

Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other Federal, State, or local agencies.

Dated: July 23, 2010.

**T.H. Farris,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

RIN 0648-XY10

#### 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 General category retention limit adjustment.

**SUMMARY:** NMFS has determined that the Atlantic tunas General category daily Atlantic bluefin tuna (BFT) retention limit should be adjusted from one to three large medium or giant BFT for the September, October-November, and December time periods of the 2010 fishing year, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action applies to Atlantic tunas General category permitted vessels and Highly Migratory Species Charter/Headboat category permitted vessels (when fishing commercially for BFT).

**DATES:** Effective September 1, 2010, through December 31, 2010.

**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), and implemented domestically pursuant to ATCA, 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).

The 2010 BFT fishing year began on January 1, 2010, and ends December 31, 2010. The General category fishery (the commercial tunas fishery in which handgear is used) is open until December 31, 2010, or until the General category quota is reached.

#### Adjustment of General Category Daily Retention Limit

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of three per vessel based on consideration of the criteria provided under § 635.27(a)(8), which include: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and a review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

On June 2, 2010, NMFS published final specifications (75 FR 30732), including an adjusted General category quota of 538.9 mt, and increased the default General category daily retention limit of one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel to three large medium or giant BFT per vessel for June 1 through August 31, 2010 (75 FR 30730).

Despite an elevated three-fish daily retention limit, 2010 General category landings remain low. As of July 31, 2010, 58.8 mt of the adjusted 2010 General category quota have been landed, and landings rates remain less than 1.0 mt per day. Starting on September 1, 2010, the General category daily retention limit, at 50 CFR 635.23(a)(2), is scheduled to revert back to the default daily retention limit of one large medium or giant BFT per vessel. This default retention limit

applies to General category permitted vessels and HMS Charter/Headboat category permitted vessels (when fishing commercially for BFT, as specified and to the extent allowable under the regulations).

Each of the General category time periods (January, June-August, September, October-November, and December) is allocated a portion of the annual General category quota, thereby ensuring extended fishing opportunities in years when catch rates are high. Given the rollover of unused quota from the January and June-August time periods, current catch rates, and the fact that the daily retention limit will automatically revert to one large medium or giant BFT per vessel per day on September 1, 2010, absent agency action, NMFS anticipates the full 2010 General category quota will not be harvested. Increasing the daily retention limit from the default of one fish may mitigate rolling an excessive amount of unused quota from one time-period subquota to the subsequent time-period subquota. Excessive rollover is undesirable because it: (1) effectively changes the time-period subquota allocation percentages established in the 2006 Consolidated HMS FMP, which were selected to provide a specific balance of fishing opportunities to further achieve optimum yield without excluding traditional participants in the fishery; and (2) could have inadvertent negative ecological impacts associated with a temporal and spatial shift in fishing effort.

NMFS has considered the set of criteria cited above and their applicability to the commercial BFT retention limit for the remainder of the 2010. Based on these considerations, NMFS has determined that the General category retention limit should be adjusted to allow for harvest of the established General category quota. Therefore, NMFS increases the General category retention limit from the default limit to three large medium or giant BFT per vessel per day/trip effective September 1, 2010, through December 31, 2010. Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example, whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of three fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, and applies to vessels permitted in the General category as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

This adjustment is intended to provide a reasonable opportunity to harvest the U.S. landings quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities; to help 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 2006 Consolidated HMS FMP.

In August 2009, NMFS followed a similar course of action and raised the General category retention limits via inseason action to allow for a three BFT daily retention limit throughout 2009 (74 FR 44296, August 28, 2009). Other than for the January period, which is allocated a relatively small amount of quota, NMFS has maintained the General category daily retention limit at the maximum of three fish for several years. NMFS would address the January 2010 General category daily retention limit via a separate inseason action later in the year, if necessary.

#### Monitoring and Reporting

NMFS selected the daily retention limit for September-December 2010 after examining an array of data as it pertains to the determination criteria. These data included, but were not limited to, current and previous catch and effort rates in the BFT fisheries, quota availability, previous public comments on inseason management measures, stock status, etc. NMFS will continue to monitor the BFT fishery closely through the mandatory dealer landing reports, which NMFS requires to be submitted within 24 hours of a dealer receiving BFT. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closure of the General category 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 [www.hmspermits.gov](http://www.hmspermits.gov), for updates on quota monitoring and retention limit adjustments.

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 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. Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of three per vessel based on consideration of the criteria provided under § 635.27(a)(8), which include: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and a review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

Affording prior notice and opportunity for public comment to implement these retention limits 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 the General category BFT retention limits may be increased with minimal risks of exceeding the ICCAT-allocated quota.

Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day and may exacerbate the problem of low catch rates and quota rollovers. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen who depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP. Adjustment of the retention limit needs to be effective September 1, 2010, to minimize any unnecessary disruption in fishing patterns and for the impacted sectors to

benefit from the adjustments so as to not preclude fishing opportunities.

#### Classification

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., the default General category retention limit is one fish per vessel/trip whereas this action increases that limit and allows retention of additional 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: August 13, 2010.

**Emily H. Menashes,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 100218107-0199-01]

RIN 0648-XX92

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #5, #6, #7, and #8

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

**ACTION:** Modification of fishing seasons, gear restrictions, and landing and possession limits; request for comments.

**SUMMARY:** NOAA Fisheries announces four inseason actions in the ocean salmon fisheries. Inseason actions #5, #6, and #7 modified the commercial fishery in the area from U.S./Canada Border to Cape Falcon, Oregon. Inseason action #8 modified the recreational fishery in the area from U.S./Canada Border to Cape Falcon, Oregon.

**DATES:** Inseason action #5 was effective on June 18, 2010, and remains in effect until the closing date announced in the 2010 annual management measures or through additional inseason action. Inseason action #6 was effective on June 25, 2010, and remains in effect until the