

Participants in fisheries elevated to Category II or added to the LOF may already participate in Category I or II fisheries for which they currently register under the MMPA or participate in Federal or state fisheries with integrated registration programs, and, therefore, would not be required to register separately under the MMPA or pay an additional \$25 registration fee.

NMFS is planning to integrate registration requirements with other fisheries to minimize the registration burden on fishers as soon as possible. NMFS would waive the registration fee for fisheries where an integrated registration program can be arranged.

To further reduce the burden of registering, NMFS has delayed the compliance date for fisheries added or elevated to Category II in this final rule to register with NMFS and obtain an authorization certificate until January 1, 2002. The delay will give NMFS more time to work to integrate the MMPA registration process with existing state or Federal license, registration, or permit systems. As a result, NMFS expects that fewer than 2,000 fishers are likely to have to register directly with NMFS. The delay affects the following fisheries: Atlantic blue crab trap/pot; California longline; North Carolina inshore gillnet; North Carolina long haul seine; Northeast drift gillnet; Northeast trap/pot; Virginia Pound Net; and, Southeast Atlantic gillnet. These fisheries are considered to be Category II fisheries on the date that the 2001 LOF becomes effective and are required to comply with all other requirements of Category II fisheries (i.e., comply with applicable take reduction plan requirements, carry observers if requested, and report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations to NMFS). Category I and II fisheries not listed above must be registered and obtain a valid authorization certificate.

The \$25 registration fee, with respect to anticipated revenues, is not considered significant. As a result of this certification, a regulatory flexibility analysis was not prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the OMB under OMB control number 0648-0293 (0.25 burden hours per report for new registrants and 0.15 burden hours per report for renewals). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collection of information, including suggestions for reducing burden, to NMFS and OMB (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA (1995 EA). The 1995 EA concluded that implementation of those regulations would not have a significant impact on the human environment. This final rule would not make any significant change in the management of reclassified fisheries, and, therefore, this final rule is not expected to change the analysis or conclusion of the 1995 EA. If NMFS takes a management action, for example, through the development of a Take Reduction Plan (TRP), NMFS will first prepare an environmental document as required under NEPA specific for that action.

This final rule will not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this final rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under section 7 of the ESA specific for that action.

This final rule will have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs or take reduction teams.

This final rule will not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

August 7, 2001.

William T. Hogarth,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000323080-1196-03; I.D. 031500A]

RIN 0648-AN97

Atlantic Highly Migratory Species (HMS); Atlantic Tunas Reporting, Fishery Allocations and Regulatory Adjustments

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing the Atlantic HMS fisheries to implement mandatory dealer reporting of all purchases of Atlantic bigeye, albacore, yellowfin, and skipjack (BAYS) tunas: to adjust the north-south dividing line for the Atlantic bluefin tuna (BFT) Angling category subdivisions and the associated subquota percentages allocated to each area, to clarify the requirement that imports, exports, and re-exports of bluefin tuna (both Atlantic and Pacific subspecies) be accompanied by a Bluefin Tuna Statistical Document (BSD), and to facilitate enforcement of, and compliance with, certain regulations. The regulatory amendment is necessary to comply with the United States' obligations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Atlantic Tunas Convention Act (ATCA), and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP).

DATES: Effective September 14, 2001.

ADDRESSES: Copies of supporting documents, including the HMS FMP, are available from the Highly Migratory Species Management Division, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Christopher Rogers, Acting Chief, Highly Migratory Species Management Division, Office of

Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Pat Scida, (978) 281-9208.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background information about the need for revisions to the HMS regulations was provided in the preamble to the proposed rule (65 FR 76601, December 7, 2000), and is not repeated here. By this final rule, NMFS implements mandatory dealer reporting of all purchases of Atlantic BAYS tunas; adjusts the north-south dividing line for the BFT Angling category subdivisions; adjusts associated subquota percentages allocated to each area; modifies regulatory text to clarify the requirement that imports, exports, and re-exports of bluefin tuna (both Atlantic and Pacific subspecies) be accompanied by a BSD; and modifies regulatory text to facilitate enforcement of, and compliance with, the regulations. Specifically, to facilitate enforcement of and compliance with the regulations, this rule requires that, for trailered vessels, BFT be tagged immediately upon the vessel being removed from the water; it specifies the existing size limit for swordfish in terms of Lower Jaw Fork Length (LJFL); and it modifies the vessel identification regulations to make them consistent with other Federal fisheries regulations. This rule also restores a prohibition on assaulting or impeding NMFS employees or contractors collecting scientific or management information on Atlantic HMS that was inadvertently omitted when the HMS regulations were consolidated under 50 CFR part 635 (64 FR 29090, May 28, 1999). Finally, this rule modifies the recently published final initial 2001 BFT quota specifications per the adjustments made to the BFT Angling category north-south division line and subquota allocations.

Changes From the Proposed Rule

In the proposed rule that published on December 7, 2000, NMFS proposed

removing the term "high flyer" from the definition of pelagic longline gear. This change to the regulations has already been implemented by an interim final rule published in the **Federal Register** on March 30, 2001 (66 FR 17370), and is no longer included as part of this rule.

Additionally, over the last several months, NMFS has received comments from the United States Coast Guard and vessel operators that the vessel identification requirements in the HMS regulations are inconsistent with the regulations for other federal fisheries on the East coast and Gulf of Mexico. Specifically, the HMS regulations require a vessel to display its vessel number in 10 inch (25.4 cm) block numerals for all vessels 65 ft (19.8 m) or less in length, while other NMFS regulations require 10 inch (25.4 cm) block numerals for vessels up to 65 ft (19.8 m) in length, but only for vessels greater than 25 ft (7.6 m) in length. For vessels 25 ft (7.6 m) in length or less, other NMFS regulations require 3 inch (7.6 cm) block numerals, or none at all. This inconsistency in the vessel identification regulations has made it difficult for the Coast Guard to enforce the regulations. In addition, it is difficult for a vessel less than 25 ft (7.6 m) in length to affix and display 10 inch (25.4 cm) block numerals. This final rule amends the HMS vessel identification regulations to make them consistent with those for other Atlantic and Gulf of Mexico species, requiring 3 inch (7.6 cm) block numerals for vessels less than 25 ft (7.6 m) in length, and, to be consistent with the terms of approval of this information collection, clarifies that the HMS vessel identification regulations do not apply to vessels with Atlantic tunas Angling category permits.

As this rule adjusts the BFT Angling category north-south division line and subquota allocations, adjustments to the recently published final initial 2001 BFT quota specifications must be made to reflect these changes. This final rule adjusts the 2001 BFT Angling category quota, subdividing the 2001 BFT Angling category quota of 609.3 metric tons (mt) as follows: School BFT—247.8 mt, with 127.0 mt to the northern area (north of 39°18' N. latitude), 120.8 mt to the southern area (south of 38°47' N. latitude), plus 20.6 mt held in reserve; large school/small medium BFT—330.0 mt, with 162.3 mt to the northern area and 167.7 mt to the southern area; and large medium/giant BFT—10.9 mt, with 4.8 mt to the northern area and 6.1 mt to the southern area.

There have also been several wording changes made to the regulatory text in the proposed rule, and two prohibitions were modified and one was added.

These changes were made to clarify the intent of the regulatory text and to facilitate enforcement of the regulations.

Comments and Responses

NMFS conducted two public hearings on the proposed rule and received written and oral comments over a 60-day comment period. The vast majority of the comments received were in support of the proposed rule. Responses to specific comments on the issues contained in the proposed rule are provided here.

BAYS Tunas Dealer Reporting

Comment: Most comments NMFS received were supportive of the BAYS tunas dealer reporting, stating that the reporting requirement could help collect tuna landings data that are currently unreported under the current regulations. One commenter stated that the revision to the regulations could result in the capture of data regarding landings of BAYS tunas that are sold unlawfully by non-permitted fishermen. One commenter stated that the regulatory amendment needed to go further, requiring a cross-referenceable report from harvesters (vessels).

Response: NMFS agrees that the proposed BAYS tunas dealer reporting requirements could help collect information regarding tuna landings that are currently unreported. Regarding vessel reporting, the HMS regulations give NMFS the authority to issue logbooks and to collect logbook information from all vessels with permits in the Atlantic HMS fisheries. Currently, only vessels with Atlantic swordfish and shark permits (including all vessels with Atlantic tunas Longline category permits) are currently selected to submit logbooks. NMFS agrees that additional vessel reporting may provide additional information and is investigating various kinds of logbook programs for all permitted HMS vessels.

BFT Angling Category Geographic Division

Comment: Adoption of the proposed north-south dividing line change and quota subdivision would allow NMFS to manage the Angling category BFT season better, and would fix the unfair situation for vessels from Cape May, NJ, which, because they fish and land in two separate zones, were held to the more restrictive retention limit of the two fishing zones.

Response: NMFS agrees that the north-south dividing line change is appropriate. A goal of the proposed line change and the corresponding quota reallocation is to minimize the number of

cases where anglers are fishing in one zone and landing their fish in another.

BSD Changes

Comment: NMFS should revise the BSD regulations to allow copies (instead of the original) of the original BSD be submitted to NMFS under certain circumstances, e.g., when a shipment comes into the United States with several bluefin, and a part of the shipment is re-exported while the rest remains in the United States for domestic consumption. Currently, the regulations require that the original BSD accompany the shipment and, in the case of imports, that the original BSD be submitted to NMFS. In the situation described above, it is not possible to submit an original BSD to NMFS for the domestically consumed fish and at the same time re-export part of the shipment also with an original BSD.

Response: NMFS regulations regarding BSD reporting are not under revision at this time, although NMFS recognizes the difficulty of complying with the current BSD reporting requirements in situations such as "split shipments", where part of an imported shipment is then re-exported, or a shipment is re-exported to two different countries. NMFS will continue to work with bluefin importers and exporters to find solutions to these situations as they arise. In addition, ICCAT recently recommended the development of statistical document programs for swordfish and bigeye tuna. During the development of these programs, NMFS also plans to address these "split shipment" paperwork/reporting requirements in a comprehensive manner as part of an effort to harmonize the various reporting programs and forms involved in the tracking of trade in highly migratory species.

Facilitation of Enforcement and Compliance

The only comments received on the proposed measures to facilitate enforcement and compliance were those of general support. NMFS finalizes these measures without revision.

Classification

This regulatory amendment is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations contained in the regulatory amendment are consistent with the Magnuson-Stevens Act, ATCA, and the HMS FMP.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the

Small Business Administration when this rule was proposed, that if adopted as proposed, it 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, neither an Initial nor Final Regulatory Flexibility Analysis was prepared.

This regulatory amendment has been determined to be not significant for purposes of Executive Order 12866.

The regulations implemented through this final rule are not expected to increase endangered species or marine mammal interaction rates. On June 8, 2001, NMFS issued a Biological Opinion (BO) after concluding formal consultation for the HMS fisheries under section 7 of the Endangered Species Act. The BO concluded that the pelagic longline fishery is likely to jeopardize the continued existence of threatened or endangered species. This final rule will not change fishing practices for longline vessels. NMFS plans on addressing the conclusions of the BO regarding the pelagic longline fishery through separate rulemaking. This final rule will not significantly alter current fishing practices and would not likely increase takes of listed species or interfere with the implementation of the reasonable and prudent alternative measures identified in the BO to reduce adverse impacts on protected resources.

The area affected by this final action has been identified as essential fish habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the HMS Management Division of NMFS. It is not anticipated that this action will have any adverse impacts on EFH, and, therefore, no consultation is required.

This final rule contains a new collection-of-information requirement and restates several existing reporting requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). On March 29, 2001, OMB approved the collection-of-information requirement as a revision to the collection previously approved under OMB control number 0648-0013. The new requirement approved by OMB is an extension of dealer reporting requirements to Atlantic tunas, with an estimated public reporting burden of 12 minutes per response for dealers who would otherwise have been required to

file a negative report (if permitted for swordfish or shark), 15 minutes for other dealers reporting purchases, and three minutes for other dealers to file.

This rule also restates a number of collection-of-information requirements that have been approved by OMB. These requirements and their OMB control numbers and estimated response times are: swordfish and shark dealer reports (15 minutes; 0648-0013); negative reports by swordfish and shark dealers (three minutes; 0648-0013); swordfish import dealer reports (15 minutes; 0648-0363) and swordfish certificates of eligibility (one hour; 0648-0363); bluefin tuna landing reports (two minutes; 0648-0239); bluefin tuna bi-weekly dealer report (15 minutes; 0648-0239); affixing tags to bluefin tunas and transferring tag numbers to documents (ten minutes; 0648-0239); vessel identification requirements (45 minutes; 0648-0373). All estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule modifies the regulations at 50 CFR 635.6 on vessel identification, and at 50 CFR 635.71(b) on prohibitions on failing to report a BFT. These changes were not included in the proposed rule. The modifications to 50 CFR 635.6 (with respect to vessel identification) are needed to achieve consistency with other NMFS vessel marking regulations and relieve vessels fishing in HMS and other fisheries from the burden of having to comply with two different sets of marking requirements. Therefore, providing prior notice and an opportunity for public comment would serve no useful purpose. The modifications to 50 CFR 635.71 that clarify the existing prohibitions related to reporting a BFT, correct a cross-reference to the relevant reporting requirements, and clarify when BFT must be tagged and reported if they are in a trailered vessel, are needed to facilitate enforcement and ensure compliance with existing regulations. Delaying these clarifications to provide an opportunity for public

comment would confound enforcement efforts and would serve no useful purpose. Accordingly, the AA finds good cause to waive the Administrative Procedures Act requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be unnecessary or would be contrary to the public interest, as applicable.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: August 9, 2001.

William T. Hogarth,

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

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.5, paragraphs (a)(3), (b)(1)(i) through (iii), (b)(2)(i), (b)(2)(ii)(A) and (b)(2)(ii)(B) are revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(3) *BFT not sold.* If a person who catches and lands a large medium or giant BFT from a vessel issued a permit in any of the commercial categories for Atlantic tunas does not sell or otherwise transfer the BFT to a dealer who has a dealer permit for Atlantic tunas, the person must contact a NMFS enforcement agent, at a number designated by NMFS, immediately upon landing such BFT, provide the information needed for the reports required under paragraph (b)(2)(i) of this section, and, if requested, make the tuna available so that a NMFS enforcement agent or authorized officer may inspect the fish and attach a tag to it. Alternatively, such reporting requirement may be fulfilled if a dealer who has a dealer permit for Atlantic tunas affixes a dealer tag as required under paragraph (b)(2)(ii) of this section and reports the BFT as being landed but not sold on the reports required under paragraph (b)(2)(i) of this section. If a vessel is placed on a trailer, the person must contact a NMFS enforcement

agent, or the BFT must have a dealer tag affixed to it by a permitted Atlantic tunas dealer, immediately upon the vessel being removed from the water. All BFT landed but not sold will be applied to the quota category according to the permit category of the vessel from which it was landed.

(b) * * *

(1) *Atlantic HMS.* (i) Dealers that have been issued an Atlantic tunas, swordfish and/or sharks dealer permit under § 635.4 must submit to NMFS all reports required under this section.

(ii) Dealers that import bluefin tuna and/or swordfish must report all such species imported on forms available from NMFS.

(iii) Reports of Atlantic tunas, Atlantic swordfish, and/or Atlantic sharks received by dealers from U.S. vessels, or reports of bluefin tuna and swordfish imported, on the first through the 15th of each month, must be postmarked not later than the 25th of that month. Reports of such fish received or imported on the 16th through the last day of each month must be postmarked not later than the 10th of the following month. For swordfish imports, a dealer must attach a copy of each certificate of eligibility to the report required under paragraph (b)(1)(ii) of this section. If a dealer issued an Atlantic tunas, swordfish or sharks dealer permit under § 635.4 has not received any Atlantic HMS from U.S. vessels during a reporting period as specified in this section, he or she must still submit the report required under paragraph (b)(1)(i) of this section stating that no Atlantic HMS were received. This negative report must be postmarked for the applicable reporting period as specified in this section. This negative reporting requirement does not apply for BFT.

* * * * *

(2) *Requirements for bluefin tuna—*(i) *Dealer reports—*(A) *Landing reports.* Each dealer issued an Atlantic tunas permit under § 635.4 must submit a completed landing report on a form available from NMFS for each BFT received from a U.S. fishing vessel. Such report must be submitted by electronic facsimile (fax) to a number designated by NMFS not later than 24 hours after receipt of the BFT. The landing report must indicate the name and permit number of the vessel that landed the BFT and must be signed by the permitted vessel's owner or operator immediately upon transfer of the BFT. The dealer must inspect the vessel's permit to verify that the required vessel name and vessel permit number as listed on the permit are correctly recorded on the landing report.

(B) *Bi-weekly reports.* Each dealer issued an Atlantic tunas permit under § 635.4 must submit a bi-weekly report on forms supplied by NMFS for BFT received from U.S. vessels and for imports of bluefin tuna. For BFT received from U.S. vessels and for bluefin tuna imported on the first through the 15th of each month, the dealer must submit the bi-weekly report forms to NMFS postmarked not later than the 25th of that month. Reports of BFT received and bluefin tuna imported on the 16th through the last day of each month must be postmarked not later than the 10th of the following month.

(ii) * * *

(A) *Affixing dealer tags.* A dealer or a dealer's agent must affix a dealer tag to each BFT purchased or received from a U.S. vessel immediately upon offloading the BFT. If a vessel is placed on a trailer, the dealer or dealer's agent must affix the dealer tag to the BFT immediately upon the vessel being removed from the water. The dealer tag must be affixed to the BFT between the fifth dorsal finlet and the caudal keel.

(B) *Removal of dealer tags.* A dealer tag affixed to any BFT under paragraph (b)(2)(ii)(A) of this section or a BSD tag affixed to an imported bluefin tuna must remain on the fish until it is cut into portions. If the bluefin tuna or bluefin tuna parts subsequently are packaged for transport for domestic commercial use or for export, the number of the dealer tag or the BSD tag must be written legibly and indelibly on the outside of any package containing the tuna. Such tag number also must be recorded on any document accompanying the shipment of bluefin tuna for commercial use or export.

* * * * *

3. In § 635.6, paragraphs (b)(1) introductory text and (b)(1)(iii) are revised to read as follows:

§ 635.6 Vessel and gear identification.

* * * * *

(b) *Vessel identification.* (1) An owner or operator of a vessel for which a permit has been issued under § 635.4, other than a permit for the Atlantic tunas Angling category, must display the vessel number—

* * * * *

(iii) At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length; at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) in length or less.

4. In § 635.20, in paragraph (f)(1), the first two sentences are revised to read as follows:

§ 635.20 Size limits.

* * * * *

(f) *Swordfish*. (1) No person shall take, retain, or possess a north or south Atlantic swordfish taken from its management unit that is less than 29 inches (73 cm), CK, 47 inches (119 cm), LJFL, or 33 lb (15 kg) dressed weight. A swordfish that is damaged by shark bites may be retained only if the remainder of the carcass is at least 29 inches (73 cm) CK, 47 inches (119 cm), LJFL, or 33 lb (15 kg) dw. * * *

* * * * *

5. In § 635.27, paragraphs (a)(2)(i) through (a)(2)(iii) are revised to read as follows:

§ 635.27 Quotas.

(a) * * *

(2) * * *

(i) Under paragraph (a)(7)(ii) of this section, 52.8 percent of the school BFT Angling category landings quota, after adjustment for the school BFT quota held in reserve, may be caught, retained, possessed, or landed south of 39°18' N. lat., with the remaining quota being available to the fisheries north of the dividing line.

(ii) An amount equal to 52.8 percent of the large school/small medium BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat., with the remaining quota being available to the fisheries north of the dividing line.

(iii) An amount equal to 66.7 percent of the large medium and giant BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat., with the remaining quota being available to the fisheries north of the dividing line.

* * * * *

6. In the following sections, remove the word "tuna", each time it appears, and add in its place the words "bluefin tuna".

§ 635.42 [Amended]

a. Section 635.42, paragraphs (a)(1), (a)(2), (a)(3), and (b)(3).

§ 635.43 [Amended]

b. Section 635.43, paragraphs (a)(2), and (a)(12).

7. In the following sections, remove the acronym "BFT", each time it appears, and add in its place the words "bluefin tuna".

§ 635.41 [Amended]

a. Section 635.41 introductory text, paragraph (a) introductory text, paragraphs (a)(1), (a)(2), and (b).

§ 635.42 [Amended]

b. Section 635.42, paragraph (a) heading, paragraphs (a)(1), (a)(2), (a)(3), (b) heading, (b)(1), (b)(2), and (b)(3).

§ 635.43 [Amended]

c. Section 635.43, paragraphs (a)(2), (a)(5), (b), and (c).

§ 635.44 [Amended]

d. Section 635.44, paragraphs (a) and (b).

§ 635.45 [Amended]

e. Section 635.45.

§ 635.47 [Amended]

f. Section 635.47.

§ 635.71 [Amended]

g. Section 635.71 paragraphs (a)(24), (b)(25), and (b)(26).

8. In § 635.71, paragraphs (a)(35) and (b)(28) are added, and paragraphs (b)(5) and (b)(6) are revised, to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(35) For any person to assault, resist, oppose, impede, intimidate, interfere with, obstruct, delay, or prevent, by any means, NMFS personnel or anyone collecting information for NMFS, under an agreement or contract, relating to the scientific monitoring or management of Atlantic HMS.

(b) * * *

(5) Fail to report a large medium or giant BFT that is not sold, as specified in § 635.5(a)(3).

(6) As an angler, fail to report a BFT, as specified in § 635.5(c).

* * * * *

(28) Possess a large medium or giant BFT, after it has been landed, that does not have a dealer tag affixed to it as specified in § 635.5(b)(2)(ii), unless the BFT is not to be sold and has been reported per the requirements specified in §§ 635.5(a)(3) or 635.5(c).

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635****[I.D. 080201B]****Atlantic Highly Migratory Species; Bluefin Tuna Recreational Fishery**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Retention limit adjustment.

SUMMARY: NMFS adjusts the Atlantic bluefin tuna (BFT) daily retention limit for vessels participating in the recreational fishery that are permitted in the Atlantic Highly Migratory Species (HMS) Charter/Headboat category and that are licensed by the U.S. Coast Guard to carry more than six passengers. The adjustments to the daily retention limit for these vessels are specified in the **DATES** and **SUPPLEMENTARY INFORMATION** sections of this document. This action is being taken to provide increased fishing opportunities in all areas without risking overharvest of the Angling category BFT quota.

DATES: Effective August 15 through October 31, 2001, the daily recreational retention limit in all areas for Coast Guard inspected headboats with Atlantic HMS Charter/Headboat category permits is adjusted to one BFT per passenger (not including captain and crew), which may be from the school, large school, or small medium size class, with a maximum of 20 BFT per vessel.

Consistent with prior notice, the daily retention limit in all areas is one large school or small medium BFT for all vessels fishing under the BFT Angling category quota for the period from November 1, 2001 through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Brad McHale, (978) 281-9260.

SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Conservation and Management Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635.

A recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) allocates western Atlantic BFT catch quotas to contracting parties. The recommendation also requires that the United States limit the catch of school size BFT to no more than 8 percent by weight of the total domestic landings quota over each 4-consecutive-year period. NMFS implements this ICCAT recommendation through annual quota specifications, annual and inseason adjustments to the school BFT retention limits, as necessary, and by reserving a portion of the school BFT quota (64 FR 29090, May 28, 1999; 64 FR 29806, June 3, 1999).