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NHTSA will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, the agency will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for the agency to consider it in developing a final rule (assuming that one is issued), the agency will consider that comment as an informal suggestion for future rulemaking action.

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1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
2. On that page, click on "search."
3. On the next page (<http://dms.dot.gov/search/>), type in the five-

digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-2004-12345," you would type "12345." After typing the docket number, click on "search."

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Please note that even after the comment closing date, NHTSA will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, the agency recommends that you periodically check the Docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78), or you may visit <http://dms.dot.gov>.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on March 2, 2005.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 050228049-5049-01; I.D. 021105C]

RIN 0648-AT05

#### Atlantic Highly Migratory Species; Lifting Trade Restrictive Measures

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

**ACTION:** Proposed rule, request for comments, notice of public hearing.

**SUMMARY:** NMFS proposes to adjust the regulations governing the trade of tuna

and tuna-like species in the North and South Atlantic Ocean to implement recommendations adopted at the 2004 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The proposed rule would lift the trade restrictions on importing bigeye tuna (BET) from Cambodia; the ban on importing BET and bluefin tuna (BFT) from Equatorial Guinea; and the ban on importing BET, BFT, and swordfish (SWO) from Sierra Leone. Additionally, the proposed rule would also correct section reference conflicts between two rules that were published in the **Federal Register** on November 17, 2004, and December 6, 2004.

**DATES:** Written comments on the proposed rule must be received by 5 p.m. on April 7, 2005.

The public hearing will be held on March 21, 2005, from 2:45 p.m. to 5 p.m.

**ADDRESSES:** The public hearing will be held at the Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Written comments on the proposed rule may be submitted to Christopher Rogers, Chief, Highly Migratory Species Management Division:

- Email: [SF1.021105C@noaa.gov](mailto:SF1.021105C@noaa.gov)
- Mail: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on Proposed Rule for Lifting Trade Restrictive Measures."
- Fax: 301-713-1917.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Include in the subject line the following identifier: I.D. 021105C.

Copies of the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks and other relevant documents are also available from the Highly Migratory Species Management Division website at [www.nmfs.noaa.gov/sfa/hms](http://www.nmfs.noaa.gov/sfa/hms).

#### **FOR FURTHER INFORMATION CONTACT:**

Megan Gamble, by phone: 301-713-2347 or by fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The U.S. Atlantic swordfish and tuna fisheries are managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and regulations at 50 CFR part 635 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* The ATCA authorizes the promulgation of regulations as may be necessary and appropriate to carry out ICCAT recommendations. Trade-related ICCAT recommendations from 2004

include but are not limited to, 04–13, 04–14, and 04–15.

### Trade Measures

In 1999, 2000, and 2002, ICCAT found, based on available information, that Equatorial Guinea, Sierra Leone, and Cambodia were engaged in fishing activities that diminish the effectiveness of ICCAT conservation and management measures (Recommendations from 1999 and 2000, 02–19, and 00–15, respectively). Thus, ICCAT previously recommended that Contracting Parties (i.e., any member of the United Nations or any specialized agency of the United Nations that has signed on to the International Convention for the Conservation of Atlantic Tunas) prohibit the import of Atlantic BET and BFT from Equatorial Guinea; BET, BFT, and SWO from Sierra Leone; and Atlantic BET from Cambodia. NMFS promulgated regulations prohibiting the import of these species from these countries in 2000, 2002, and 2004.

During the 2004 meeting, ICCAT determined that Sierra Leone, Equatorial Guinea, and Cambodia have changed their fishing practices to be consistent with ICCAT conservation and management measures and recommended the import prohibitions be lifted on all three countries. Specifically, ICCAT Recommendation 04–14 lifts the trade restriction on importing Atlantic BET and BFT from Equatorial Guinea. In reaching this decision, ICCAT considered the actions taken by Equatorial Guinea to cancel the licenses and flags of large-scale longline vessels previously found participating in unreported and unregulated catches of tuna in the Convention Area. ICCAT also considered the information presented by Equatorial Guinea guaranteeing compliance with ICCAT conservation and management measures. This proposed rule would lift the restrictions on importing BET from Equatorial Guinea implemented on November 20, 2002, (67 FR 70023) and BFT implemented on December 12, 2000 (65 FR 77523).

Further, ICCAT recommends removing the trade restrictions on the import of Atlantic BET, BFT, and SWO from Sierra Leone (Recommendation 04–13). The Commission recognized that Sierra Leone addressed concerns regarding data reporting, developed a monitoring and control plan, and deregistered a vessel previously identified as conducting illegal, unregulated, and unreported (IUU) fishing in the Convention area. In this action, NMFS proposes to lift the import restrictions on Atlantic BET, BFT, and

SWO from Sierra Leone implemented on December 6, 2004 (69 FR 70396).

Finally, ICCAT Recommendation 04–15 removes the trade restrictive measures on importing BET from Cambodia. The Commission recognized the efforts made by Cambodia to deregister vessels previously identified as conducting IUU fishing activities in the Convention Area, change registry companies, and not authorize other vessels to fish in the Convention Area. This rule proposes to lift the trade restrictions on importing BET from Cambodia implemented on November 20, 2002 (67 FR 70023).

### Section Reference Correction

This action proposes to correct section reference conflicts between two rules that were published in the **Federal Register** in late 2004. A final rule implementing BET statistical documents was published on November 17, 2004 (69 FR 67284), and will be effective on July 1, 2005. This rule removes § 635.41 Species Subject to Documentation Requirements and re-designates the content of § 635.45 Products Denied Entry as § 635.41, so that § 635.41 will address Products Denied Entry. A second final rule implementing trade restrictive measures and establishing chartering permits published on December 6, 2004 (69 FR 70401), and was effective on January 5, 2005, and contains references to § 635.45 Productions Denied Entry that will be overwritten when the first rule becomes effective on July 1, 2005. References to § 635.45 Productions Denied Entry are re-designated as § 635.41 Productions Denied Entry in this proposed rule.

### Public Hearings and Special Accommodations

NMFS will hold a public hearing (see **DATES** and **ADDRESSES**) to receive comments from fishery participants and other members of the public regarding this proposed rule. This hearing will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Megan Gamble at (301) 713–2347 at least 5 days prior to the hearing date. For individuals unable to attend a hearing, NMFS also solicits written comments on the proposed rule (see **DATES** and **ADDRESSES**).

### Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 et. seq., and ATCA, 16 U.S.C. 971 et. seq. The Assistant Administrator for Fisheries has preliminarily determined that the regulations contained in this proposed

rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic highly migratory species fisheries.

NMFS has preliminarily determined that this proposed rule would not have significant economic, environmental, or social impacts as defined in NEPA. It is categorically excluded from the need to prepare an Environmental Assessment.

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

NMFS has determined preliminarily that these regulations would be implemented in a manner consistent to the maximum extent practicable with the enforceable provisions of the coastal zone management programs of those Atlantic, Gulf of Mexico, and Caribbean states. Letters have been sent to the relevant states asking for their concurrence.

This action does not contain policies with federalism implications under Executive Order 13132.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The small entities are identified as the 466 dealers with a permit to buy or sell Atlantic BET, BFT, or SWO. Lifting the trade restrictions on Cambodia, Equatorial Guinea, and Sierra Leone would have an insignificant impact on the dealers because no tuna or tuna-like species were imported from these states prior to the ban and none was expected to be imported in the future. Thus there will likely be no positive or negative economic impact on the dealers.

From 1989 to 2002, the United States did not import any Atlantic BET from Cambodia or Equatorial Guinea. From 1989 to 2000, there were no imports of BFT from Equatorial Guinea. There were also no imports of Atlantic BET, BFT, or SWO from Sierra Leone from 1989 to 2004. If the trade restrictions are lifted from these countries, the import of BET, BFT, or SWO from any of the three countries is expected to be low or non-existent. As a result, the proposed measures are not expected to have a significant economic impact on a substantial number of small entities and an initial regulatory flexibility analysis is not required and has not been prepared.

The fishing activities conducted pursuant to this rule will not affect endangered or threatened species or critical habitat under Endangered Species Act. This action is not likely to result in any significant changes to the

quantity of BET, BFT, and SWO imported from Cambodia, Equatorial Guinea, and Sierra Leone, as past import level of these fish species from these countries are low or nonexistent.

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

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Treaties.

Dated: March 3, 2005.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be 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 § 635.41, paragraphs (a) and (b) are removed, paragraphs (c) through (g) are re-designated as paragraph (a)

through (e) and newly redesignated paragraph (a) is revised to read as follows:

**§ 635.41 Products Denied Entry.**

(a) All shipments of Atlantic bigeye tuna, or its products, in any form, harvested by a vessel under the jurisdiction of Bolivia or Georgia will be denied entry into the United States.

\* \* \* \* \*

3. In § 635.71, paragraphs (b)(26) and (e)(16) are removed, paragraphs (b)(27) through (b)(30) are redesignated as (b)(26) through (b)(29), and paragraphs (a)(24), and (a)(45) through (a)(47), and newly redesignated paragraph (b)(29) is revised to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(24) Import, or attempt to import, any fish or fish products regulated under this part in a manner contrary to any import requirements or import restrictions specified at §§ 635.40 or 635.41.

\* \* \* \* \*

(45) Import or attempt to import tuna or tuna-like species harvested from the ICCAT convention area by a fishing vessel that is not listed in the ICCAT record of authorized vessels as specified in § 635.41(b).

(46) Import or attempt to import tuna or tuna-like species harvested by a fishing vessel on the ICCAT illegal, unreported, and unregulated fishing list as specified in § 635.41(c).

(47) Import or attempt to import tuna or tuna-like species, placed in cages for farming and/or transshipment, harvested in the ICCAT convention area and caught by a fishing vessel included on the ICCAT list as engaged in illegal, unreported, and unregulated fishing as specified in § 635.41(d).

(b) \* \* \*

(29) Import a bigeye tuna or bigeye tuna product into the United States from Bolivia or Georgia as specified in § 635.41.

\* \* \* \* \*

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