

Register within 30 days of a determination.

**§ 216.237 Modifications to a Letter of Authorization.**

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to a Letter of Authorization issued pursuant to the provisions of this subpart shall be made by the National Marine Fisheries Service until after notification and an opportunity for public comment has been provided. A renewal of a Letter of Authorization under § 216.236 without modification is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.230(b), a Letter of Authorization may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** within 30 days of the action.

Dated: January 19, 2006.

**John Oliver,**

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

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**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[I.D. 011906B]

**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 Atlantic bluefin tuna (BFT) General category daily retention limit for the final three restricted fishing days (RFD) should be adjusted. These General category RFDs are being waived to provide reasonable opportunity for utilization of the coastwide General category BFT quota. Therefore, NMFS waives the final three RFDs scheduled for January 2006, and increases the daily retention limit from zero to two large medium or giant BFT on these previously designated RFDs.

**DATES:** Effective dates for BFT daily retention limits are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Brad McHale, 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 2005 General category BFT fishing season began on June 1, 2005, and ends January 31, 2006. The final initial 2005 BFT specifications and General category effort controls (June 7, 2005; 70 FR 33033) established the following RFD schedule for the 2005 fishing year: All Fridays, Saturdays, and Sundays from November 18, 2005, through January 31, 2006, and Thursday, November 24, 2005, inclusive, provided quota remained available and the fishery was open. RFDs are intended to extend the General category BFT fishery late into the southern Atlantic season. NMFS has determined that the BFT General category daily retention limit for the final three RFDs should be adjusted as described in Table 1 to provide reasonable opportunity to utilize the coastwide General category BFT quota.

**TABLE 1.—EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS**

Permit Category	Effective Dates	Area	BFT Size Class Limit
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially).	January 27, 28, and 29, 2006.	All	Two BFT per vessel per day/trip, measuring 73 inches (185 cm) CFL or larger.

**Adjustment of General Category Daily Retention Limits**

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the General category daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. NMFS has taken multiple actions during the 2005 fishing year in an attempt to allow for maximum utilization of the General category BFT quota. On September 28, 2005 (70 FR 56595), NMFS adjusted the commercial daily BFT retention limit (on non-RFDs), in all areas, for those vessels fishing under the General category quota, to two large medium or giant BFT, measuring 73 inches (185 cm) or greater curved fork length (CFL), per vessel per day/trip, effective through January 31, 2006, inclusive, provided quota remained available and the

fishery remained open. On November 9, 2005 (70 FR 67929), NMFS waived the previously designated RFDs for the month of November; on December 16, 2005 (70 FR 74712), NMFS waived designated RFDs for December 16-18, inclusive; on January 4, 2006 (71 FR 273), NMFS waived designated RFDs for December 31, 2005, and January 1, 2006, inclusive; on January 9, 2006 (71 FR 1395), NMFS waived RFDs for January 7, 8, 13, 14, and 15, 2006; and on January 20, 2006 (71 FR 3245), NMFS waived the designated RFDs for January 20, 21, and 22, 2006. The daily retention limit for all the above dates was adjusted to two large medium or giant BFT to provide reasonable opportunity to harvest the coastwide quota.

On December 7, 2005 (70 FR 72724), NMFS adjusted the General category quota by conducting a 200 mt inseason quota transfer to the Reserve category, resulting in an adjusted General

category quota of 708.3 mt. This action was taken to account for any potential overharvests that may occur in the Angling category during the 2005 fishing year (June 1, 2005 through May 31, 2006) and to ensure that U.S. BFT harvest is consistent with international and domestic mandates.

Catch rates in the BFT General category fishery have generally been low, the average catch rate for December 2005 and January 2006 is approximately 3.0 mt/day. Based on a review of dealer reports, daily landing trends, available quota, weather conditions, and the availability of BFT on the fishing grounds, NMFS has determined that waiving the final three RFDs established for January 27, 28, and 29, 2006, and increasing the General category daily BFT retention limit on those RFDs is warranted to assist the fishery in accessing the available quota. Therefore, NMFS adjusts the General category

daily BFT retention limits for January 27, 28, and 29, 2006, inclusive, to two large medium or giant BFT per vessel.

The intent of this current adjustment is to provide additional opportunities to utilize the landings quota of BFT while helping to achieve optimum yield in the General category BFT fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP.

### Monitoring and Reporting

NMFS selected the RFDs being waived after examining current fishing year catch and effort rates, previous fishing years' catch and effort rates, forecasted weather patterns, and the available quota for the 2005 fishing year. NMFS will continue to monitor the BFT fishery closely through dealer landing reports until this fishery is closed. Fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access the Internet at [www.nmfspermits.com](http://www.nmfspermits.com) for updates on quota monitoring and retention limit adjustments.

### Classification

The Assistant Administrator for Fisheries, NOAA (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.

The regulations implementing the 1999 Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks 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. New information shows that landing rates are low and forecasted weather conditions are unfavorable for the upcoming open fishing days. Based on a review of recent information regarding the availability of BFT on the fishing grounds, dealer reports, daily landing trends, available quota, and weather conditions, NMFS has determined that this retention limit adjustment is warranted to increase access to available quota.

Delays in waiving the selected RFDs, and thereby not increasing the General category daily retention limit, would be contrary to the public interest. Such delays would adversely affect those General category vessels that would otherwise have an opportunity to harvest BFT on an RFD and would further exacerbate the problem of low catch rates. Limited opportunities to access the General category quota may

have negative social and economic impacts to U.S. fishermen that depend on catching the available quota. For the General category, the selected RFDs need to be waived as expeditiously as possible for the General category participants to be able to take advantage of the adjusted retention limits and plan accordingly.

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, and because this action relieves a restriction (i.e., waives a number of RFDs, thus increasing the opportunity to retain more fish), there is also 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 635.23(a)(4) and is exempt from review under Executive Order 12866.

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

Dated: January 20, 2006.

**John H. Dunnigan**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 041126333-5040-02; I.D. 012006A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2006 total allowable catch (TAC) of pollock for Statistical Area 610 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 22, 2006, through 1200 hrs, A.l.t., March 10, 2006.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 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 A season allowance of the 2006 TAC of pollock in Statistical Area 610 of the GOA is 5,047 metric tons (mt) as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2006 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,037 mt, and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

After the effective date of this closure the maximum retainable amounts at §§ 679.20(e) and (f) apply at any time during a trip.

### 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 impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 19, 2006.

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.