

modify this closure, as per 50 CFR 223.206(d)(4)(iv). Fishermen should monitor NOAA weather radio for announcements.

The regulations at 50 CFR 223.206(d)(2)(iv) state that fishermen operating in the closed area with TEDs modified to exclude leatherback turtles must notify the NMFS Southeast Regional Administrator of their intentions to fish in the closed area. This aspect of the regulations does not have a current Office of Management and Budget control number, issued pursuant to the Paperwork Reduction Act. Consequently, fishermen are not required to notify the Regional Administrator prior to fishing in the closed area, but they must still meet the gear requirements.

The additional closure has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call Charles Oravetz (see FURTHER INFORMATION CONTACT) for updated area closure information.

#### Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The AA is taking this action in accordance with the requirements of 50 CFR 223.206(d)(2)(iv) to provide emergency protection for endangered leatherback sea turtles from incidental capture and drowning in shrimp trawls. Leatherback sea turtles are occurring in high concentrations in coastal waters in shrimp fishery statistical zone 32. This action allows shrimp fishing to continue in the affected area and informs fishermen of the gear changes that they can make to protect leatherback sea turtles.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing the necessary action in a timely manner to protect the endangered leatherback. Furthermore, notice and opportunity to comment on this action was provided through the proposed rule establishing these actions (60 FR 25663, May 12, 1995). For these reasons, good cause exists under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. As stated above, the additional closure has been announced on the NOAA weather radio, in newspapers, and other media, allowing time for the shrimp fishery to comply with this rule.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.* are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule requiring TED use in shrimp trawls and the regulatory framework for the Leatherback Conservation Zone (60 FR 47713, September 14, 1995). Copies of the EA are available (see ADDRESSES).

Dated: May 28, 1999.

**William W. Fox, Jr.**

*National Marine Fisheries Service, Acting Assistant Administrator for Fisheries.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Parts 285 and 635

[Docket No. 990217050-9147-02; I.D. 010799A]

RIN 0648-AM17

##### Atlantic Highly Migratory Species (HMS) Fisheries; Atlantic Bluefin Tuna 1999 Quota and Effort Control Specifications

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

**ACTION:** Final specifications.

**SUMMARY:** NMFS announces specifications to set the 1999 Atlantic bluefin tuna (BFT) fishing category quotas and General category effort controls. These specifications are necessary to implement the 1998 recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) required by the Atlantic Tunas Convention Act (ATCA) and to achieve domestic management objectives.

**DATES:** The final specifications are effective June 1, 1999, through May 31, 2000.

**ADDRESSES:** Copies of supporting documents, including the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), are available from the Highly Migratory Species Management Division, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Brad McHale or Sarah McLaughlin at 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and ATCA. The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). Within NMFS, daily responsibility for management of Atlantic HMS fisheries rests with the Office of Sustainable Fisheries, and is administered by the HMS Management Division.

ICCAT has identified the western stock of Atlantic BFT as overexploited and has recommended fishing quotas for the contracting parties. Based on the 1998 revised stock assessment, parties at the 1998 meeting of ICCAT adopted a 20-year west Atlantic BFT rebuilding program, beginning in 1999 and continuing through 2018. ICCAT has adopted an annual total allowable catch (TAC) of 2,500 metric tons whole weight (mt ww) of west Atlantic BFT inclusive of dead discards, to be applied annually until such time as the TAC is changed based on advice from the Standing Committee on Research and Statistics. Given the new stock assessment and rebuilding schedule, the annual landing quota allocated to the United States was increased by 43 mt ww to 1,387 mt ww.

Background information and rationale for these specifications were provided in the Bluefin Tuna Addendum to the draft HMS FMP and the final HMS FMP, and are not repeated here. The quota specifications allocate the landings quota among the several established fishing categories. The specifications are issued pursuant to interim provisions of § 635.25(c) of the consolidated HMS regulations (64 FR 29090, May 28, 1999) until June 30, 1999, and thereafter through May 31, 2000, pursuant to § 635.27(a) of the Atlantic HMS regulations. The General category effort controls are issued pursuant to § 285.24 of the Atlantic tunas regulations until June 30, 1999, and thereafter through May 31, 2000, pursuant to § 635.23(a) of the Atlantic HMS regulations.

##### Changes From the Proposed Specifications

Based on consideration of comments received during the comment period, NMFS has added 1 day per week (Mondays) to the proposed schedule of restricted fishing days (RFDs) in order to extend the General category fishery season.

##### Fishing Category Quotas

U.S. domestic quota allocations are based on the same percentages as the 1997 allocations, except that the Purse

Seine category is capped at its 1997/1998 quota of 250 mt ww. Based on these percentages, and quota adjustments based on overharvests or underharvests in the Angling, General, and Purse Seine categories in 1998, the adjusted quotas for the 1999 fishing year are as follows: 261 mt ww for the Angling category, including 99 mt ww for the school BFT subquota; 654 mt ww for the General category; 54 mt ww for the Harpoon category; 113 mt ww for the Longline category; 1 mt ww for the Trap category; 252 mt ww for the Purse Seine category; and 43 mt ww for the Reserve.

The Angling category quota is subdivided as follows: School BFT—99 mt ww, with 43 mt ww to the northern area, 38 mt ww to the southern area, and 18 mt ww held in reserve; large school/small medium BFT — 156 mt ww, with 83 mt ww to the northern area and 73 mt ww to the southern area; large medium/giant BFT — 6 mt ww, with 2 mt ww to the northern area and 4 mt ww to the southern area.

The Longline category is subdivided as follows: 89 mt ww to longline vessels operating south of 34° N, and 24 mt ww to longline vessels operating north of 34° N.

For 1999, NMFS implements General category quota subdivisions as established for 1998, as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-December. Given the carryover quota for the General category (1 mt ww), adjustments are necessary to allocate the carryover across the established subperiods. These percentages are applied only to the coastwide baseline quota for the General category of 644 mt ww, with the remaining 10 mt ww reserved for the New York Bight fishery. Thus, of the 644 mt ww baseline General category quota, 387 mt ww will be available in the period beginning June 1 and ending August 31, 193 mt ww will be available in the period beginning September 1 and ending September 30, and 64 mt ww will be available in the period beginning October 1 and ending December 31.

The New York Bight set-aside area is the area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. When the coastwide General category fishery has been closed in any quota period, NMFS may publish notification in the **Federal Register** to make available up to 10 mt ww of the quota set aside for the New York Bight area. The daily catch limit for the set-aside area will be one large medium or

giant BFT per vessel per day. Upon the effective date of the set-aside fishery, fishing for, retaining, or landing large medium or giant BFT is authorized only within the set-aside area. Any portion of the set-aside amount not harvested prior to the reopening of the coastwide General category fishery in the subsequent quota period may be carried over for the purpose of renewing the set-aside fishery at a later date.

Attainment of the subquota in any quota period will result in a closure until the beginning of the following quota period. The subquota for the following quota period will be adjusted by any underharvest or overharvest in the previous quota period. Announcements of closures will be filed for publication with the Office of the Federal Register, stating the effective date of closure, and will be disseminated by the Highly Migratory Species (HMS) Fax Network, the Atlantic Tunas Information Line, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of closure will be provided as far in advance as possible, fishermen are encouraged to call the Atlantic Tunas Information Line (978-281-9305 or 888-USA-TUNA) to check the status of the fishery before leaving for a fishing trip.

#### *Restricted-Fishing Days*

Persons aboard vessels permitted in the General category are prohibited from fishing (including tag and release fishing) for BFT of all sizes on the following days in 1999: July 7, 11, 12, 14, 18, 19, 21, 25, 26, and 28; August 1, 2, 4, 8, 9, 10, 11, 12, 15, 16, 18, 22, 23, 25, 29, and 30; September 1, 5, 6, 8, 12, 13, 15, 19, 20, 22, 26, 27 and 29; and October 1. Persons aboard vessels permitted in the Atlantic Tunas Charter/Headboat category are prohibited from fishing for large medium and giant BFT under the General category quota on the indicated RFDs. These RFDs will improve distribution of fishing opportunities without increasing BFT mortality.

#### **Comments and Responses**

NMFS received numerous comments regarding BFT quota allocation and General category effort controls. NMFS addressed quota allocation comments in the final rule to implement the HMS FMP.

#### *General Category Quota Subdivision*

*Comment:* NMFS received some comments in support of the status quo General category time-period subquotas (three periods), and some suggesting alternate schedules, including: NMFS should implement two General category

time-period subquotas (e.g., for June through September and October through December) since prices are higher in August than September, and in order to avoid derby conditions in October.

*Response:* NMFS has considered these comments and believes that a General category season divided into three time-period subquotas, as proposed, best meets the concerns of the fishing industry, as well as the fishery management objective of maximizing fishing opportunities. A season divided into two time-period subquotas as some suggested (June through September and October through December) could result in the General category fishery being closed for the entire month of September. This would reduce fishing opportunities, as the fishery would be closed during a time when bluefin tuna are available throughout New England. In addition, catch per unit effort (CPUE) information has traditionally been collected from the General category fishery during September, and if the fishery were to be closed during this time period, the continuous time-series of CPUE data could be lost.

#### *Restricted-fishing days*

*Comment:* NMFS received numerous comments regarding RFDs, some of which support the status quo, some of which oppose RFDs altogether, and some suggesting alternate schedules, including: in order to extend the General category season, NMFS should implement more RFDs than proposed, e.g., 3 days or more per week (Sundays, Wednesdays, and Fridays or Sundays, Mondays, and Wednesdays) in addition to the days that correspond to Japanese market closures, and should begin the schedule of RFDs for 1999 in early July.

*Response:* NMFS has considered these comments and agrees additional General category RFDs may increase the likelihood that fishing would continue throughout the summer and fall, and would further distribute fishing opportunities without increasing bluefin mortality. NMFS has added Mondays to the schedule of RFDs.

#### **Classification**

These final specifications are published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq.* The AA has determined that these specifications are necessary to implement the recommendations of ICCAT and are necessary for the management of the Atlantic tuna fisheries.

The Chief Counsel for Regulation of the Department of Commerce certified

to the Chief Counsel for Advocacy of the Small Business Administration that the proposed specifications would not have a significant economic impact on a substantial number of small entities. No comments were received that would alter the basis for this determination. Given the certification, an initial regulatory flexibility analysis was not prepared for the proposed specifications. However, irrespective of the certification, a final regulatory flexibility analysis was prepared for the HMS FMP, which also contains an analysis of General category effort controls. A summary of that analysis may be found in the HMS FMP available from NMFS (see **ADDRESSES**).

These quota and effort control specifications impose no requirements with which fishermen will have to come into compliance, and are necessary to help ensure that the U.S. actions are consistent with its international obligations at ICCAT. Therefore, NMFS has determined that there is good cause to waive partially the 30-day delay in the effective date normally required by 5 U.S.C. 553(d). NMFS will rapidly communicate these final specifications through the FAX network.

These final specifications have been determined to be not significant for purposes of E.O. 12866.

Dated: May 28, 1999.

**William W. Fox,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 981231333-9127-03; I.D. 052799E]

#### Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Mothership Sector

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

**ACTION:** Fishing restrictions; request for comments.

**SUMMARY:** NMFS announces closure of the 1999 mothership fishery for whiting at 2100 local time (l.t.) June 2, 1999, because the allocation for the mothership sector is projected to be reached by that time. This action is

intended to keep the harvest of whiting at the 1999 allocation levels.

**DATES:** Effective from 2100 l.t. June 2, 1999, until the start of the 2000 primary season for the mothership sector, unless modified, superseded or rescinded; such action will be published in the **Federal Register**. Comments will be accepted through June 18, 1999.

**ADDRESSES:** Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** Katherine King at 206-526-6145 or Becky Renko at 206-526-6110.

**SUPPLEMENTARY INFORMATION:** This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On January 8, 1999 (64 FR 1316), regulations were published announcing the 1999 fishing seasons for Pacific whiting. A new whiting stock assessment was completed in early 1999, and an allowable biological catch (ABC) and optimum yield (OY) of 232,000 metric tons (mt) were recommended for all U.S. harvests. On May 24, 1999, (64 FR 27928), NMFS announced the 1999 whiting ABC and OY, the tribal whiting allocation of 32,500 mt, and the commercial OY of 199,500 mt.

Regulations at 50 CFR 660.323(a)(4) divide the commercial allocation into separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. When each sector's allocation is reached, the primary season for that sector is ended. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships, and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shoreside sector is composed of vessels that harvest whiting for delivery to shore-based processors. The regulations at 50 CFR 660.323 (a)(3)(i) describe the primary season for vessels delivering to motherships as the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. The 1999 allocations, which are based on the 1999 commercial OY for whiting of 199,500 mt are 67,800 mt (34 percent) for the catcher/processor

sector, 47,900 mt (24 percent) for the mothership sector, and 83,800 mt (42 percent) for the shoreside sector.

#### NMFS Action

This action announces achievement of the allocation for the mothership sector only. The best available information on May 31, 1999, indicated that the 47,900-mt mothership allocation would be reached by 2100 hours, June 2, 1999, at which time the primary season for the mothership sector ends and further at-sea processing and receipt of whiting by a mothership, or taking and retaining, possessing, or landing of whiting by a catcher boat in the mothership sector, are prohibited. For the reasons stated above, and in accordance with the regulations at 50 CFR

660.323(a)(4)(iii)(B), NMFS herein announces that effective 2100 hours June 2, 1999—(1) further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited, and (2) whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

#### Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(B) and is exempt from review under E.O. 12866.

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

Dated: May 28, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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