

balanced the Commission's goals of encouraging carriers to use numbers currently in their inventories before applying for additional resources with carriers' need to retain flexibility in managing their inventories. The Commission was concerned that many carriers were not doing enough to groom their numbering inventories to minimize waste of the NANP's finite numbering resources. Today, many areas continue to face a heightened demand for numbering resources and, therefore, a utilization threshold of 75% remains in the public interest to ensure that carriers continue to use their numbering resources more efficiently.

11. We disagree with CTIA's claim that we should forbear because doing so will bring about reduced regulatory costs that will promote competitive market conditions. As stated above, any reductions in regulatory costs that would result from forbearance are speculative, and would relate to relatively few numbers in a carrier's inventory. Thus any cost savings would only be minimal, at best. Even if we granted forbearance from further increases, carriers would still have to continue to bear the costs associated with complying with the current utilization level. We have not been shown, nor are we convinced, that the marginal costs related to compliance with increases to the utilization threshold have any effect on competitive market conditions. In fact, we find that forbearance would result in lost efficiencies in numbering resource optimization. When such costly inefficiencies are balanced against the minimal regulatory costs that may be saved by carriers as a result of freezing the current utilization threshold, it is clear that forbearance is not consistent with the public interest.

12. Finally, we find unsupportable CTIA's alternative claim that increases to the utilization threshold will result in certain carriers not having enough numbers available to them to meet customer demand. Once the utilization threshold reaches 75%, carriers will have 25% of their resources available to assign to new customers. Moreover, sufficient mechanisms, such as the safety valve, are in place to ensure that carriers with a verifiable need for additional numbers can get them even if they do not meet the utilization threshold requirements. For example, if, as CTIA suggests is the case for some carriers, a carrier has to use a large amount of numbers for E911 routing purposes, and as a result does not have a sufficient amount of telephone numbers to meet customer demand, that carrier can apply for relief via the safety

valve. In addition, the state commissions note that no carriers have complained that the utilization thresholds are technically or otherwise infeasible, and that no customers have complained about being unable to obtain service because a carrier did not have enough numbers. Therefore, we reject CTIA's contention that forbearance is in the public interest, or will promote or enhance competitive market conditions among providers of telecommunications services.

### III. Ordering Clause

13. Pursuant to sections 10 and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. 160 and 251(e), that the Cellular Telecommunications and Internet Association's Petition for Forbearance From Further Increases in the Numbering Utilization Threshold, filed on June 28, 2002, is denied.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03-24941 Filed 10-1-03; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 030613152-3235-02; I.D. 051903B]

**RIN 0648-AQ38**

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specification, General Category Effort Controls, and Permit Revisions

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

**ACTION:** Final initial 2003 quota specifications, General category effort controls, permit revisions, and definition of the management boundary area.

**SUMMARY:** NMFS announces the final initial 2003 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established fishing categories, to set General category effort controls, to allocate 25 metric tons (mt) of BFT to account for incidental catch of BFT by pelagic longline vessels "in the vicinity of the management boundary area," to define the management boundary area and applicable restrictions, and to revise permit requirements to allow General

category vessels to participate in registered recreational Highly Migratory Species (HMS) fishing tournaments and to allow permit applicants a 10-calendar day period to make permit category changes to correct potential errors. The final initial quota specifications, including the quota allocation to account for incidental catch of BFT by pelagic longline vessels in the vicinity of the management boundary area and the General category effort controls, are necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), pursuant to the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The definition of the management boundary area is to assist management, monitoring, and enforcement of the 25 mt allocated to the Longline category. The permit revisions to allow General category permitted vessels to participate in registered recreational HMS fishing tournaments and to allow a time period for permit category changes are intended to relieve restrictions and help achieve domestic management objectives.

**DATES:** The final initial quota specifications and General category effort controls are effective November 3, 2003 through May 31, 2004. The definition of the management boundary area and applicable restrictions and the revisions to the permit requirements are effective November 3, 2003.

**ADDRESSES:** Copies of the supporting documents including the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) may be obtained from Brad McHale, Highly Migratory Species Management Division, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. These documents are also available from the Highly Migratory Species Division website at [www.nmfs.noaa.gov/sfa/hmspg.html](http://www.nmfs.noaa.gov/sfa/hmspg.html).

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

**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 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

Background information about the need for the final initial BFT quota specifications, General category effort controls, and revisions to the HMS permit regulations was provided in the preamble to the proposed rule (68 FR 41103, July 10, 2003), and is not repeated here. By this final rule, NMFS announces the final initial BFT quota specifications, announces the General category effort controls, including time-period subquotas and restricted fishing days (RFDs), allocates 25 mt of BFT to account for incidental catch of BFT by pelagic longline vessels in the vicinity of the management boundary area, defines the management boundary area and applicable restrictions, revises permit requirements to allow General category vessels to participate in registered recreational HMS fishing tournaments, and revises permit requirements to allow permit applicants a 10-calendar day period to make permit category changes to correct potential errors.

### Changes From the Proposed Rule

#### *2002 Underharvest / Overharvest*

The current ICCAT BFT quota recommendation allows, and U.S. regulations require, the addition or subtraction, as appropriate, of any underharvest or overharvest in a fishing year to the following fishing year, provided that such carryover does not result in overharvest of the total annual BFT quota and is consistent with all applicable ICCAT Recommendations, including restrictions on landings of school BFT. At the time of publication of the proposed initial specifications, 2002 fishing year landings had not yet been fully accounted. Therefore, NMFS adjusts these final initial 2003 fishing year quota specifications for the BFT fishery to account for underharvest and/or overharvest in the 2002 fishing year and recently available data on dead discards.

For the 2002 fishing year, NMFS has determined that General category landings were higher than the adjusted General category quota by 15.7 mt. The Reserve category contains 10.3 mt of BFT quota, and will be used to address partially the General category overharvest. Purse Seine category landings were less than the adjusted Purse Seine category quota by 110.0 mt. Regulations at 50 CFR 635.27(a)(9)(i)

require that Purse Seine category underharvests or overharvests be subtracted from or added to each individual vessel's quota allocation, as appropriate. Harpoon category landings are less than the adjusted Harpoon category quota by approximately 20.4 mt. Angling category under/over harvests vary by size class for the 2002 fishing year: School BFT — 133.8 mt underharvest, large school/small medium BFT — 76.1 mt underharvest, large medium/giant BFT — 1.5 mt overharvest, and school reserve — 20.5 mt underharvest. Overharvest in the large medium/giant size class is addressed by a transfer from the large school/small medium size category underharvest. Longline category landings are less than the adjusted quota by 5.2 mt. In 2002, no landings were recorded in the Trap category, leaving 2.3 mt.

For all categories with underharvests from the 2002 fishing year, these final initial specifications include provisions to carry forward remaining quota to the same category for the 2003 fishing year. However, the unused school reserve (approximately 20.5 mt) is allocated to the Reserve category.

#### *Dead Discards*

As part of the BFT rebuilding program, ICCAT recommends an allowance for dead discards. The U.S. dead discard allowance is 68 mt. The 2002 calendar year preliminary estimate of U.S. dead discards, as reported in pelagic longline vessel logbooks, totaled 38.0 mt (U.S. TASK I data submitted to ICCAT in 2003). As estimates of BFT dead discards for the 2002 fishing year are not yet available, the estimate for the 2002 calendar year was used to calculate the amount to be added to, or subtracted from, the U.S. BFT landings quota for 2003 as a result of dead discards. Estimates of dead discards from other gear types and fishing sectors that do not use the pelagic longline vessel logbook are unavailable at this time and thus are not included in this calculation. As U.S. fishing activity is estimated to have resulted in less dead discards than its allowance, the ICCAT Recommendation and U.S. regulations state that the United States may add one half of the difference between the amount of dead discards and the allowance (i.e.,  $68.0 \text{ mt} - 38.0 \text{ mt} = 30.0 \text{ mt}$ ,  $30.0 \text{ mt} / 2 = 15.0 \text{ mt}$ ) to its total allowed landings for the following fishing year, or to individual fishing categories, or to the Reserve. NMFS allocates the 15.0 mt to the Reserve category quota.

### BFT to Atlantic Tunas in General Category Tournament Exception

When General category vessels fish in tournaments, it is NMFS' intent that HMS Angling category regulations for sharks, swordfish, and/or billfish, as well as any specific tournament rules, would apply to the General category vessels. However, when fishing for, or landing Atlantic tunas in a tournament, the General category regulations would apply, including RFDs and General category retention limits. Thus, this would not allow General category vessels to fish for or retain BFT less than 73 inches (1.85 m). This is intended to provide some relief from the current restrictions and allow General category vessels the same access to tournaments where they may have participated in the past. It is incumbent upon the General category fishermen to verify that a tournament is registered.

### 2003 Final Initial Quota Specifications

In accordance with the 2002 ICCAT Recommendation, the ICCAT Recommendation regarding the dead discard allowance, the HMS FMP percentage shares for each of the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(9)(ii), NMFS announces final initial quota specifications for the 2003 fishing year as follows: General category — 684.4 mt; Harpoon category — 77.5 mt; Purse Seine category — 382.4 mt; Angling category — 497.0 mt; Longline category — 148.8 mt; and Trap category — 3.8 mt. Additionally, 72.1 mt will be allocated to the Reserve category for inseason allocations, including providing for a late season General category fishery, or to cover scientific research collection and potential overharvest in any category except the Purse Seine category. The overall final initial BFT quota for the 2003 fishing year equals 1,866.0 mt.

Based on the above final initial specifications, the Angling category quota of 497.0 mt will be further subdivided as follows: School BFT — 230.9 mt, with 130 mt to the northern area (north of 39° 18' N. latitude), 100.9 mt to the southern area (south of 39° 18' N. latitude), plus 22.1 mt held in reserve; large school/small medium BFT — 237.4 mt, with 127.6 mt to the northern area and 109.8 mt to the southern area; and large medium/giant BFT — 6.6 mt, with 2.2 mt to the northern area and 4.4 mt to the southern area.

The 2002 ICCAT Recommendation includes a 25 mt set-aside quota to account for bycatch of BFT related to directed longline fisheries in the

vicinity of the management area boundary. This set-aside quota is in addition to the overall incidental longline quota to be subdivided in accordance to the North/South allocation percentages mentioned below. NMFS recently adjusted the boundary line between the northern and southern areas to 31°00' N. latitude, near Jekyll Island, Georgia (an area with little longline fishing activity nearby), and adjusted the Longline quota distribution to allocate 40 percent to the northern area and 60 percent to the southern area (68 FR 32414, May 30, 2003). Thus, the Longline category quota of 148.8 mt will be subdivided as follows: 49.8 mt to longline vessels landing BFT north of 31° N. latitude and 74.0 mt to longline vessels landing BFT south of 31° N. latitude. The 25 mt allocated by ICCAT for longline vessels in the vicinity of the management boundary area will be allocated to the Longline north subcategory for a total of 74.8 mt. Accounting for landings under this additional quota will be maintained separately from other landings under the Longline north subcategory.

#### General Category Effort Controls

For the last several years, NMFS has implemented General category time-period subquotas to increase the likelihood that fishing would continue throughout the entire General category season. The subquotas are consistent with the objectives of the HMS FMP and are designed to address concerns regarding allocation of fishing opportunities, to assist with distribution and achievement of optimum yield, to allow for a late season fishery, and to improve market conditions and scientific monitoring.

The HMS FMP divides the annual General category quota into three time-period subquotas as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-December. These percentages will be applied to the adjusted 2003 coastwide quota for the General category of 684.4 mt, minus 10.0 mt reserved for the New York Bight fishery. Therefore, of the available 674.4 mt coastwide quota, 404.6 mt will be available in the period beginning June 1 and ending August 31; 202.4 mt will be available in the period beginning September 1 and ending September 30; and 67.4 mt will be available in the period beginning October 1 and ending December 31, 2003.

In addition to time-period subquotas, NMFS also implements General category RFDs to extend the General category fishing season. The RFDs are designed to address the same issues

addressed by time-period subquotas and provide additional fine-scale inseason flexibility. For the 2003 fishing year, NMFS implements a schedule of RFDs that would assist in extending the General category BFT fishery into the late season to provide southern Atlantic General category participants commercial fishing opportunities on large medium and giant BFT. Therefore, NMFS announces that persons aboard vessels permitted in the General category are prohibited from fishing for BFT of all sizes on the following days: November 15 through November 30 inclusive. These RFDs will improve distribution of fishing opportunities without increasing BFT mortality.

#### Comments and Response

*Comment 1:* Comments expressed support for the new RFDs of November 15–30 to assist in extending the General category fishery into the late winter season. Comments also stated that implementing this block of RFDs should also provide NMFS with adequate time to account for all BFT harvests made prior to any winter fishery.

*Response:* NMFS' final action maintains the proposed block of RFDs in the final initial specifications for the Fall, from November 15 through November 31, inclusive, where no General category BFT fishing would take place. This is due primarily to the experience of the past several years when low catch rates have resulted in NMFS having to waive all previously announced RFDs mid-season, which can cause confusion and disrupt fishermen's activities. This action will allow for BFT to migrate off southern Atlantic States, assist the availability of quota late in the season, and partially address economic and social concerns from south Atlantic area fishermen.

*Comment 2:* Comments regarding the General category permit revision to allow General category vessels to participate in registered HMS recreational fishing tournaments were generally supportive. One commentor stated that General category vessels should also be allowed to land BFT in the recreational size classes while participating in a tournament. One comment received stated that the catching of shark, swordfish, and/or billfish recreationally or retaining any bycatch for personal consumption, has been a traditional component of the General category. The same comment stated that this action sets a precedent which could mean that a commercial permit holder for one species may not fish recreationally for another species.

*Response:* The final action maintains the preferred alternative that will allow

General category vessels to participate in recreational HMS fisheries provided they are participating in a registered recreational HMS fishing tournament (according to HMS tournament registration and participation regulations), as well as abiding by the regulations of the tournament. NMFS' intent is to allow General category vessels to land sharks, swordfish, and/or billfish recreationally while actively participating in a tournament. However, when fishing for, or landing, Atlantic tunas in a tournament the General category regulations would apply, including RFDs and General category retention/size limits. This action is intended to provide some relief from the current restriction and allow General category vessels the same access to tournaments where they may have participated in the past. As the tournament must be registered, NMFS will also be able to collect data on catch, effort, and participants.

Recent rulemaking established a new recreational permit category for all HMS which, among other matters, means General category permit holders must choose whether to retain their commercial General category permit and forgo recreational HMS fishing opportunities or, switch permit categories to the new Atlantic HMS Angling permit and forgo their ability to sell tunas. The HMS Angling category permit completes a process that NMFS initiated several years ago to separate commercial and recreational HMS fishing activities to enhance both monitoring and management of all domestic HMS fishing categories.

*Comment 3:* Comments regarding the 10-calendar day window of opportunity to correct any errors in permit categories were generally positive. Some comments stated that the 10 calendar days should be business days to provide a more adequate time frame for permit applicants to receive and check their permit. One commentor stated that permit category changes should be allowed up until NMFS finalizes the BFT Quota Specifications for each fishing year.

*Response:* The final action establishes a 10-calendar day window of opportunity to correct any errors in permit categories (e.g., if a permit is issued on July 1, then corrections to the permit category must be made by July 10). This action is intended to address the situation where permit applicants received a permit in the wrong category, due to applicant or administrative error, and are unable to change to the intended permit category. Ten calendar days provide enough time for permit applicants to obtain their permit, check

that it is the correct permit, and contact the NMFS permit contractor to affect a change. Extending the time period may begin to undermine the original intent of the regulation (i.e., restricting multiple permit category changes) if permit applicants are motivated to actively participate in more than one category per season.

*Comment 4:* Some comments stated that based on the system NMFS has in place for rapid curtailment of effort in the BFT fisheries, and due to the large amounts of inseason transfers made in the past, a large portion of the Reserve category quota for this season should be earmarked for the late season fishery off the south Atlantic states. The comments also stated this could be accomplished by changing the description of the Reserve category for this season to assure that a portion of the Reserve category quota is transferred to the General category in the late fall-early winter months.

*Response:* The final action will maintain the Reserve category description as stated in § 635.27 (a)(8). NMFS maintains the authority to transfer quota among categories or, as appropriate, subcategories throughout the fishing year. Prior to making any such transfers, NMFS has established a set of criteria that must be considered before performing an inseason transfer. The criteria are listed at § 635.27 (a)(7)(iii)(A)–(F).

#### Classification

These final initial BFT quota specifications, General category effort controls, and revisions to the HMS regulations are published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries (AA) has determined that the regulations contained in this final rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule and submitted it to the Chief Counsel for Advocacy of the Small Business Administration. No comments were received on the IRFA concerning the economic impact of this final rule. A summary of the Final Regulatory Flexibility Analysis (FRFA) is provided below.

The analysis for the FRFA assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries, all of which are considered small entities. In order to do this, NMFS has estimated the average impact that the alternative to establish the 2003 BFT quota for all domestic

fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2002 ICCAT Recommendation increased the BFT quota allocation to 1,489.6 mt. This increase includes 77.6 mt to be redistributed to the domestic fishing categories based on the allocation percentages established in the HMS FMP, as well as a set-aside quota of 25 mt to account for incidental catch of BFT related to directed longline swordfish and BAYS (bigeye, albacore, yellowfin, skipjack) fisheries in the vicinity of the management area boundary. In 2002, the annual gross revenues from the commercial BFT fishery were approximately \$18 million. There are approximately 11,091 vessels that are permitted to land and sell BFT under four BFT quota categories. The four quota categories and their 2002 gross revenues are General (\$13,948,190), Harpoon (\$588,884), Purse Seine (\$3,066,034), and Incidental Longline (\$588,352). The analysis for the FRFA assumes that all category vessels have similar catch and gross revenues. While this may not be true, the analyses are sufficient to show the relative impact of the various final actions on vessels.

For the allocation of BFT quota among domestic fishing categories, two alternatives were considered: The final action that will allocate the ICCAT-recommended quota to domestic categories in accordance with the 2002 ICCAT Recommendation and HMS FMP and the No Action alternative. Under ATCA, the United States is authorized to promulgate regulations as necessary and appropriate to implement ICCAT-approved recommendations, except that no regulations may have the effect of increasing or decreasing any allocation or quota agreed to pursuant to an ICCAT Recommendation. The final action will increase the quota by 77.6 mt and will have positive impacts for fishermen. The No Action alternative was rejected because it was not consistent with the purpose and need for this action and the HMS FMP. The No Action alternative would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2002, but would deny fishermen additional fishing opportunities as recommended by the 2002 ICCAT Recommendation, inconsistent with ATCA. No other alternatives would meet the purpose and need for this action.

For the General category effort controls, three alternatives were considered: The final action to establish RFDs late in the season to provide a late

Fall, southern Atlantic fishery, designate RFDs according to a published schedule, and the No Action (no initial RFDs and publish a schedule during the season). The final action would have positive economic impacts to those south Atlantic fishermen, but could have potentially negative economic impacts to those northern area fishermen who would have otherwise caught and sold fish earlier in the season. These negative impacts will be slightly mitigated if northern area fishermen are willing to travel south late in the season. NMFS has selected this final action because extending the season as late as possible enhances the likelihood of increasing participation by southern area fishermen and increasing overall access to the fishery over a greater range of the fish migration. The impacts of designating RFDs according to a published schedule may vary according to the pace of the fishery. If catch rates are slow as in recent years, as is expected, scheduled RFDs may need to be waived which causes confusion and disrupts fishermen's activities, thus having negative economic impacts. Therefore, this alternative is rejected. The No Action alternative could have positive economic consequences if another season of low catch rates occurs. However, even with low catch rates and no RFDs, it is unlikely that there will be enough quota in the General category to sustain a late season commercial handgear fishery off south Atlantic states, thus negatively impacting south Atlantic fishermen. Therefore, this alternative is rejected.

For the permit revision issue, four alternatives were considered: The final action which allows General category vessels to participate in registered recreational HMS fishing tournaments, a final action which allows 10 calendar days from the date of issuance of the permit to change categories, No Action (General category vessels cannot participate in recreational HMS fisheries and no permit changes are allowed once a permit has been issued), and allow dual permits and require declarations by General category vessels prior to every trip regarding which permit is to be used. The final action, which allows General category vessels to participate in registered recreational HMS tournaments, will have positive economic and social impacts by relieving a restriction on General category vessels. The final action also provides a 10-calendar day time period for permit changes due to errors which would have positive social and economic impacts. The No Action

alternative would have negative social and economic impacts because General category vessels would not be able to participate fully in recreational fishing tournaments, and because it would not allow permit category changes to correct errors. Therefore, this alternative is rejected. The alternative to allow dual permits would further liberalize the restriction and alleviate any negative economic impacts by allowing General category vessels to choose on any given day whether they wish to fish commercially or recreationally. However, there would be some administrative impacts to vessel owners/operators as they would have to declare with NMFS their intent before making a trip, and difficulties in monitoring and enforcing the declarations in real-time and providing multiple permits for the same vessel may end up causing more confusion within the fishery than alleviating any perceived negative economic impacts, thus this alternative is rejected. The final action that provides a 10-calendar day time period for permit changes due to errors would have positive economic impacts by allowing permit holders to fish in the manner intended.

For the definition of the management boundary area, four alternatives were considered: the final action which defines the area as the Northeast Distant (NED) area and will allow retention of the 25 mt quota of BFT with no target catch requirements, the No Action (no definition of the area and operational procedures would account for quota allocated to the area), defining the area as 5 degrees on both sides of the management boundary line, and defining the area as east of the management boundary line. All but the No Action alternative would restrict the quota to vessels participating in the NED experimental fishery. The final action will provide slight positive economic impacts by allowing more retention of incidentally caught BFT relative to the other alternatives because no target requirements will apply. Under the No Action alternative and the other two rejected alternatives, more BFT would likely be discarded than under the final action and negative economic impacts may occur due to lost revenues from discarded BFT.

None of the final actions in this document will result in additional reporting, record keeping, compliance, or monitoring requirements for the public.

NMFS prepared an EA for this final rule, and the AA has concluded that there would be no significant impact on the human environment. The EA presents analyses of the anticipated

impacts of these final actions and the alternatives considered. A copy of the EA and other analytical documents prepared for this rule, are available from NMFS (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. On July 9, 2002 (67 FR 45393), NMFS implemented the reasonable and prudent alternative required by the BiOp. None of the actions in this final rule would have any additional impact on sea turtles as these actions would not likely increase or decrease pelagic longline effort, nor are they expected to shift effort into other fishing areas. A memo concluding that no adverse effect would result from this action if implemented was submitted to the Office of Protected Resources on July 18, 2003. No comments were received that would alter that conclusion. No impacts are expected from this final action that would adversely affect the implementation of the requirements of the BiOp.

NMFS has determined that the final regulations would be implemented in a manner consistent to the maximum extent practicable with the enforceable policies of those Atlantic, Gulf of Mexico, and Caribbean coastal states that have approved coastal zone management programs. On July 15, 2003, the proposed regulations were submitted to the responsible state agencies for their review under Section 307 of the Coastal Zone Management Act. As of September 25, 2003, NOAA Fisheries has received six responses, all concurring with NOAA Fisheries' consistency determination. Because no responses were received from other states, their concurrence is presumed.

The area in which this final action is planned 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 the Office of Sustainable Fisheries at NMFS. 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, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: September 25, 2003.

**John Oliver,**

*Deputy Assistant Administrator for Operations, 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 § 635.4, paragraphs (c) and (j)(3) are revised to read as follows:

### § 635.4 Permits and fees.

\* \* \* \* \*

(c) *HMS Angling permits.* (1) The owner of any vessel used to fish recreationally for Atlantic HMS or on which Atlantic HMS are retained or possessed recreationally, must obtain an HMS Angling permit, except as provided in § 635.4(c)(2). Atlantic HMS caught, retained, possessed, or landed by persons on board vessels with an HMS Angling permit may not be sold or transferred to any person for a commercial purpose. A vessel issued an HMS Angling permit for a fishing year shall not be issued an HMS Charter/Headboat permit or an Atlantic Tunas permit in any category for that same fishing year, regardless of a change in the vessel's ownership.

(2) A vessel issued an Atlantic Tunas General category permit under paragraph (d) of this section may fish in a recreational HMS fishing tournament if the vessel has registered for, paid an entry fee to, and is fishing under the rules of a tournament that has notified NMFS as required under § 635.5(d). When a vessel issued an Atlantic Tunas General category permit is fishing in such a tournament, such vessel must comply with HMS Angling category regulations, except as provided in § 635.4(c)(3).

(3) A vessel issued an Atlantic Tunas General category permit fishing in a tournament, as authorized under § 635.4(c)(2), shall comply with Atlantic Tunas General category regulations when fishing for, retaining, possessing, or landing Atlantic tunas.

\* \* \* \* \*

(j) \* \* \*

(3) Except for Atlantic Tunas Longline and Purse Seine category permits, a vessel owner issued a permit under paragraphs (b), (c), or (d) of this section may change the category of the vessel's permit within 10-calendar days of the date of issuance of the permit. Beyond 10 calendar days after the date of issuance of the permit, no permit category changes may be made.

\* \* \* \* \*

■ 3. In § 635.23, paragraph (f)(3) is added to read as follows:

**§ 635.23 Retention limits for BFT.**

\* \* \* \* \*

(f) \* \* \*

(3) For pelagic longline vessels participating in an experimental fishery in the Northeast distant area, as defined under § 635.2 of this part, under exempted fishing permits issued under § 635.32 of this part, all BFT taken incidental to fishing for other species while in the Northeast distant area may be retained up to a maximum of 25 mt for all vessels so authorized, notwithstanding the retention limits and target catch requirements specified in paragraph (f)(1) of this section. Once the 25 mt limit is attained, the retention limits and target catch requirements specified in paragraph (f)(1) of this section or as adjusted pursuant to paragraph (f)(2) of this section will apply to such vessels.

\* \* \* \* \*

■ 4. In § 635.27, paragraph (a)(3) is revised to read as follows:

**§ 635.27 Quotas.**

(a) \* \* \*

(3) *Longline category quota.* The total amount of large medium and giant BFT that may be caught incidentally and retained, possessed, or landed by vessels for which Longline category Atlantic tunas permits have been issued is 8.1 percent of the overall U.S. BFT quota. In the initial quota specifications issued under paragraph (a) of this section, no more than 60.0 percent of the Longline category quota may be allocated for landing in the area south of 31° 00' N. lat. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels participating in an experimental fishery in the Northeast distant area, as defined under § 635.2 of this part, under exempted fishing permits issued under § 635.32.

\* \* \* \* \*

■ 5. In § 635.71, new paragraph (b)(29) is added to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(b) \* \* \*

(29) Participate in any HMS recreational fishing activity aboard a vessel issued an Atlantic Tunas General category permit unless, as specified at § 635.4(c)(2) and (3), the vessel has registered and paid an entry fee to, and is fishing under the rules of, a recreational HMS fishing tournament registered as required under § 635.5(d).

\* \* \* \* \*

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BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 021122286-3036-02; I.D. 092403G]

**Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels using Hook-and-Line Gear in the Gulf of Alaska**

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for demersal shelf rockfish in the Southeast Outside District or sablefish. This action is necessary because the 2003 bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than demersal shelf rockfish in the Southeast Outside District or sablefish has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 28, 2003, until 2400 hrs, A.l.t., December 31, 2003.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, defined at § 679.21(d)(4)(iii)(C), was established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003) as 290 metric tons. The other hook-and-line fishery includes all groundfish except for demersal shelf rockfish in the Southeast Outside District or sablefish.

In accordance with § 679.21(d)(7)(ii), the Administrator, Alaska Region, NMFS, has determined that the 2003 Pacific halibut bycatch mortality allowance specified for the other hook-and-line fishery has been reached. Consequently, NMFS is prohibiting directed fishing for groundfish other than demersal shelf rockfish in the Southeast Outside District or sablefish by vessels using hook-and-line gear.

Maximum retainable 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. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: September 25, 2003.

**Bruce C. Morehead,**

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