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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 180117042-8884-02]**

**RIN 0648-XT026**

**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.

**SUMMARY:** NMFS closes the Atlantic bluefin tuna (BFT) General category fishery for the October through November subquota period until the General category reopens on December 1, 2019. The intent of this closure is to prevent overharvest of the adjusted October through November subquota.

**DATES:** Effective 11:30 p.m., local time, October 13, 2019, through November 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Nicholas Velseboer, 978-281-9260, or Larry Redd, 301-427-8503.

**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 Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under regulations at § 635.28(a)(1), to file a closure notice for publication with the Office of the **Federal Register** 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 current baseline General category quota is 555.7 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. The baseline subquotas for each time period are as follows: 29.5 mt for January; 277.9 mt for June through August; 147.3 mt for September; 72.2 mt for October through November; and 28.9 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. To date for 2019, NMFS has taken seven actions that resulted in adjustments to the Reserve category, leaving 65.3 mt of quota currently available (84 FR 3724, February 13, 2019;

84 FR 6701, February 28, 2019; 84 FR 35340, July 23, 2019; 84 FR 47440, September 10, 2019; 84 FR 48566, September 16, 2019; and 84 FR 52806, October 3, 2019).

### **Closure of the October through November 2019 General Category Fishery**

NMFS previously adjusted the subquota for the October through November time period to 172.2 mt (84 FR 52806, October 3, 2019). Based on the best available bluefin tuna General category landings information (*i.e.*, 147.5 mt landed as of October 10, 2019) as well as average catch rates and anticipated fishing conditions, NMFS projects that the adjusted General category October through November subquota will be reached by October 13, 2019, and that the fishery should be closed. Through this action, we are closing the General category bluefin tuna fishery effective 11:30 p.m., October 13, 2019, through November 30, 2019. Therefore, retaining, possessing, or landing 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 13, 2019. The General category will reopen automatically on December 1, 2019, for the December 2019 subquota period. This action applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. For information regarding the HMS Charter/Headboat commercial sale endorsement, see 82 FR 57543, December 6, 2017. The intent of this closure is to prevent overharvest of the available General category October through November BFT subquota.

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/](http://www.nmfs.noaa.gov/sfa/hms/).

Although NMFS previously adjusted the quota for the December 2019 subquota period to 9.4 mt in an inseason quota transfer to the January 2019 subquota period, NMFS would consider a potential quota transfer from the Reserve to the General category for the December subquota period, prior to December 1, after reviewing the best available 2019 landings information to date.

### **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. Additionally, and separate from the dealer reporting requirement, General and HMS 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](http://hmspermits.noaa.gov), using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional action (*e.g.*, quota adjustment, daily retention limit adjustment, or closure) is necessary to ensure available subquotas are not exceeded or to enhance

scientific data collection from, and fishing opportunities in, all geographic areas. 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 quota transfers 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 currently available quota for the subcategory is projected to be reached shortly. Affording prior notice and opportunity for public comment to implement the quota transfer is impracticable and contrary to the public interest as such a delay would likely result in exceedance of the General category October through November fishery subquota or earlier closure of the fishery while fish are available on the fishing grounds. Subquota exceedance 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 §§ 635.27(a)(9) and 635.28(a)(1), and is exempt from review under Executive Order 12866.

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

Dated: October 10, 2019.

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Jennifer M. Wallace,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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