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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066-5717-02]

RIN 0648–XF727

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; closure of the General category fishery.

SUMMARY: NMFS closes the General category fishery for large medium and giant (i.e., measuring 73 inches curved fork length or greater) Atlantic bluefin tuna (BFT) until the General category reopens on December 1, 2017. This action is being taken to prevent overharvest of the General category October through November 2017 BFT subquota and help ensure reasonable fishing opportunities in the December subquota time period.

DATES: Effective 11:30 p.m., local time, October 5 through November 30, 2017.

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

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (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. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the *Federal Register* for publication when a BFT quota (or subquota) is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

The base quota for the General category is 466.7 mt. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a “subquota” or portion of the annual General category quota. Although it is called the “January” subquota, the regulations allow the General category fishery under this quota to continue until the subquota is reached or March 31, whichever comes first. The subquotas for each time period are as follows: 24.7 mt for January; 233.3 mt for June through August; 123.7 mt for September; 60.7 mt for October through November; and 24.3 mt for December. Any unused General category quota rolls forward within the fishing year, which coincides with the calendar year, from one time period to the next, and is available for use in subsequent time periods. On December 19, 2016, NMFS published an inseason action transferring 16.3 mt of BFT quota from the December 2017 subquota to the January 2017

subquota period, resulting in a subquota of 41 mt for the January 2017 period and a subquota of 8 mt for the December 2017 period (81 FR 91873). For 2017, NMFS also transferred 40 mt from the Reserve to the General category effective March 2, and 156.4 mt from the Reserve to the General category effective September 28, resulting in an adjusted General category quota of 663.1 mt (82 FR 12747, March 7, 2017; 82 FR 46000, October 3, 2017). This transfer restored quota to the October through November and December subquota categories that otherwise would have been used to compensate for overharvests in earlier subquota periods, with the goal of making the subquota categories whole to the extent transferrable quota was available.

Based on the best available landings information for the General category BFT fishery as well as recent and anticipated catch rates and fishing conditions, NMFS has determined that the General category October through November subquota will be reached by October 5, 2017. Therefore, retaining, possessing, or landing large medium or giant BFT by persons aboard vessels permitted in the Atlantic tunas General and HMS Charter/Headboat categories must cease at 11:30 p.m. local time on October 5, 2017. The General category will reopen automatically on December 1, 2017, for the December 2017 subperiod. This action applies to Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels, and is taken consistent with the regulations at § 635.28(a)(1). The intent of this closure is to prevent overharvest of the available General category October through November BFT subquota and help ensure reasonable fishing opportunities in the December subquota time period.

Fishermen may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that

are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at www.nmfs.noaa.gov/sfa/hms/.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS’ ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. General and Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing hmspermits.noaa.gov or by using the HMS Catch Reporting App. If needed, subsequent adjustments will be published in the *Federal Register*. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281-9260, or access hmspermits.noaa.gov, for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this

species, and the regional variations in the BFT fishery. These fisheries are currently underway and the quota for the subcategory is projected to be reached shortly. Delaying this action would be contrary to the public interest because the subquota is projected to be reached shortly and any delay could lead to further exceedance, which may result in the need to reduce quota for the General category later in the year and thus could affect later fishing opportunities. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.28(a)(1) (BFT Fishery Closures), and is exempt from review under Executive Order 12866.

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

Dated: October 3, 2017.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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