

an initial regulatory flexibility analysis was not prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that plan will be summarized in subsequent rulemaking actions.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648-0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648-0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

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

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA in June 1995. NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This final rule would not make any significant change in the management of reclassified fisheries, and therefore, this final rule is not expected to change the analysis or conclusion of the 2005 EA. If NMFS takes a management action, for example, through the development of a TRP, NMFS will first prepare an environmental document, as required under NEPA, specific to that action.

This final rule will not affect species listed as threatened or endangered

under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under ESA section 7 for that action.

This final rule will have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This final rule will not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

References

Angliss, R.P., and D.P. DeMaster. 1998. Differentiating Serious and Non-serious Injury of Marine Mammals Taken Incidental to Commercial Fishing Operations: Report of the Serious Injury Workshop 1-2 April 1997, Silver Spring, Maryland. NOAA Technical Memorandum NMFS-OPR-13.

Chivers, S. J., Baird, R.W., McSweeney, D.J., Webster, D., Hedrick, N.M. and Salinas, J.C. 2006. Genetic variation and evidence for population structure in eastern North Pacific false killer whales (*Pseudorca crassidens*). Submitted- Canadian Journal of Zoology.

Dated: March 22, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 032107B]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS has determined that the daily Highly Migratory Species (HMS) Angling category retention limits for Atlantic bluefin tuna (BFT) should be adjusted to maximize the usefulness of the information obtained from catches for biological sampling. Vessels permitted in the HMS Angling and HMS Charter/Headboat categories are eligible to land BFT under the HMS Angling category quota. Therefore, NMFS adjusts the daily BFT retention limits for the HMS Angling category quota to allow landing of school BFT in North Carolina during the three-week period from March 24, 2007, through April 15, 2007, as specified in the **SUPPLEMENTARY INFORMATION** section of this document. This action is intended to provide scientific data that would enhance future recreational fishing opportunities for the HMS Angling and HMS Charter/Headboat categories, while minimizing the risk of an overharvest of the HMS Angling category BFT quota.

DATES: Effective from 12:01 a.m., March 24, 2007, through 11:59 p.m., April 15, 2007.

FOR FURTHER INFORMATION CONTACT: Dianne Stephan, 978-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens 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.

The 2006 BFT fishing year began on June 1, 2006, and ends May 31, 2007. The final initial 2006 BFT specifications and effort controls were published on May 30, 2006 (71 FR 30619). These final specifications established retention limits for school BFT (measuring 27 inches (69 cm) to less than 47 inches (119 cm)) for the HMS Angling and HMS Charter/Headboat categories in accordance with the following: (1) International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendation limiting the U.S. catch of school BFT to no more than 8 percent of total U.S. domestic landings calculated as a four-year average; (2) the Consolidated HMS Fishery Management Plan (FMP) (October 2, 2006, 71 FR 58058); and (3) the HMS FMP implementing regulations at 50 CFR 635.27.

The 2006 fishing year is the fourth year in the four-year accounting period established by the ICCAT recommendation that limits harvest of U.S. school BFT. The amount of quota available for the fourth year was limited to 49.2 metric tons (mt), and the final initial 2006 BFT specifications established a one school BFT retention limit for the HMS Angling and HMS Charter/Headboat categories from July 1 through July 21, 2006, in the area South of 39° 18' N, and from August 25 through September 14, 2006, in the area North of 39° 18' N. (In addition, these permit categories were subject to a retention limit of two BFT per vessel measuring 47 inches (119cm) to less than 73 inches (185 cm) CFL for the entire fishing year.) Preliminary draft estimates show that all the available school quota for 2006 has not been harvested, providing an opportunity for a limited re-opening for research purposes.

At the Spring 2005 and 2006 HMS Advisory Panel (AP) meetings, AP members discussed the BFT length to weight conversion ratios used in the Large Pelagic Survey (LPS) and other NMFS analyses, and expressed concern

that the current ratios over-estimate recreational landings. In June 2006, NMFS published "Evaluation of Length-Weight Keys Used to Convert Large Pelagics Survey Bluefin Tuna Landings Numbers to Weights," which concluded that additional research was necessary to determine the accuracy of the conversion factors in use. During the 2006 fishing year, NMFS expanded the LPS to collect additional data for use in re-analyzing length to weight conversion factors for BFT.

In collaboration with NMFS, the North Carolina Division of Marine Fisheries' (NCDMF) recreational BFT tagging program has been expanded to continue to collect these length and weight data during Spring 2007. Recreationally harvested school BFT landed and tagged at NCDMF weigh stations will be measured and weighed as a part of the NMFS length to weight conversion study. NMFS has recently been notified that school BFT are now available off North Carolina. Thus, NMFS is taking this action to allow retention of school BFT off North Carolina, and landing of school BFT in North Carolina ports to collect data for

the NMFS length to weight conversion study.

Under § 635.23(b)(3), NMFS may increase or decrease the HMS Angling category daily retention limit based on the criteria provided in § 635.27 (a)(8). As discussed above, the determination to adjust the retention limit is primarily based on the usefulness of information obtained from catches in the HMS Angling and Charter/Headboat categories for biological sampling and monitoring of the status of the stock (§ 635.27 (a)(8)(i)) and the availability of school BFT on the fishing grounds § 635.27 (a)(8)(ix). In addition, this action would be consistent with the objectives of the consolidated HMS FMP, and the limited three-week duration is anticipated to provide sufficient data for the research program without over-harvesting the school BFT subquota.

Daily Retention Limits

Pursuant to this action and the final initial 2006 BFT specifications, noted above, the daily BFT retention limits for HMS Angling and HMS Charter/Headboat categories are as follows:

TABLE 1. EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS

Permit Category	Effective Dates	Areas	BFT Size Class Limit
HMS Angling and HMS Charter/Headboat (while fishing recreationally)	June 1, 2006, through May 31, 2006, inclusive.	All	Two BFT per vessel per day/trip, measuring 47 inches (119 cm) curved fork length (CFL) to less than 73 inches CFL (185 cm).
	12:01 a.m., March 24, 2007, through 11:59 p.m., April 15, 2007.	Off North Carolina	One BFT per vessel per day/trip, measuring 27 inches (69 cm) CFL to less than 47 inches (119cm) CFL.

Monitoring and Reporting

NMFS selected the daily retention limits and their duration after examining current and previous fishing year catch and effort rates, taking into consideration public comment on the annual specifications and inseason management measures for the Angling category received during the 2006 BFT quota specifications rulemaking process, and analyzing the available quota for the 2006 fishing year. NMFS will continue to monitor the BFT fishery closely through dealer landing reports, the Automated Landings Reporting System, state harvest tagging programs in North Carolina and Maryland, and the Large Pelagics Survey. All school BFT must be landed in the state of North Carolina and reported and tagged at a state reporting station. Depending on the level of fishing effort, NMFS may

determine that additional retention limit adjustments are necessary prior to May 31, 2007.

Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access the internet at www.hmspermits.gov, for updates on quota monitoring and retention limit 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:

NMFS has recently become aware of increased availability of school BFT in close proximity to the shores of North

Carolina, as provided by fishing reports and communication with NCDMF officials and recreational fishermen. This increase in abundance provides the potential to continue the NMFS length to weight conversion study, which is crucial to management of BFT fisheries. In addition to providing for scientific research, increasing the retention limit may also provide small positive social and economic benefits to fishermen and recreational fishing related businesses. The regulations implementing the HMS FMP provide for inseason retention limit adjustments 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.

Affording prior notice and opportunity for public comment to adjust this retention limit is impracticable as it would preclude

NMFS from acting promptly to allow harvest of BFT that are available on the fishing grounds. Analysis of available data shows that this increase to the school BFT retention limit, over a short time span (three weeks) and limited area, has minimal risk of exceeding the ICCAT allocated school BFT limit, as implemented in the 2006 final initial BFT specifications.

Delays in increasing the retention limit would be contrary to the public interest. Limited opportunities are available to sample recreationally harvested BFT for research purposes. Collaboration with the NCDMF recreational BFT tagging program is

expected to provide a sufficient sample size upon which to base scientifically valid analyses of length to weight conversion factors. Accurate conversion factors are crucial for the estimation of recreational landings and other stock assessment analyses. Incorrect conversion factors could overestimate harvests, which would negatively impact U.S. fishermen both economically and socially, or underestimate harvests, which could negatively impact bluefin tuna stocks.

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 is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness. In addition, this action relieves a restriction (i.e., this action allows retention of more fish).

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

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

March 22, 2007.

James P. Burgess,

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