

measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, etc., so as to obtain a true maximum composite measurement for the emission in question over the full bandwidth of the channel.

(c) \* \* \*

**Table 1—Permissible Power and Antenna Heights for Base and Fixed Stations in the 746–764 MHz and 777–792 MHz Bands**

\* \* \* \* \*

3. Section 27.53 is amended by revising paragraph (c), by removing paragraph (d), and redesignating paragraphs (e), (f), and (g) as paragraphs (d), (e), and (f), to read as follows:

**§ 27.53 Emission limits.**

\* \* \* \* \*

(c) For operations in the 747 to 762 MHz band and the 777 to 792 MHz band, the power of any emission outside the licensee's frequency band(s) of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, in accordance with the following:

(1) On any frequency outside the 747 to 762 MHz band, the power of any emission shall be attenuated outside the band below the transmitter power (P) by at least  $43 + 10 \log (P)$  dB;

(2) On any frequency outside the 777 to 792 MHz band, the power of any emission shall be attenuated outside the band below the transmitter power (P) by at least  $43 + 10 \log (P)$  dB;

(3) On all frequencies between 764 to 776 MHz and 794 to 806 MHz, by a factor not less than  $76 + 10 \log (P)$  dB in a 6.25 kHz band segment, for base and fixed stations;

(4) On all frequencies between 764 to 776 MHz and 794 to 806 MHz, by a factor not less than  $65 + 10 \log (P)$  dB in a 6.25 kHz band segment, for mobile and portable stations;

(5) Compliance with the provisions of paragraphs (c)(1) and (c)(2) of this section is based on the use of measurement instrumentation employing a resolution bandwidth of 100 kHz or greater. However, in the 100 kHz bands immediately outside and adjacent to the frequency block, a resolution bandwidth of at least 30 kHz may be employed;

(6) Compliance with the provisions of paragraphs (c)(3) and (c)(4) of this section is based on the use of measurement instrumentation such that the reading taken with any resolution bandwidth setting should be adjusted to

indicate spectral energy in a 6.25 kHz segment.

\* \* \* \* \*

4. Section 27.60(b)(2)(i) is amended by removing the word "746–764 MHz band" and adding, in their place, "746–764 MHz and 777–792 MHz bands" in its place, and paragraph (b)(2)(ii) is amended by removing the words "776–794 MHz band" and adding, in their place, "776–777 MHz and 792–794 MHz bands and control and mobile stations (including portables) that operate in the 747–762 MHz and 777–792 MHz bands."

[FR Doc. 00–17648 Filed 7–11–00; 8:45 am]

BILLING CODE 6712–01–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 000515139–0203–02; I.D. 041200D]

RIN 0648–AO03

**Atlantic Highly Migratory Species (HMS); Atlantic Bluefin Tuna Specifications and HMS Regulatory Amendment**

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

**ACTION:** Final annual specifications and regulatory amendment.

**SUMMARY:** NMFS announces specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quota and General category effort control specifications for the 2000 fishing year. NMFS also amends the regulations governing the Atlantic HMS fisheries to adjust the date on which the BFT General category fishing season ends; adjust the date on which BFT allocations become available to Atlantic tunas Purse Seine category vessel owners; authorize NMFS to add the underharvest to, or subtract the overharvest from, individual Purse Seine category vessels' allocations for the following fishing year on a per vessel basis; revise text regarding restricted fishing days (RFDs) in the General category BFT fishery; and revise text regarding authorized gear in the North Atlantic swordfish fishery. These specifications and regulatory amendment are necessary to implement the 1998 recommendation of the International Commission for the

Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** The final specifications are effective July 7, 2000 through May 31, 2001. The final regulatory amendment is effective July 7, 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:** Pat Scida or Brad McHale 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. ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of 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**

On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) that was adopted and made available to the public in April 1999. The HMS FMP and the implementing regulations established percentage quota shares for each of the domestic fishing categories of the ICCAT-recommended U.S. BFT landings quota of 1,387 metric tons (mt). These percentage shares were based on allocation procedures that had been developed by NMFS in recent years. NMFS subsequently amended the HMS regulations to remove the 250-mt limit on allocating BFT landings quota to the Purse Seine category (64 FR 58793, November 1, 1999). This rulemaking also reinstated the transferability of partial purse seine vessel quota allocations from one vessel to another, which was inadvertently omitted from the consolidated regulations to implement the HMS FMP.

Further background information and rationale for these specifications and regulatory amendment were provided in the preamble to the proposed specifications and regulatory

amendment (65 FR 33513, May 24, 2000) and are not repeated here. The annual quota specifications allocate the total ICCAT-recommended quota among the several established fishing categories.

### Changes From the Proposed Specifications

NMFS proposed the following RFDs for October: October 1, 4, 6, 7, 10, 11, 14, 15, 18, 19, 22, 23, 26, 27, 30, and 31.

Based on consideration of comments received during the comment period, NMFS is implementing the following RFDs for October: October 1, 4, 6, 7, 10, 11, 14, and 15. In addition, now that the 1999 fishing year has ended and revised landings data are available, minor modifications have been made to the 2000 fishing year quotas.

### Fishing Category Quotas

NMFS implements U.S. domestic quota allocations for the 2000 fishing year, beginning June 1, 2000, consistent with the HMS FMP and the 1,387 mt U.S. allocation. The percentage quota shares established in the HMS FMP for fishing years beginning June 1, 1999, as amended by the Purse Seine category adjustment described earlier, are as follows (tonnage in parentheses corresponds to 1,387 mt total quota): General category—47.1 percent (653.3 mt); Harpoon category—3.9 percent (54.1 mt); Purse Seine category—18.6 percent (258.0 mt); Angling category—19.7 percent (273.2 mt); Longline category—8.1 percent (112.3 mt); Trap category—0.1 percent (1.4 mt); and Reserve—2.5 percent (34.7 mt).

Based on these percentages, and quota adjustments based on overharvests or underharvests in the 1999 fishing year, the adjusted quotas for the 2000 fishing year are as follows: 483.4 mt for the Angling category; 634.3 mt for the General category; 54.1 mt for the Harpoon category; 135.1 mt for the Longline category; 2.4 mt for the Trap category; 271.2 mt for the Purse Seine category; and 34.7 mt for the Reserve.

The Angling category quota is subdivided as follows: School BFT—136.3 mt, with 72.9 mt to the northern area (north of 38°47' N. latitude), 63.4 mt to the southern area (south of 38°47' N. latitude), and 38.3 mt held in reserve; large school/small medium BFT—300.9 mt, with 163.9 mt to the northern area and 137.0 mt to the southern area; and large medium/giant BFT—7.9 mt, with 3.4 mt to the northern area and 4.5 mt to the southern area.

The Longline category is subdivided as follows: 31.5 mt to longline vessels landing BFT north of 34° N. latitude and

103.6 mt to longline vessels landing BFT south of 34° N. latitude.

### General Category Effort Controls

For the 2000 fishing year, NMFS implements General category quota subdivisions as established in the HMS FMP, as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-December. Given the overharvest of the 1999 fishing year General category quota, these percentages are applied to the adjusted coastwide quota for the General category of 624.3 mt, with the remaining 10.0 mt being reserved for the New York Bight fishery. Therefore, coastwide, 374.6 mt are available for the period beginning June 1 and ending August 31; 187.3 mt are available for the period beginning September 1 and ending September 30; and 62.4 mt are available for 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 retention 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

888-872-8862) to check the status of the fishery before leaving for a fishing trip.

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 2000: July 12, 16, 17, 19, 23, 24, 26, 30, and 31; August 2, 6, 7, 9, 11, 12, 13, 14, 16, 20, 21, 23, 27, 28, and 30; September 3, 4, 6, 10, 11, 13, 17, 18, 20, 24, 25, and 27; and October 1, 4, 6, 7, 10, 11, 14, and 15. 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 and are consistent with the objectives of the HMS FMP.

### Changes to Regulatory Text

NMFS is revising the regulatory text for clarification and to achieve consistency with the FMP objectives. These changes include specification of fishing seasons, quota adjustments, effort controls, and authorized gear. For background information on these issues, see the preamble to the proposed regulatory amendment (65 FR 33513, May 24, 2000).

### General Category Season

NMFS revises the regulatory text to clarify that December 31 is the end date for the General category BFT fishing season.

### Purse Seine Category Season

NMFS corrects the regulatory text regarding the Purse Seine category BFT fishing season to indicate that the purse seine vessel allocation of BFT is available starting June 1, and that any BFT caught incidental to fishing operations for other species will be deducted from the vessel's BFT allocation for that fishing year. NMFS also clarifies the regulatory text to indicate that only the directed purse seine fishery for BFT commences on August 15 each year.

### Purse Seine Quota Carryover

NMFS amends the regulations regarding annual adjustment of quotas and subquotas to authorize NMFS to add the underharvest to, or subtract the overharvest from, individual Purse Seine category vessels' allocations for the following fishing year if NMFS determines that a vessel's individual quota has been exceeded or has not been reached.

### Restricted Fishing Days

NMFS corrects the regulatory text regarding RFDs to indicate that persons on board a vessel permitted in the General category cannot "fish for" BFT on an RFD. In addition, NMFS removes language included in the final consolidated regulations indicating that RFDs apply only when the General category fishery is open. Removing this language will allow NMFS the discretion to implement RFDs on days immediately prior to the reopening of the General category fishery for the following subquota time-period (e.g., September 29 and 30). In issuing a closure notification for any General category subperiod, NMFS will indicate the specific RFDs that would be waived and/or added prior to reopening the fishery.

### Authorized Gear

Finally, NMFS corrects text that prohibits the use of bandit gear in the north Atlantic swordfish fishery. In the table appearing at 50 CFR 600.725(v), bandit gear is authorized in the swordfish handgear fishery. Likewise, 50 CFR 635.21(d)(4) authorizes the use of bandit gear to fish for north Atlantic swordfish from vessels issued limited access permits. When the final consolidated HMS regulations were published, the prohibition at 50 CFR 635.71(e)(8) inadvertently omitted bandit gear from the list of authorized gears.

### Comments and Responses

NMFS received numerous comments regarding the proposed quota and General category effort control specifications and the regulatory amendments.

### Specifications

#### General Category Quota Subdivision

*Comment:* NMFS should reallocate the October through December period subquota to the June through August and September periods for better market prices and reduced derby conditions.

*Response:* NMFS maintains the status quo time period subquota breakdown in these final specifications. Long-term effort controls were addressed in the HMS FMP to achieve a variety of FMP objectives. Specifically, the status quo regime for the General Category assists attainment of optimum yield, and addresses allocation issues by lengthening the season over time and space in a category with high participation and catch rates.

*Comment:* If NMFS maintains an October fishery, then buy-boats should be allowed again. The fish landed in

Chatham are of poorer quality than fish landed elsewhere, and as the Town of Harwich is considering imposing new restrictions, this would improve matters. If observers are necessary, the dealers could pay for them.

*Response:* NMFS has removed the permit category allowing the use of buy-boats for BFT as it was deemed obsolete. In the proposed rule to consolidate regulations regarding Atlantic HMS species (January 20, 1999, 64 FR 3166) NMFS stated that for the last several years, the retention limit for General category vessels has been set at one fish per day, thus precluding the need to offload BFT at sea. In addition, compliance with applicable vessel and dealer reporting requirements would be difficult to achieve under at-sea transfer conditions. To date, the Town of Harwich has not yet imposed new restrictions. If any new regulations by the Town are implemented it remains unclear how, or even if, the BFT fishery would be impacted. NMFS intends to continue to monitor the situation to consider and address any inconsistencies between the Town's measures and Federal regulations.

### 2000 Fishing Year Quota Allocations

The HMS FMP addresses many issues regarding the allocation of BFT domestic quota among categories. The comments below address issues other than those regarding allocation percentages.

*Comment:* The amount of quota proposed to be rolled over in the Angling category due to underharvest of the quota for that category during the 1999 fishing year is very large. NMFS should use the transfer criteria specified in the regulations to make the quota available to other users within the domestic fishery, specifically to the commercial categories, in which each fish landed is reported.

*Response:* NMFS has added the Angling category underharvest from the 1999 fishing year to the Angling category quota for the 2000 fishing year in accordance with the provisions and criteria of the HMS FMP, which reflects the 5-year balancing period under ICCAT. Due to year-to-year variability in fishing effort and landings of recreational BFT, it is preferable to ensure availability of quota rather than risk overharvest of the quota. Because it is possible that the Angling category may attain this quota in the 2000 fishing year, it is premature to transfer any quota from this category at this time, and NMFS must consider the criteria for transferring quota, as established in the regulations. In addition, Angling

category landings data are under review and subject to change.

*Comment:* NMFS should allocate a small portion of the Angling category quota for recreational spearfishing. Spearfishing has been a historical gear type and was overlooked during the development of the HMS FMP.

*Response:* NMFS evaluated gear types used in the Atlantic tuna fisheries during the development of the HMS FMP. Currently spearguns are not authorized in the BFT fishery and thus this activity is not allowed. The issue was discussed by the HMS Advisory Panel (AP) during the development of the HMS FMP but no consensus by the HMS AP was reached and no recommendation was transmitted to NMFS. At this time, no additional action is contemplated. However, the HMS AP may wish to discuss this issue again when it next meets.

*Comment:* NMFS should reinstitute the incidental catch quota for herring purse seine vessels, which occasionally catch BFT incidental to their target species.

*Response:* NMFS evaluated gear types used in the Atlantic tuna fisheries during the development of the HMS FMP. NMFS may solicit comment on this issue from the HMS Advisory Panel.

### Restricted Fishing Days

*Comment:* Some commenters stated that NMFS should implement RFDs for July through September as scheduled but should not implement October RFDs, especially beyond the first few days of October. October weather alone should dictate when fishermen make fishing trips. Those in support of October RFDs fish in one geographic area. NMFS should not be involved simply for market reasons. If NMFS does implement October RFDs, the pattern should be the same as for July through September. A commenter proposed that NMFS should depart from the Sunday, Monday, Wednesday pattern and alternate the RFDs each year, so that for the days of Sunday through Wednesday, the one day on which fishing is allowed is different each year. Other commenters stated that if NMFS does implement RFDs for the first week of October, it should designate October 5 as an RFD, since otherwise any fish caught on October 5 would arrive in Japan on October 9, when the market is closed.

Other commenters supported the proposed schedule of RFDs and some specifically stated that NMFS should implement October RFDs for consistency with the rest of the schedule, for market reasons, and so

that fishermen have some days to rest. It is not a geographic issue, i.e., designed for those fishing off Chatham, as fishermen often travel to distant fishing areas to participate in the BFT fishery.

NMFS received comment from a tournament director that the RFDs as proposed would coordinate with the tournament schedule.

Finally, some commenters stated that NMFS should not implement RFDs at all. The implementation of RFDs in 1995 was an experiment to lengthen the season; it did not work significantly, and in fact led to poorer prices, so it should be discontinued.

*Response:* NMFS maintains the schedule of RFDs as proposed from July through September and has modified the schedule for the latter half of October. RFDs, in conjunction with the General category quota subdivision, help achieve HMS FMP objectives to achieve optimum yield (e.g., lengthening the season for market reasons) and address allocation issues. Comments over the past few years regarding the status quo pattern of RFDs have generally been favorable. In addition, maintaining the current pattern and schedule of RFDs provides some benefit to fishermen as it offers a certain level of predictability. However, over the past several years landings have been highest during the first week of October, exacerbating the derby nature of the fishery and contributing to market gluts. Implementing RFDs for the first half of October may help spread out fishing effort, slow the pace of landings, and extend the fishery. However, NMFS recognizes that the weather is unpredictable during this time period for the fishery, particularly in the latter half of October, and that poor weather conditions may limit participation without the need for additional RFDs during this part of the month. Thus, NMFS modifies the proposed schedule of RFDs by removing all RFDs after October 15 and maintains the schedule of RFDs for October 1, 4, 6, 7, 10, 11, 14, and 15.

*Comment:* If spotter planes are prohibited (except for in the Purse Seine fishery), NMFS should not implement any RFDs.

*Response:* Currently, spotter aircraft are allowed to participate in the fishery. However, NMFS has published a proposed rule to prohibit spotter aircraft in the BFT fishery, except for the Purse Seine category. If spotter aircraft are prohibited during the course of the fishing season from participating in the BFT fishery, NMFS will determine what other actions, if any, may be necessary at that time.

## Regulatory Amendments

### General Category Season

*Comment:* NMFS should implement a General category end-date of December 31 to prevent new BFT fisheries while rebuilding is underway.

*Response:* NMFS agrees and implements this measure.

### Purse Seine Category Season

*Comment:* NMFS should not change the date on which purse seine vessel owners receive their allocations to June 1 if it means that BFT fishing would begin prior to August 15.

*Response:* Although the allocation would be made June 1, directed fishing for BFT will continue to start August 15. This amendment is made so as not to preclude Purse Seine category vessels from fishing for other tuna species from June 1 to August 15 of each year.

### Purse Seine Quota Carryover

*Comment:* NMFS should add or subtract underharvest to, or overharvest from, individual purse seine IVQs.

*Response:* NMFS agrees and implements this measure.

### Restricted Fishing Days

*Comment:* It is important to honest fishermen that NMFS reinstate language prohibiting "fishing for" BFT on RFDs in order to prevent the fishing for, and holding of, BFT in slush tanks until the next open day.

*Response:* NMFS agrees and implements this measure.

*Comment:* The language as proposed gives NMFS too much latitude in implementing additional RFDs; the authority should be limited to a few days before the start of the next time period.

*Response:* NMFS has considered this comment but maintains the provision as proposed to facilitate the enforcement of fishery openings and closures.

### Timing of Rulemaking

*Comment:* The specifications should be final before the start of the season. Considering part of the reason NMFS changed the fishing year was to have time to implement the ICCAT recommendations, the proposed specifications should be months earlier so that decisions about permit category can be made before May 15.

*Response:* NMFS agrees. Part of the rationale for the adjustment of the fishing year from a calendar year to one that begins June 1 was to provide adequate time for the development of proposed and final specifications after the November ICCAT meeting. The large workload within the agency this spring

delayed publication of the proposed specifications. However, as the measures contained in the specifications do not change the status quo as presented in the HMS FMP (except for the addition of RFDs in October), NMFS believes that there was minimal, or no, impact on decisions regarding choice of permit categories.

## 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 and proposed regulatory amendment would not have a significant economic impact on a substantial number of small entities. No comments were received that would alter the basis for that certification. Accordingly, an initial regulatory flexibility analysis was not prepared for the proposed specifications and proposed regulatory amendment.

These specifications and regulatory amendment impose no requirements with which fishermen need time to come into compliance, and are necessary to help ensure that the United States' actions are consistent with its international obligations under 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.

The final specifications and regulatory amendment have been determined to be not significant for purposes of E.O. 12866. The specifications set 2000 fishing year BFT fishing category quotas and General category effort controls. The specifications are similar to those set for the 1999 fishing year as established by the HMS FMP. The regulatory amendments will not significantly change the operations of any HMS fishery. Taken together, the quota and effort control specifications and the proposed regulatory amendments are not expected to increase endangered species or marine mammal interaction rates. NMFS reinitiated formal consultation for all Atlantic HMS

commercial fisheries on November 19, 1999, under section 7 of the Endangered Species Act. NMFS issued a Biological Opinion on June 30, 2000 and concluded that the Atlantic pelagic longline fishery for tunas, swordfish and sharks is likely to jeopardize the continued existence of leatherback and loggerhead sea turtles, and may adversely affect but is not likely to jeopardize the continued existence of other listed and protected species. Additionally, NMFS concluded that other components of the Atlantic tunas fisheries (purse seine, handgear, traps) may adversely affect but are not likely to jeopardize the continued existence of listed and protected species. The BO determined reasonable and prudent alternatives to avoid jeopardizing the continued existence of any protected species, and incorporated an incidental take statement listing reasonable and prudent measures and terms and conditions to implement those measures that would serve to reduce takes. NMFS will address the requirements of the BO in subsequent rulemakings and by other non-regulatory means. In the interim, these BFT quota specifications, effort controls and revised regulations are not likely to increase takes of listed species and would not result in any irreversible and irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures to reduce adverse impacts on protected resources.

The area in which fishing for BFT takes place has been identified as essential fish habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, and the NMFS Highly Migratory Species Division. It is not anticipated that this action will have any adverse impacts to EFH and, therefore, no consultation is required.

#### List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: July 7, 2000.

**Donald R. Knowles,**

*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 § 635.23, paragraphs (a)(2) and (a)(4) are revised to read as follows:

#### **§ 635.23 Retention limits for BFT.**

(a) \* \* \*

(2) On an RFD, no person aboard a vessel that has been issued a General category Atlantic Tunas permit may fish for, possess, retain, land, or sell a BFT of any size class, and tag-and-release fishing for BFT under § 635.26 is not authorized from such vessel. On days other than RFDs, and when the General category is open, one large medium or giant BFT may be caught and landed from such vessel per day. NMFS will annually publish a schedule of RFDs in the **Federal Register**.

(4) To provide for maximum utilization of the quota for BFT, NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel. Such increase or decrease will be based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors. NMFS will adjust the daily retention limit specified in paragraph (a)(2) of this section by filing with the Office of the Federal Register for publication notification of the adjustment. Such adjustment will not be effective until at least 3 calendar days after notification is filed with the Office of the Federal Register for publication, except that previously designated RFDs may be waived effective upon closure of the General category fishery so that persons aboard vessels permitted in the General category may conduct tag-and-release fishing for BFT under § 635.26.

3. In § 635.26, paragraph (a)(1) is revised to read as follows:

#### **§ 635.26 Catch and release.**

(a) *BFT.* (1) Notwithstanding the other provisions of this part, a person aboard a vessel issued a permit under this part, other than a person aboard a vessel permitted in the General category on a designated RFD, may fish with rod and reel or handline gear for BFT under a tag and release program, provided the person tags all BFT so caught, regardless of whether previously tagged, with conventional tags issued or approved by NMFS, returns such fish to the sea immediately after tagging with a minimum of injury, and reports the tagging and, if the BFT was previously tagged, the information on the previous tag. If NMFS-issued or NMFS-approved conventional tags are not on board a vessel, all persons aboard that vessel are

ineligible to fish under the tag-and-release program.

4. In § 635.27, paragraph (a)(1)(i)(C), the second sentence of (a)(4)(i), the second sentence of (a)(4)(ii), the first sentence of paragraph (a)(4)(iii), and paragraph (a)(9)(i) are revised to read as follows:

#### **§ 635.27 Quotas.**

(a) \* \* \*

(1) \* \* \*

(i) \* \* \*

(C) October 1 through December 31—10 percent.

(4) \* \* \*

(i) \* \* \* The directed purse seine fishery for BFT commences on August 15 each year.

(ii) \* \* \* The application must be postmarked no later than April 15 for an allocation of the quota that becomes available on June 1.

(iii) On or about May 1, NMFS will make equal allocations of the available size classes of BFT among purse seine vessel permit holders so requesting, adjusted as necessary to account for underharvest or overharvest by each participating vessel or the vessel it replaces from the previous fishing year, consistent with paragraph (a)(9)(i) of this section. \* \* \*

(9) *Annual adjustments.* (i) 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, with the exception of the Purse Seine category, 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. For the Purse Seine category, if NMFS determines, based on landings statistics and other available information, that a purse seine vessel's allocation, as adjusted, has been exceeded or has not been reached, NMFS shall subtract the overharvest from, or add the underharvest to, that vessel's allocation for the following fishing year.

5. In § 635.71, paragraph (e)(8) is revised to read as follows:

#### **§ 635.71 Prohibitions.**

(e) \* \* \*

(8) Fish for North Atlantic swordfish from, possess North Atlantic swordfish on board, or land North Atlantic swordfish from a vessel using or having on board gear other than pelagic longline or handgear.

\* \* \* \* \*

[FR Doc. 00-17620 Filed 7-7-00; 3:26 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 000211040-0040-01; I.D. 070700A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2000 total allowable catch (TAC) of Pacific ocean perch in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 9, 2000, through 2400 hrs, A.l.t., December 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2000 TAC of Pacific ocean perch for the Eastern Aleutian District was established as 2,886 metric tons (mt) by the Final 2000 Harvest Specifications of Groundfish for the BSAI (65 FR 8282, February 18, 2000). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2000 TAC for Pacific ocean perch in the Eastern Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,636 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with

§ 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

#### Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 2000 TAC of Pacific ocean perch for the Eastern Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 7, 2000.

**Richard W. Surdi,**

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

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