

(c) During any period in which the driver, or the CMV he or she is driving, or the motor carrier operation, is subject to an out-of-service order; or

(d) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

4. Amend § 383.51, to redesignate paragraph (e) as paragraph (f), and to add a new paragraph (e) to read as follows:

**§ 383.51. Disqualification of drivers.**

\* \* \* \* \*

(e) Disqualification for railroad-highway grade crossing violation—

(1) *General rule.* A driver who is convicted of operating a CMV in violation of a Federal, State, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in paragraph (e)(2) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) *Duration of disqualification for railroad-highway grade crossing violation.*—(i) *First violation.* A driver must be disqualified for not less than 60 days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

(ii) *Second violation.* A driver must be disqualified for not less than 120 days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.

(iii) *Third or subsequent violation.* A driver must be disqualified for not less than 1 year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

\* \* \* \* \*

5. Amend § 383.53 to add a new paragraph (c) to read as follows:

**§ 383.53. Penalties.**

\* \* \* \* \*

(c) *Special penalties pertaining to railroad-highway grade crossing violations.* An employer who is convicted of a violation of § 383.37(d) must be subject to a civil penalty of not more than \$10,000.

**PART 384—[AMENDED]**

6. The authority citation for 49 CFR part 384 continues to read as follows:

**Authority:** 49 U.S.C. 31136, 31301 *et seq.*, and 31502; and 49 CFR 1.48.

7. Add § 384.223 to read as follows:

**§ 384.223 Railroad-highway grade crossing violation.**

The State must have and enforce laws and/or regulations applicable to CMV drivers and their employers, as defined in § 383.5 of this title, which meet the minimum requirements of §§ 383.37(d), 383.51(e), and 383.53(c) of this title.

[FR Doc. 99-22900 Filed 9-1-99; 8:45 am]

BILLING CODE 4910-22-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[I.D. 080999K]

**Atlantic Highly Migratory Species Fisheries; Bluefin Tuna Quota Adjustments**

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

**ACTION:** Inseason quota adjustments.

**SUMMARY:** NMFS adjusts the 1999 Atlantic bluefin tuna (BFT) Angling and Longline category quotas and the Reserve category to account for underharvest and overharvest of these fishing category quotas during January 1 through May 31, 1999. These actions are being taken to prevent overharvest of the 1999 fishing category quotas for the affected fishing categories, to ensure maximum utilization of the quota while maintaining a fair distribution of fishing opportunities, and to be consistent with the Fishery Management Plan (FMP) for Atlantic Tunas, Sharks, and Swordfish.

**DATES:** Effective August 27, 1999, until May 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Atlantic tunas are managed by the Secretary of Commerce (Secretary) under the dual authority of the Magnuson-Stevens

Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA. Within NMFS, daily responsibility for management of Atlantic Highly Migratory Species (HMS) fisheries rests with the Office of Sustainable Fisheries, and is administered by the HMS Management Division.

On January 20, 1999, NMFS proposed regulations to implement the draft Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and draft Amendment 1 to the Atlantic Billfish Fishery Management Plan (64 FR 3154). As part of these regulations NMFS proposed to change the way annual catch quotas are applied by changing the fishing year for Atlantic tunas from the calendar year to a "fishing year," beginning June 1 of one year and continuing through May 31 of the following year. The intent was to facilitate implementation of catch quota recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) that are issued at its annual meeting in November. In past years, fishing activity for certain BFT categories would commence on January 1, before NMFS could issue a final rule to implement the ICCAT catch quota recommendation.

After the proposed change to the fishing year was published, specific quota allocations for the 1999 BFT fishery, to begin on June 1, 1999, were proposed in a supplement to the proposed rule (64 FR 9299, February 25, 1999). That supplemental proposal included a separate quota to cover fishing activity that would occur in the "bridge" or transition period of January 1 to May 31, 1999. Additionally, the supplemental rule proposed that any underharvest or overharvest from the bridge period would be added to or subtracted from the annual quota for the proposed new fishing year, to begin on June 1, 1999.

NMFS adopted the final HMS FMP, including the 1999 adjusted quotas and the bridge period quota, in April 1999. The final rule implementing the new fishing year was published on May 28, 1999 (64 FR 29090). Final BFT quota specifications for the new fishing year starting June 1 were published on June 3, 1999 (64 FR 29806) and quotas for the bridge period (January 1 to May 31, 1999) were published on July 13, 1999 (64 FR 37700).

## Quota Adjustments

Under the HMS FMP implementing regulations at 50 CFR 635.27(a)(9), if NMFS determines, based on landings statistics and other available information, that a BFT quota in any category or, as appropriate, subcategory has been exceeded or has not been reached, NMFS shall subtract the overharvest from, or add the underharvest to, that quota category for the following fishing year, provided that the total of the adjusted category quotas and the Reserve is consistent with a recommendation of ICCAT regarding country quotas, the take of school BFT, and the allowance for dead discards. Adjustments to the Angling category, the Longline category, and the Reserve for the 1999 fishing year (June 1, 1999, to May 31, 2000) are necessary to account for underharvest and overharvest of these fishing category quotas during the bridge period from January 1 - May 31, 1999.

Based on reported landings during the bridge period, adjustments are necessary for the Angling, Longline, and Reserve categories. Because no quota of school BFT was allocated to the Angling category for the bridge period of January 1 through May 31, 1999, and an estimated total of 0.17 mt of school BFT were landed during this time, NMFS adjusts the 1999–2000 fishing year school BFT subquota for the southern area from 38 mt to 37.83 mt. Because there were no landings of large school or small medium BFT in the northern area during the bridge period (for which the subquota was 16 mt), NMFS adjusts the 1999–2000 fishing year northern area large school/small medium subquota from 83 mt to 99 mt. Because only 8.62 mt of the 59 mt allocated for the landing of large school or small medium BFT in the southern area during the bridge period was used, NMFS adjusts the 1999–2000 fishing year southern area large school/small medium subquota from 73 mt to 123.38 mt. Finally, because only 3.16 mt of the 4 mt allocated for the landing of large medium or giant BFT in the southern area was used, NMFS adjusts the 1999–2000 fishing year southern area large medium/giant subquota from 4 mt to 4.84 mt.

In the Longline category, landings of large medium and giant BFT by longline vessels in the northern area (1.94 mt) exceeded the bridge period quota for this subcategory of 1 mt. NMFS, therefore, adjusts the 1999–2000 fishing year Longline north subquota from 24 mt to 23.06 mt. Because landings of large medium and giant BFT by longline vessels in the southern area (47.8 mt)

exceeded the bridge period quota for this subcategory of 25 mt, NMFS adjusts the 1999–2000 fishing year Longline north subquota from 89 mt to 66.2 mt.

In addition, quota adjustments are necessary for the Reserve, due to landings during the bridge period and to a prior inseason transfer for the 1999 fishing year. Pursuant to § 285.7 (applicable regulations prior July 1, 1999) and under the authority of the Atlantic Tunas Convention Act, NMFS authorized fisheries biologists from the Stanford Aquarium to conduct research and to initiate studies on the use of pop-up archival tags on small medium, large medium, and giant Atlantic bluefin tuna (BFT) and authorized the North Carolina State University to conduct studies on BFT reproductive biology. These authorized studies have resulted in the landings of 1.27 mt of BFT; these landings have been deducted from the bridge period Reserve of 15 mt. Also, NMFS recently transferred 8 mt of the 1999 Reserve to the Purse Seine category, creating an adjusted Reserve quota of 35 mt for the 1999 fishing season (64 FR 36818, July 8, 1999). The 1999 fishing year Reserve is now further adjusted by the addition of 13.73 mt from the bridge period, for a revised total of 48.73 mt.

## Classification

This action is taken under 50 CFR 635.27(a)(7). This action is exempt from review under E.O. 12866.

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

Dated: August 27, 1999.

**Gary C. Matlock,**

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

[FR Doc. 99–22817 Filed 8–27–99; 5:03 pm]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 082399A]

### Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

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

**ACTION:** Retention limit adjustment.

**SUMMARY:** NMFS adjusts the daily retention limit for the Angling category fishery for Atlantic bluefin tuna (BFT) in all areas to two school BFT

(measuring 27 to less than 47 inches (69 to less than 119 cm) curved fork length) and one large school or small medium BFT (measuring 47 to less than 73 inches (119 to less than 150 cm) curved fork length) per vessel. This daily retention limit adjustment is effective September 1 through October 6, 1999, after which it will be one large school or small medium BFT per vessel. This action is being taken to provide increased fishing and data collection opportunities in all areas without risking overharvest of this category.

**DATES:** The daily retention limit adjustment is effective 1 a.m., local time, September 1, 1999, until 11:30 p.m., local time, October 6, 1999.

**FOR FURTHER INFORMATION CONTACT:** Pat Scida or Sarah McLaughlin, 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 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.

Implementing regulations for the Atlantic tuna fisheries at § 635.23 allow for adjustments to the daily retention limits in order to provide for maximum utilization of the quota spread over the longest possible period of time. NMFS may increase or reduce the per angler retention limit for any size class BFT or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit.

NMFS is responsible for implementing a recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) to limit the catch of school BFT to no more than 8 percent by weight of the total domestic quota over each 4–consecutive-year period. NMFS is implementing this ICCAT recommendation through annual and inseason adjustments to the school BFT landings and school BFT reserve categories, as necessary, and through the establishment of a school BFT reserve (64 FR 29090, May 28, 1999; 64 FR 29806, June 3, 1999). The recent ICCAT recommendation allows NMFS more flexibility to make interannual adjustments for overharvests and underharvests, provided that the 8–percent landings limit is met over the applicable 4–consecutive-year period. This approach provides NMFS with the flexibility to enhance fishing opportunities and the collection of information on a broad range of BFT size classes and responds to requests