license fee;
- (3) pays the commercial use permit fee;
- (4) provides proof of

(A) an air taxi/commercial operator certificate issued by the Federal Aviation Administration under 14 C.F.R. Part 135, if the person provides air transportation services to big game hunters;

(B) licensure by the Coast Guard to carry passengers for hire, if the person provides water transportation services to big game hunters and if licensure is required by the Coast Guard; and

- (5) has a business license to transport big game hunters.

(b) A transporter may provide transportation services for compensation to big game hunters and accommodations in the field at a permanent lodge, house, or cabin owned by the transporter or on a boat with permanent living quarters located on salt water. A transporter may also provide, under authority of a commercial use permit, other

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big game commercial services as defined under AS 08.54.460. A transporter may not provide big game commercial hunting services without holding the appropriate license.

(c) An applicant for renewal of a transporter license shall submit with the application for renewal

(1) an activity report on a form provided by the department for the period covered by the current license; an activity report shall contain information required by the board by regulation;

(2) the license fee for the next licensing period;

(3) the commercial use permit fee for the next licensing period; and

(4) proof of

(A) an air taxi/commercial operator certificate issued by the Federal Aviation Administration under 14 C.F.R. Part 135, if the applicant provides air transportation services to big game hunters;

(B) licensure by the Coast Guard to carry passengers for hire, if the applicant provides water transportation services to big game hunters and if licensure is required by the Coast Guard.

(d) The department may not renew a transporter license unless all fees have been paid in full and the activity report required under (c)(1) of this section and the proof required under (c)(4) of this section have been filed.

(e) A transporter shall place a decal provided by the department on each plane, boat, vehicle, or other equipment used by the transporter to provide transportation services to big game hunters. The decal must bear the transporter's license number. The decal is valid only for the plane, boat, vehicle, or other equipment for which the decal is issued. (§ 3 ch 37 SLA 1989)

Sec. 08.54.410. Appeal to commissioner from board on denial of license. The commissioner of commerce and economic development may order that an applicant for an initial license under AS 08.54.350 — 08.54.400 be allowed to take the license examination or be issued the license if, after reviewing a petition filed by the applicant, the commissioner finds that

(1) the board denied the applicant an opportunity to take the license examination or refused to approve issuance of the license;

(2) the board's denial or refusal has been upheld by a final administrative order and the order has not been appealed to the superior court under AS 44.62.560;

(3) the board's denial or refusal was based on

(A) an error of fact by the board; or

(B) the applicant's failure of the license examination due to faulty or unfair examination questions or procedures;

(4) the applicant is otherwise qualified to take the examination or to be issued the license; and



A.F.S.A.

Alaska Fish Spotters Association.

Box 221829 Anchorage, Alaska 99522-1829

(907) 495-6370

(907) 376-4983

Feb 6, 1990

Legislative Members
Sixteenth Legislature

Fish spotting has been in existence in Alaska since aircraft first arrived in the state. It was very popular with the large cannery fleets in the 1940's and 50's. Today, the aircraft are used in all aspects of the different fisheries. Spotting as we know it now has been in use for the last 20 to 25 years. As the fisheries have become more competitive and higher paced, the spotter has become more popular. With this increased popularity has come an increased number of pilots and airplanes. We, the Spotter Assoc. feel that with increased number of aircraft in the fishery, it is time to regulate there usuage. We feel it is imperative that the state help our endeavors in making this profession safer.

The current fisheries are high dollar, fast paced, expensive businesses. With the number of permit holders in these fisheries, especially the herring fishery, there are more and more unqualified pilots. Our goal is to provide a safer more professional pilot to the fishing community.

Because of the unique environment that the fish spotter operates in, we feel that there needs to be additional requirements for the qualifications of the pilots. In addition to these requirements, we feel there is considerable information to be gained by management if these pilots and aircraft are registered by the state.

The Alaska Fish Spotter Assoc came in being in 1988. We have approx. 180 members with about 100 of them being active spotter pilots. There are approx. 90 % of our members that are Alaska Residents. Thank-you very much.

Sincerely

Dennis Thacker Vice Pres.

Alaska Fish Spotters Assoc.

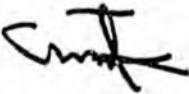


Alaska State Legislature

HOUSE RESOURCES COMMITTEE

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3715

MEMORANDUM

To: House Resources Committee Members
From: Rep. Menard 
Re: HB 502, Licensing of Fish Spotters
Date: March 15, 1990

I have introduced HB 502 in response to a request from several fish spotters in my district. Presently, fish spotters are only regulated by the Federal Aviation Administration. The state authority to regulate fish spotters is presently in question.

Due to the hectic nature of fisheries in Alaska, I think it is important to require minimum standards for safety, professionalism and liability insurance for all fish spotters and allow only fish spotters who meet minimum standards to provide these services in Alaska.

This bill will provide clear direction for the Board of Fish in regulating the participation of fish spotters in the commercial fishing industry. The bill will also require fish spotters to register with the local Fish and Game biologist in the area they will be acting.

Explanation of HB 502

QUALIFICATIONS

Sets up minimum qualifications for fish spotters including; minimum age of 18 years, valid commercial pilots license, certificate of safety training and liability insurance (amount determined by the Department of Fish and Game).

REQUIREMENTS

Sets up minimum requirements for fish spotters to hold a license, be accompanied by at least one passenger in the aircraft, register with the department of Fish and Game biologist in charge of the fishery in which the spotter will be acting and mark their aircraft with fluorescent orange markings on the wing tips and edge of the tail and with 24 inch tail numbers.

VIOLATIONS

Class B misdemeanor

DEFINITION OF FISH SPOTTER