(b) The Federal agencies shall comply with the requirements set forth in the January 2008 edition of the NTIA Manual, as revised through September 2010, which is incorporated by reference with approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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Dated: March 30, 2011.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

[FR Doc. 2011–7944 Filed 4–4–11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 101029546–1208–02]

RIN 0648–BA39

Atlantic Highly Migratory Species; Bluefin Tuna Bycatch Reduction in the Gulf of Mexico Pelagic Longline Fishery

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

ACTION: Final rule.

SUMMARY: Under this final rule, NMFS requires the use of "weak hooks" in the Gulf of Mexico (GOM) pelagic longline (PLL) fishery. A weak hook is a circle hook that meets NMFS' current size and offset restrictions for the GOM PLL fishery, but is constructed of round wire stock that is thinner-gauge than the circle hooks currently used and is no larger than 3.65 mm in diameter. Weak hooks can allow incidentally hooked bluefin tuna (BFT) to escape capture because the hooks are more likely to straighten when a large fish is hooked. Requiring weak hooks in the GOM will reduce bycatch of BFT; allow the long-term beneficial socio-economic benefits of normal operation of directed fisheries in the GOM with minimal short-term negative socio-economic impacts; and have both short- and long-term beneficial impacts on the stock status of Atlantic BFT, an overfished species. This action affects commercial fishermen using PLL gear to fish for Atlantic Highly Migratory Species (HMS) in the GOM.

DATES: This final action will become effective on May 5, 2011.

ADDRESSES: Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the supporting documents—including the Environmental Assessment (EA), Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), small entity compliance guide, and the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP)—are available from the HMS Web site at *http://www.nmfs.noaa.gov/sfa/hms/.*

FOR FURTHER INFORMATION CONTACT: Dianne Stephan at 978–281–9260 or Randy Blankinship at 727–824–5399.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Conventions Act (ATCA), which authorizes the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary and appropriate to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), which details the management measures for Atlantic HMS fisheries, including the PLL fishery. The implementing regulations for Atlantic HMS are at 50 CFR part 635.

Background

On January 13, 2011, NMFS published a proposed rule (76 FR 2313) to require the use of "weak hooks" by PLL vessels fishing in the GOM. A weak hook is a circle hook that meets NMFS' current size and offset restrictions but is constructed of round wire stock that is thinner-gauge and is no larger than 3.65 mm in diameter than the circle hooks currently used in the PLL fishery. This final rule finalizes the provisions proposed in the January 13, 2011, rule. The purpose of this action is to reduce PLL catch of Atlantic BFT in the GOM, which is the only known BFT spawning area for the western Atlantic stock of BFT, as early in the 2011 BFT spawning season as possible. Bluefin tuna spawning season begins in early April each year. This action is consistent with the advice of the ICCAT Standing Committee for Research and Statistics (SCRS) that ICCAT may wish to protect the strong 2003 year class until it reaches maturity and can contribute to spawning. The purpose is also to allow directed fishing for other species to continue within allocated BFT subquota limits. This measure is consistent with the 2006 Consolidated HMS FMP and ICCAT Recommendation 10–03 (supplemental recommendation by ICCAT concerning the western BFT rebuilding program).

Since 2007, NMFS has conducted research on weak hooks used on PLL vessels operating in the GOM to determine if their use can reduce the incidental catch of large BFT during directed PLL fishing for other species. Research data show that the use of a weak hook can significantly reduce the amount of BFT caught incidentally by PLL vessels in the GOM. Weak hooks can allow incidentally hooked BFT to escape capture because the hooks are more likely to straighten when a large fish is hooked, thus releasing the fish.

Due in part to this research, this action finalizes the requirement to use weak hooks in the Atlantic HMS PLL fishery in the GOM. This action will be effective on May 5, 2011 to ensure implementation happens as early in the 2011 BFT spawning season as possible. Implementation of weak hooks in the GOM PLL fishery during spring 2011 is important because the strong 2003 year class is beginning to enter adulthood, and it is likely that some of them will begin to spawn in the GOM this spring. Also, reducing the incidental BFT catch in the GOM may enable the PLL fishery to continue to participate in directed fisheries (e.g., yellowfin tuna (YFT) and swordfish) year-round with less risk of fishery interruption due to insufficient BFT subquota availability in the Longline Category.

NMFS considered three alternatives regarding the GOM PLL fishery. Alternative one would maintain the status quo, thus continuing existing regulations in the GOM PLL fishery. Alternative two would require all PLL vessels fishing in the GOM to use weak hooks. Alternative three would implement additional time/area closures in the GOM to protect spawning BFT. The proposed rule contained details regarding the alternatives considered and a brief summary of the recent management history. Those details are not repeated here.

Response to Comments

During the proposed rule stage, NMFS received more than 57,000 written comments from non-governmental organizations, fishermen, dealers, and other interested parties on the proposed rule. Mass public comment campaigns contributed to the high number of comments received. NMFS also heard numerous comments from constituents who attended the three public hearings and an operator-assisted Atlantic HMS Advisory Panel conference call, which was open to the public. A summary of the comments received on the proposed rule during the public comment period is provided below with NMFS' response. All written comments submitted during the comment period can be found at *http://www.regulations.gov/* by searching for RIN 0648–BA39.

Weak Hook Comments

Comment 1: NMFS should implement weak hooks in the GOM PLL fishery year-round prior to the 2011 western Atlantic BFT spawning season.

Response: NMFS agrees with the intent of this comment for reasons described in the preferred alternative in the proposed and final rules and EA, which include: Protecting the 2003 BFT year class as recommended by the ICCAT SCRS; reducing the impact of the GOM PLL fleet on western BFT; reducing BFT catches in the GOM PLL fishery; maintaining, or possibly improving with experience using the weak hook, catches of YFT; reducing the likelihood of PLL fishery interruption or indirect impacts to directed BFT fisheries due to the Longline Category exceeding its BFT subquota; and improving fishing efficiency and catch by reducing the amount of fishing time lost to BFT and large shark entanglements.

Comment 2: NMFS should not implement weak hooks because they are unproven in effectively reducing BFT mortality. Although BFT catch appears to be reduced, there is no unequivocal evidence that BFT released from a bent hook survive.

Response: NMFS disagrees that weak hooks should not be implemented in the GOM PLL fishery. Research has shown that the use of weak hooks can reduce the incidental catch of BFT by 56.5 percent. Although limited information exists about the effects of weak hooks on BFT post-release mortality, post-release mortality is expected to be reduced because BFT likely straighten the weak hooks relatively quickly after being caught and likely do not incur as high a level of metabolic stress as when the fish stay on the hook until being retrieved upon haul-back of the gear. Due to the fact that BFT have the highest level of energy available at the moment when the fish becomes hooked, NMFS believes that escapement occurs soon after the fish is hooked. NMFS intends to conduct additional research with weak hooks using hook timers to determine the length of time that fish remain on the hook. This information will aid in further understanding more precisely the effects of weak hook use on BFT post-release mortality.

Comment 3: NMFS should implement weak hooks in the GOM PLL fishery seasonally when BFT are present. Seasonal application of the weak hook requirement would allow fishermen to use currently required standard circle hooks when BFT are not present in the GOM to mitigate potential economic impacts due to reductions in YFT and swordfish catch that might occur with year-round use of weak hooks.

Response: NMFS disagrees that the weak hook requirements should be implemented seasonally. BFT are also present in the GOM outside of the spawning season, although in lower numbers, and use of weak hooks year-round will ensure that protection is provided for these BFT.

Research data showed a higher catch rate of YFT with the experimental hook in the late summer months of July, August, and September when compared to the spring and early summer months of March, April, May, and June. Because the experiment focused on collecting data during the BFT spawning season, the majority of data was collected during March–June. Although it is unknown why YFT catch rates were higher in the late summer months after BFT spawning season, if more data had been collected after the BFT spawning period, NMFS believes it likely that the YFT reduction rate would have been less than what was observed (i.e., the amount of YFT caught with the weak hook may not have decreased as much as the overall study showed). Thus the potential economic impact due to decreases in YFT catch may actually be less than described in the proposed rule.

Seasonal application of the weak hook requirement would increase the difficulty of enforcing the rule's requirement for vessels in the GOM with PLL gear on board to possess, use, and deploy only weak hooks. This is because vessels on trips spanning the beginning or end of the period of time during which weak hooks are required might not have removed all of the hooks with wire greater than 3.65 mm in diameter from their vessels, thus possessing both hooks on board. Requiring weak hooks year-round reduces such enforcement concerns because no other type of circle hook would be allowed on vessels fishing with PLL gear in the GOM. There would also be some negative economic impacts to fishermen if standard hooks are allowed to be used outside of BFT spawning season due to higher costs and lost fishing time due to re-rigging of fishing gear.

Comment 4: Implementing weak hooks in the GOM PLL fishery will have negative economic impacts, including the potential for significant loss of catch and revenue by some vessels. This loss in revenue may make it more difficult for some vessels to maintain the hire of captains and crew members who may be able to find more lucrative employment elsewhere. Negative economic impacts also include the initial cost of outfitting GOM PLL vessels with weak hooks and an increased replacement rate of weak hooks due to the ease with which the hooks bend. NMFS should provide reimbursement to fishermen for the cost of initially outfitting their vessels with weak hooks.

Response: As described in the EA, NMFS anticipates negative economic impacts to occur in the short-term for PLL vessels fishing in the GOM. These negative economic impacts include a potential reduction of vessel gross revenue of approximately 14.8 percent, a minor increase in the cost of weak hooks compared to the currently required standard circle hook, and a slight increase in gear cost due to an increased replacement rate of weak hooks compared to the standard circle hook.

As described in the response to comment 3 above, research data showed a higher catch rate of YFT with the experimental hook in the late summer months of July, August, and September when compared to the spring and early summer months of March, April, May, and June. Because the experiment focused on collecting data during the BFT spawning season, the majority of data was collected during March–June. If more data had been collected after the BFT spawning period, NMFS believes it likely that the YFT catch reduction rate would have been less than what was observed and the potential economic impact due to decreases in YFT catch could be less than described in the proposed rule. NMFS gear researchers have found that fishermen participating in research tend to work through a learning curve with new technology and generally improve their performance with a particular gear over time. A voucher program to assist fishermen in the GOM with the purchase of an initial

supply of weak hooks is being sponsored by the National Fish and Wildlife Foundation (*please see* "Weak Hook Voucher Program" below for more details). Compared to the no action alternative, the preferred alternative reduces the incidental BFT catch in the GOM and may enable the PLL fishery to continue to participate in directed fisheries (e.g., YFT and swordfish) year-round with less risk of fishery interruption due to insufficient BFT subquota availability in the Longline Category.

Comment 5: Gulf of Mexico PLL fishermen need a reasonable amount of time to comply with the new weak hook requirement prior to active enforcement of the new requirement, and NMFS should ensure that there is a sufficient supply of weak hooks available for the GOM PLL fleet in advance of the effective date.

Response: NMFS agrees and intends to provide 30 days after publication of the final rule for fishermen to prepare for and comply with the weak hook requirement. NMFS has begun to investigate manufacturer and distributor inventories of weak hooks and believes that enough weak hooks are currently available to initially outfit PLL vessels in the GOM with weak hooks. NMFS cannot delay implementation for longer than 30 days because, as described above, it is important to have these regulations in place as early in the 2011 BFT spawning season as possible to provide additional protections for the strong 2003 year class as it enters adulthood and begins to contribute to spawning in the GOM this spring.

Comment 6: NMFS should seek methods to respond to the ICCAT SCRS call for special efforts to reduce mortality on the 2003 BFT year class in other domestic and international fisheries that target or interact with BFT.

Response: The 2010 SCRS report noted that ICCAT "may wish to protect the 2003 year class until it reaches maturity and can contribute to spawning," and that maintaining catch at 1,800 mt may offer some protection. ICCAT Recommendation 10–03 reduced the total allowable catch (TAC) to 1,750 mt for 2011 and 2012, which may offer further protection for the 2003 year class. Implementation of weak hooks in the GOM PLL fishery is expected to reduce the catch of BFT and reduce mortality of spawning-age BFT, including the 2003 year class. This action will promote survival of BFT in the GOM, and thus will improve western BFT stock health.

Comment 7: NMFS should conduct education and outreach programs for the entire GOM PLL fleet, including reaching Vietnamese fishermen, to help fishermen understand the benefits and costs of weak hook use and fishery management priorities for the future of the fishery. This effort should include fishing techniques learned through the weak hook research to reduce BFT catch and maintain or improve directed catch.

Response: NMFS agrees and intends to conduct outreach and education workshops around the GOM to help fishermen learn the benefits of and techniques for fishing with weak hooks.

Comment 8: NMFS should continue to conduct and expand research on weak hook technology in the GOM PLL fishery. NMFS should conduct additional research on the length of time that BFT remain hooked on weak hooks in order to determine if the mortality rate of BFT is actually reduced. There is currently little data to indicate if BFT that escape from weak hooks survive. Additional research should investigate reducing white marlin and roundscale spearfish bycatch, determining the effect of weak hooks on sea turtle interactions, further reducing BFT bycatch, improving directed species catch, and determining the efficacy of 18/0 hooks made with thinner wire for further BFT bycatch reduction and improved swordfish retention. NMFS should create a sunset provision of 3 years for the weak hook requirement to allow sufficient time for additional research and ensure a thorough review by the agency to determine if the requirement should be continued, revised, or allowed to expire.

Response: NMFS intends to continue research on the effects of the use of weak hooks when compared to the currently required standard circle hook. Among other things, this research will help to better understand the effect of weak hooks on white marlin and roundscale spearfish catches and sea turtle interactions. NMFS intends to conduct research with weak hooks using hook timers to determine the length of time that fish remain on the hook. This information will aid in understanding the effects of weak hook use on BFT post-release mortality. NMFS will continue to collect information on BFT, white marlin, roundscale spearfish, sea turtles and other species caught on PLL gear through the NMFS pelagic observer program that will help to better understand the effects of weak hook implementation.

During experimental PLL fishery data collection conducted in the Northeast Distant gear restricted area and GOM in 2004, NMFS collected data with the currently required standard circle hooks that showed reduced catches of swordfish and YFT with 18/0 circle hooks compared to 16/0 circle hooks on both squid and sardine baits. The evaluation did not include BFT. While these results do not directly answer the public comment about how 18/0 circle hooks constructed of thinner wire might perform for reducing BFT catch, they provide some insight to show that currently required standard 18/0 hooks may reduce swordfish retention.

NMFS disagrees that a sunset provision should be implemented for this final action because such a provision would guarantee that NMFS must take action to continue the weak hook requirement. Instead, NMFS may conduct subsequent rulemaking, if necessary, in the future to address the need for modified or additional management measures.

Comment 9: The weak hook research indicates that the number of swordfish retained by GOM PLL vessels may decrease. If this occurs, fishermen may increase their fishing effort to make up for lost revenue, which may result in increased bycatch of undersized swordfish and other bycatch species.

Response: NMFS agrees that the possibility exists for PLL fishing effort in the GOM to increase if fishermen attempt to make up for lost revenue due to reductions in targeted catch. NMFS will continue to monitor fishing effort and catch in the GOM PLL fleet through logbooks, dealer reports, and the pelagic observer program in order to determine potential effects on target and non-target species. Bycatch mitigation measures such as closed areas (DeSoto Canyon), use of circle hooks, possession and use of protected species safe handling and release gears, and limits on sea turtle interactions required in the 2004 Biological Opinion (BiOp) will remain in effect. However, fishermen may not experience reductions in targeted catch or reduced revenue. Some fishermen that participated in the weak hook research experienced increased targeted catch and are voluntarily using weak hooks year-round. As other fishermen learn the fishing techniques that work well with the weak hooks, those fishermen may not experience reductions in targeted catch or revenue.

As described in the response to Comment 3 above, research data showed a higher catch rate of YFT with the experimental hook in the late summer months of July, August, and September when compared to the spring and early summer months of March, April, May, and June. Because the experiment focused on collecting data during the BFT spawning season, the majority of data was collected during March-June. If more data had been collected after the BFT spawning period, it is likely that

the YFT reduction rate would have been less than what was observed, thus the potential economic impact due to decreases in YFT catch may be less than described in the proposed rule. If this occurs, the incentive to increase fishing effort may not be realized.

Comment 10: Because the weak hooks are nearly identical to the currently required standard circle hook, enforcement of the weak hook requirement will be extremely difficult. Further, the potential reduction in the catch of target species, such as swordfish retained for sale, indicated by the weak hook research, could make it less likely that fishermen will comply with the weak hook requirement.

Response: NMFS intends to fully enforce the weak hook requirement. A gauge has been developed for use by NMFS enforcement agents and officers, U.S. Coast Guard personnel, and state joint enforcement partners to quickly and definitively measure the diameter of the hook wire. This gauge was used by observers during the weak hook study and is proven to be a quick and effective tool for distinguishing the difference between weak hooks and hooks made of larger diameter wire.

Comment 11: Pelagic longline gear is responsible for almost 70 percent of the mortality of white marlin and the weak hook research indicates that white marlin/roundscale spearfish catches may increase by 52.7 percent with weak hooks. This increase in catch is concerning given the poor health of white marlin and the fact that white marlin has been the subject of two status reviews under the Endangered Species Act (ESA).

Response: The NMFS weak hook research results showed that the increase in catch of white marlin and roundscale spearfish was not statistically significant, although the difference was close to being statistically significant. NMFS does not believe that this increase, if it actually occurs, is likely to have population or ecosystem effects for those species because the predicted increase of 144 white marlin (or 1.05 mt in 2009 at 48 lb per fish) dead discards represents less than 0.8 percent of the total amount of international white marlin catch (which includes recreational landings and commercial dead discards) in the North Atlantic (406 mt in 2009).

Due to misidentification of roundscale spearfish as white marlin, the total international white marlin catch also includes some roundscale spearfish and, as such, indicates that any potential increase in roundscale spearfish that might occur in the GOM PLL fishery as a result of this final action should be very small in relation. In addition, NMFS already has comprehensive regulations in place to conserve these species in its domestic fisheries. Under current regulations, PLL vessels are not allowed to retain white marlin/roundscale spearfish, and any that are captured must be released alive or discarded if dead. Additionally, PLL vessels are currently required to possess and use protected species safe handling and release gears and techniques that aid in releasing hooked animals, including white marlin, and maximize post-release survival without removing the fish from the water. Most white marlin/roundscale spearfish that are hooked are released alive.

NMFS would continue research with weak hook technology and closely monitor white marlin and roundscale spearfish catch through observer coverage in the fishery. Should the increased catches of white marlin and roundscale spearfish continue, NMFS would investigate potential mitigation measures that might be implemented if necessary to reduce the catches and/or reduce the bycatch mortality associated with the catches. The current research does not show a statistically significant increase in bycatch; therefore, it is not clear that mitigation measures would be appropriate at this time. Neither does the research indicate which measures would be effective to address any potential statistically significant white marlin and roundscale spearfish increase in catch. If additional research shows a statistically significant increase in such bycatch, possible measures could include adopting a seasonal application of the weak hook, modification or removal of the weak hook requirement or other measures as necessary and appropriate. NMFS would closely monitor fleet activities and catch statistics, and consider making management measures adjustments, including use of inseason management authority, should the data warrant.

Comment 12: While the weak hook study showed a reduction in YFT catch of 7 percent, it also showed an increase in YFT catch in late summer and fall months. If YFT catches actually increase overall as a result of weak hook use, the increased fishing mortality may be detrimental to the YFT population.

Response: As described in the response to Comment 3 above, research data showed a higher catch rate of YFT with the experimental hook in the late summer months of July, August, and September when compared to the spring and early summer months of March, April, May, and June. Because the experiment focused on collecting data during the BFT spawning season, the majority of data was collected during March–June. If more data had been collected after the BFT spawning period, it is likely that the YFT reduction rate would have been less than what was observed. This additional analysis does not, however, indicate that an overall increase in YFT catch would occur. NMFS will continue to collect information on YFT and other species caught on PLL gear through the NMFS pelagic observer program that will help to better understand the effects of weak hook implementation.

Yellowfin tuna are managed internationally by ICCAT, which has adopted a limit on effective fishing effort, but not issued a TAC or individual country quotas. According to the latest ICCAT SCRS YFT stock assessment (2008), the YFT population is not considered to be overfished and overfishing is not occurring. If the catch of YFT in the GOM increases as a result of weak hook use, negative impacts on the YFT population are expected to be minor when compared to the total western Atlantic longline catch. The United States GOM longline catch is 7.7 percent of the total western Atlantic longline catch.

Comment 13: NMFS should reexamine whether it is appropriate to rely on the Final Environmental Impact Statement (FEIS) for the 2006 Consolidated HMS FMP, or the 2004 BiOp for the PLL fishery when supporting the FONSI because the implementation of the weak hook will cause a change in fishing effort because of improved catchability of white marlin and other species. The effects on endangered and threatened marine species are not fully understood through the weak hook research, which is cause for concern given the potential increase in the number of hooks that might be set in the PLL fishery due to the potential decrease of YFT and swordfish retained for sale. Also, an ESA consultation may be required if weak hook use affects loggerhead sea turtles and those loggerhead sea turtles are uplisted in the final rule to list the Northwest Atlantic loggerhead sea turtle (final rule due March 16, 2011). The analysis in the 2006 Consolidated HMS FMP should be updated due to significant events such as Hurricane Katrina and the DWH/BP oil spill, thus the baseline FEIS for the 2006 Consolidated HMS FMP requires new analyses of the effects of the PLL fishery on listed species.

Response: NMFS disagrees that a potential increase in the catch of white marlin is an indication that fishing effort will increase with implementation of weak hooks. White marlin and other

billfishes are not allowed to be retained on PLL vessels. NMFS does not believe that an increase in bycatch that must be discarded will result in an increase in fishing effort.

NMFS believes that the FEIS for the 2006 Consolidated HMS FMP and the 2004 BiOp for the PLL fishery remain applicable and support this final action. Despite recent significant events that have occurred in the GOM, the 2006 Consolidated HMS FMP closure analysis still reflects impacts that are likely to occur with the time/area closure alternatives, particularly when considering redistribution of fishing effort. When redistribution of effort was considered, all time/area closures in the 2006 analysis resulted in an increase in bycatch for some species, including BFT. This final action is not expected to change fishing effort or behavior beyond that already analyzed in the 2001 HMS and 2004 PLL Biological Opinions (BiOps) regarding interactions with endangered species. This action is not expected to significantly alter current fishing practices or bycatch mortality rates from the level analyzed in the Consolidated HMS FMP, and therefore should not have adverse impacts on protected species, or have any further impacts on endangered species, listed marine mammals, or critical habitat beyond those considered in the 2001 and 2004 BiOps.

Comment 14: Comments were received in support of and opposition to implementing weak hooks in Atlantic PLL fisheries outside the GOM.

Response: Research was conducted by the NMFS Southeast Fisheries Science Center to evaluate the efficacy of 16/0 "weak" circle hooks in reducing the bycatch of BFT in the GOM YFT fishery. The weak hook research has shown that the catch of adult-sized BFT in the GOM PLL fleet can be reduced by 56.5 percent with the use of weak hooks. The difference in BFT catch between the standard 16/00 circle hooks and the experimental weak hooks was statistically significant. The size of BFT in the GOM, the only known spawning area for the western stock, is larger than the size distribution of BFT in the Atlantic outside of the GOM. The benefits of weak hook use with PLL gear outside the GOM may not be the same as in the GOM PLL fishery given the differences in the catch composition and the way fishermen fish PLL gear in strong currents such as the Gulf Stream. While research on the use of weak hooks along the Atlantic coast has begun in order to look at reducing the bycatch of marine mammals, further research is needed to determine the applicability of weak hooks outside of the GOM and any impacts on BFT, target catch, marine mammals, sea turtles, and other incidentally caught species.

Gulf of Mexico Time/Area Closure Comment

Comment 15: NMFS should prohibit PLL gear in the GOM (Alternative 3) because of indiscriminate bycatch (particularly the bycatch of BFT, billfishes, leatherback sea turtles, and loggerhead sea turtles) or should implement a seasonal closure for longline use during BFT spawning.

Response: Considering redistribution of fishing effort is important because HMS and protected species are not uniformly distributed throughout the ocean and tend to occur in higher concentrations in certain areas. Therefore, a closure in one area might reduce the bycatch of one or two species, but may increase bycatch of others. NMFS considered a number of redistribution of effort scenarios (*i.e.,* redistribution of effort into all remaining open areas, redistribution of effort into the GOM only, and redistribution of effort in the GOM). In all cases, NMFS found the closures in the GOM could result in an increase in bycatch for some of the species being considered. No one closure in these analyses would have resulted in a decrease in discards or bycatch of all the species considered when the redistribution of fishing effort was considered. When the redistribution of effort was considered, the purpose of a GOM closure (reducing bycatch and discards of spawning BFT) may not be fully realized and may have effects on BFT outside the closed area. For instance, after examining a potential closure in the GOM from April through June in order to protect spawning BFT, the analysis predicted an increase in the number of BFT bycatch and discards elsewhere once displaced fishing effort was considered. In the 2006 Consolidated HMS FMP, NMFS did not prefer any new time/area closures (except the Madison-Swanson and Steamboat Lumps Marine Reserves for other purposes), and did not modify any existing closures at that time because no single closure or combination of closures would reduce the bycatch of all species considered, assuming there is some redistribution of effort. NMFS believes the closure analysis conducted in 2006 remains the best available science and reflects the substantial impacts that would likely occur under the time/area closures analyzed because the underlying principle of fishing effort redistribution that was used in the analysis is still likely to occur. Additionally, NMFS is not aware of other peer reviewed and published time/area closure analyses that consider fishing effort redistribution for the GOM PLL fishery since the NMFS 2006 closure analyses. Therefore, NMFS does not prefer alternative 3 for the same reasons as described above and in the 2006 Consolidated HMS FMP.

The 2006 Consolidated HMS FMP established criteria for considering the implementation of new time/area closures or modification to existing time/area closures. It is not feasible to conduct extensive, new analysis per these criteria and to meet the objectives of this action (*i.e.,* to rapidly implement the final action to increase the survival of spawning BFT in 2011 in the GOM, particularly the 2003 year class). NMFS believes that the 2006 analysis remains valid for the purposes of this rulemaking. However, NMFS intends to review time/area closure analyses, in light of the events of the past few years such as hurricanes and the DWH/BP oil spill, in the near future. At that time, NMFS will consider other methodologies that have been proposed to consider effects of effort redistribution, such as Powers and Abeare (2009) or others, for time/area analysis as appropriate.

General Comments

Comment 16: NMFS should promote more selective alternative gears to PLL for YFT and swordfish fishing.

Response: This comment is not within the range of alternatives considered in this rulemaking because the rulemaking concerns the means, methods, times, and places that PLL gear is used in the GOM. The rulemaking does not consider alternatives related to the use of other fishing gears.

Comment 17: NMFS should implement bycatch caps for species of concern in the GOM PLL fishery and 100 percent observer coverage to support a bycatch cap program. When the bycatch caps are reached, the GOM PLL fishery should be closed.

Response: This comment is not within the range of alternatives considered in this rulemaking because the rulemaking concerns the means, methods, times, and places that pelagic longline gear is used in the GOM. NMFS currently monitors bycatch in the GOM PLL fishery through the use of observers and vessel logbooks. Bycatch in the GOM PLL fishery is minimized through regulations implemented under the Magnuson-Stevens Act and the ESA that require the use of circle hooks, require the use of protected species safe handling and release gears, prohibit the use of live bait, prohibit the possession

and use of PLL gear in existing closed areas, and other requirements.

Comment 18: The effects of the DWH/BP oil spill have not been fully determined and NMFS should err on the side of caution when implementing fishery management measures for fish stocks that may have been affected by the oil spill.

Response: NOAA continues to conduct research on the impacts of the DWH/BP oil spill on natural resources. The impacts of the oil spill and effects on Atlantic HMS are difficult to determine at this time.

With implementation of this final action, NMFS is precautionary in its approach because it is acting consistently with SCRS advice to protect the 2003 BFT year class as it matures and begins to contribute to spawning. In addition, implementation of weak hooks in the GOM PLL fishery is expected to reduce the catch of BFT in that fishery by 56.5 percent, which will reduce mortality of spawning BFT (both the 2003 and other year classes) on their spawning grounds. This will promote the increase of spawning biomass, the likelihood of successful spawning, and further rebuilding of the western BFT stock.

Comment 19: Allowing the PLL fleet to continue to fish will cause BFT to become extinct.

Response: On May 24, 2010, NMFS received a petition from the Center for Biological Diversity (CBD) to list BFT as threatened or endangered under the ESA and designate critical habitat concurrently with its listing. On September 21, 2010, NMFS announced a 90-day finding (75 FR 57431) that the petition presents substantial scientific information indicating the petitioned action may be warranted. NMFS is currently conducting a status review of BFT to determine if the petitioned action is warranted. The status review process includes assessment of the risk of extinction, considering effects of directed and incidental fisheries as well as other impacts. Per the ESA required timeline, NMFS is scheduled to publish that determination by May 24, 2011 (*i.e.,* within 12 months of receiving the petition). If NMFS determines that listing is not warranted, NMFS would publish a **Federal Register** notice announcing the end of the consideration process. If NMFS determines that listing is warranted, NMFS will publish a proposed rule and solicit public comments before developing and publishing a final determination (which would be required within one year of a proposed rule).

Changes From the Proposed Rule

A minor change to the definition of round wire stock at 50 CFR 635.2 has been made to provide further clarification. A minor change to the paragraph at § 635.71(a)(54) that deals with prohibitions has been made to clarify the cross referenced paragraph.

Classification

The NMFS AA has determined that this final action is consistent with the Magnuson-Stevens Act, 2006 Consolidated Atlantic HMS FMP and its amendments, ATCA, and other applicable law.

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

In compliance with section 604 of the Regulatory Flexibility Act (RFA), NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA) for this final rule, which analyzed the impacts of requiring the use of weak hooks in the GOM PLL fishery. The FRFA analyzes the anticipated economic impacts of the final action and any significant economic impacts on small entities. A summary of the FRFA is below. The full FRFA and analysis of social and economic impacts are available from NMFS (*see* **ADDRESSES**).

In compliance with section 604(a)(1) of the Regulatory Flexibility Act, the purpose of this final rulemaking is, consistent with the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP and its amendments, to further BFT stock recovery by increasing live releases of incidentally caught BFT by providing a new gear technology for PLL vessels to continue routine fishing operations in the GOM.

Section 604(a)(2) of the Regulatory Flexibility Act requires NMFS to summarize significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis (IRFA), a summary of NMFS' assessment of such issues, and a statement of any changes made as a result of the comments. The IRFA was included as part of the draft EA and was summarized in the proposed rule. NMFS did not receive any comments specific to the IRFA; however, NMFS did receive comments related to the overall economic impacts of the proposed rule. Those comments and NMFS' responses to them are mentioned above in the preamble for this rule. Particularly relevant economic comments are 1, 3, 4, 5, 7, 9, and 15.

When developing this action, NMFS considered different ways to reduce the regulatory burden on and provide flexibility to the regulated community, consistent with the recent Presidential Memorandum on Regulatory Flexibility, Small Business, and Job Creation (January 18, 2011). Consistent with the objectives of this rule and legal obligations, a voucher program to assist fishermen in the GOM with the purchase of an initial supply of weak hooks is being sponsored by the National Fish and Wildlife Foundation (*please see* "Weak Hook Voucher Program" below for more details). NMFS has also considered seasonal implementation of weak hooks in the GOM PLL fishery; however, this approach is not preferred because BFT are also present in the GOM outside of the spawning season in lower numbers and seasonal application of the weak hook requirement would increase the difficulty of enforcing the weak hook requirement. NMFS also considered a phased-in approach to implementation of the weak hook requirement; however, this approach is not preferred because it would not rapidly provide additional protection for spawning BFT (especially the strong 2003 year class) as early as possible in the spring 2011 spawning season.

Section 604(a)(3) requires Federal agencies to provide an estimate of the number of small entities to which the rule would apply. NMFS considers all HMS permit holders to be small entities because they either had average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5 million for charter/party boats, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. These are the Small Business Administration (SBA) size standards for defining a small versus large business entity in this industry.

The GOM PLL fishery is comprised of fishermen who hold an Atlantic Tunas Longline permit, a Swordfish Directed or Incidental permit, and a Shark Directed or Incidental permit and the related industries including processors, bait houses, and equipment suppliers, all of which NMFS considers to be small entities according to the size standards set by the SBA. The final rule would apply to PLL vessels that fish in the GOM. As of October 2010, there were 248 Atlantic tuna longline limited access permit holders. Of these, 136 were registered in states along the coast of the GOM (including all Florida vessels). However, based on logbook records from 2006 to 2009, on average, only 51 PLL vessels were actively operating in the GOM annually, with a high of 55 vessels in 2007 and a low of 47 in 2006 and 2009. During the summer of 2010, preliminary vessel monitoring system information

indicated that the number of active PLL vessels in the GOM decreased by more than 79 percent due to the Deepwater Horizon (DWH)/BP oil spill and associated fishery closures.

This final rule does not contain any new reporting or recordkeeping requirements, but would require a new compliance requirement (5 U.S.C. 604(a)(4)). Fishing vessels with PLL gear onboard will be required, at all times, in all areas of the GOM open to HMS PLL fishing, to possess onboard and/or use only circle hooks meeting current size and offset restrictions, as well as being constructed of only round wire stock that is no larger than 3.65 mm in diameter. This final rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 604(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NMFS does not believe that the new regulations would duplicate, overlap, or conflict with any relevant regulations, Federal or otherwise.

Under section 604(a)(5), agencies are required to describe any alternatives to the rule which accomplish the stated objectives and which minimize any significant economic impacts. Economic impacts are discussed below and in the Environmental Assessment for the action. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this rule, consistent with legal obligations, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting requirements (category two above). Fishing vessels with PLL gear onboard will be required, at all times, in all areas of the GOM open to HMS PLL fishing, to possess onboard and use only circle hooks meeting current size and offset restrictions as well as being constructed of only round wire stock that is no larger than 3.65 mm in diameter. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act.

NMFS considered and analyzed three main alternatives for this rule. The first alternative was the status quo, no action alternative. This alternative would maintain existing hook and bait requirements in the Atlantic PLL fishery in the GOM. The second alternative would require all PLL vessels fishing in the GOM to use weak hooks and is the preferred alternative. The third alternative considered establishing additional time/area closures in the GOM. Under this alternative, an area of the GOM would be closed to PLL fishing and could extend over the entire GOM or a subarea. Temporal extents of a closure could be timed to the spawning season for BFT in the GOM, April to mid-June, or for shorter or longer time frames (*i.e.,* year round). Areal extents of a closure could be restricted to portions of the GOM where particularly high concentrations of spawning BFT have been observed while minimizing inclusion of areas with high directed YFT fishing operations. Adaptive management programs might also be considered with the temporal/spatial extent of the time/area changes based on real-time information on distribution and abundance of target and non-target species as well as the socio-economic needs of the fishery. In addition to these three alternatives, NMFS also considered other options such as prohibition on all retention of BFT in the GOM (*i.e.,* no incidental retention of BFT allowed) and adjustment of target catch retention limits (*i.e.,* modify current limits of one BFT per 2,000 lbs of target catch, two BFT per 6,000 lbs and three BFT per 30,000 lbs). As these alternatives either do not reduce mortality of BFT but rather convert discards to landings (or vice versa), or may have substantial negative social and economic impacts and cannot be implemented in short time frames, these alternatives were determined to not meet the objectives of the action and were not considered further.

Alternative 1, the status quo, no action alternative would not result in any additional economic impacts to small entities in the short-term. NMFS does not anticipate a significant change in landings, ex-vessel prices, or operating costs relative to the "status quo" for small entities under this alternative. However, adverse economic impacts in the medium and long-term could result if no action is taken to address the incidental catch of BFT in the GOM PLL fishery. Adverse economic impacts could occur if the Longline Category subquota for BFT is exceeded and a partial or total closure of the fishery is implemented or other management measures are taken in directed BFT fisheries to allow for dead discards of BFT to be accounted for within the U.S. quota.

The preferred alternative, Alternative 2, would require vessels with PLL gear onboard, at all times, in all areas of the GOM open to PLL fishing, to possess onboard and use only circle hooks meeting current size and offset restrictions as well as being constructed of only round wire stock that is no larger than 3.65 mm in diameter. This alternative would result in some minor increases in equipment costs for the new hooks, would likely impact vessel operations, and would also potentially impact catch rates and thus potentially reduce vessel revenues.

Alternative 2 would result in moderate positive social and economic benefits if this measure is able to reduce the bycatch of BFT in the GOM sufficiently to allow the PLL fishery to continue operating in the GOM. However, there would likely be some increased economic costs associated with switching to the weak hook.

This alternative would result in some minor increases in equipment costs associated with acquiring the new weak hooks. Direct cost of purchasing weak hooks is anticipated to increase expenses by $.02 per hook. An informal telephone survey of hook suppliers provides a price of approximately $0.34 per hook for 16/0 commercial grade circle hooks and approximately $0.36 per hook for 16/0 circle hooks constructed of 3.65 mm diameter round wire stock. Assuming that an average of 1,600 hooks per vessel are needed initially to equip vessels with enough required hooks for one trip, the compliance cost, on a per vessel basis, would be approximately $576.

Hook replacement rates are anticipated to increase with use of the weak hook. Researchers during the GOM PLL BFT mitigation research estimated that requiring the weak hook would result in an increase in the rate of hook replacement by 4.41 hooks per 1,000 hooks over the current

replacement rate due to straightening and deformation of the hooks. The researchers anticipated that this rate was an underestimate; however, they estimated the cost of additional hook replacement with the weak hook to be less than $3.00 per 1,000 hooks set. The standard 16/0 circle hooks currently in use will continue to be used in the U.S. Atlantic and inventories of unused standard 16/0 hooks could be sold to vessels fishing in the Atlantic outside of the GOM.

Alternative 2 would also potentially impact vessel catch rates, and thus potentially reduce vessel revenues. Based on the GOM PLL BFT mitigation research results, catch rates for several commercially important species were found to be lower using the new weak hooks versus the standard 16/0 circle hooks. The researchers found a statistically significant (at the 5 percent level) reduction in the total catch of BFT and wahoo when weak hooks were used compared to conventional circle hooks. The total catch of BFT was reduced 56.5 percent when weak hooks were used in the experiment. This reduction includes both discards and BFT retained for sale. Based on observer reports of the number of BFT discarded versus retained in the GOM, the researchers estimate that the experimental results indicate that the use of weak hooks would result in approximately a 14 percent reduction in BFT retained for sale given the BFT incidental retention limits. The total catch of wahoo using the weak hook was reduced by 26.6 percent.

The research also observed reduction in the number of YFT and swordfish retained for sale. While these results were not statistically significant at the 5 percent level, the reductions in YFT and swordfish retained did have p-values ≤ 0.15. Weak hooks in the experiment resulted in a 7 percent reduction in YFT retained for sale and 41.2 percent reduction in swordfish retained for sale. No other commercially targeted species observed during the research exhibited catch rate differences between weak hooks and conventional circle hooks with p-values of ≤ 0.15. Therefore, given that YFT is often the target catch for PLL trip in the GOM and the heterogeneous nature of fishing vessel operations, this analysis conservatively includes the observed reductions in YFT and swordfish. In addition, NMFS also ran the analysis with just BFT and wahoo which exhibited statistically significant differences in catch at the 5 percent level to help illustrate the range of possible outcomes.

Using vessel logbook catch data, NMFS translated the reductions in catch observed in the research experiment into potential fishery revenue impacts that may result from requiring the use of weak hooks in the GOM. The calculations are detailed in the EA for this final rule which is available on request. Based on the research results, the estimated per trip reduction in revenues that would potentially result from requiring the use of weak hooks in the GOM is approximately $2,265.

Based on HMS logbook reports from 2006 to 2009, the average number of PLL trips taken per vessel per year in the GOM is 9.7. Multiplying 9.7 trips per vessel by the estimated $2,265 per trip reduction in catch revenues (when including reductions for BFT, YFT, wahoo, and swordfish) results in an estimated reduction of $21,974 in commercial fishing revenues per vessel per year in the GOM resulting from switching to weak hooks. Alternatively, if the analysis only considers the statistically significant reductions in catch at the 5 percent level (only including reductions for BFT and wahoo which equals $139 less per trip), as used in the research study, the estimated reduction in annual catch revenues per vessel in the GOM for Alternative 2 would be $1,351 (9.7 trips $\times$ $139). This lower estimate may also represent the potential improvements in catch rates that may occur over time as fishermen adapt to the new weak hook technology. NMFS' analysis of weak hook research data after the publication of the proposed rule found a seasonal difference in the catch of YFT. Because the experiment focused on collecting data during the BFT spawning season, the majority of data was collected during March-June. If more data had been collected after the BFT spawning period, it is likely that the YFT reduction rate would have been less than what was observed, thus the potential economic impact due to decreases in YFT catch may be less than described above. NMFS does not foresee that the national net benefits and costs would change significantly in the long term as a result of implementation of the final action. In response to comment, NMFS also considered a modified version of alternative 2 that would apply the weak hook requirement seasonally. However, NMFS did not prefer this approach because BFT are also present in the GOM outside of the spawning season in lower numbers and seasonal application of the weak hook requirement would increase the difficulty of enforcing the weak hook requirement.

Under Alternative 3, which considers additional time/area closures in the GOM, some fishermen could be expected to shift effort to fishing areas outside the GOM and there could be changes in the distribution of the fleet with some fishermen possibly exiting the fishery. Predicting fishermen's behavior is difficult, especially as some factors that may determine whether to stay in the fishery, relocate, or leave the fishery are beyond NMFS' control (fuel prices, infrastructure, hurricanes, etc.). While some fishermen will continue to fish in the remaining open areas of the Atlantic, Caribbean, and GOM, others may be forced to leave the fishery entirely, such as selling their permits and going out of business, as a result of the closure. Changes in fishing patterns may result in fishermen having to travel greater distances to reach more favorable grounds, which would likely result in increased fuel, bait, ice, and crew costs. While there may be a potential increase in travel, this is unlikely to raise significant safety concerns because the fleet is highly mobile. The potential shift in fishing grounds, should it occur, could result in fishermen selecting new ports for offloading. This would likely have negative social and economic consequences for traditional ports of offloading, including processors, dealers, and supply houses, and positive social and economic consequences for any new selected ports of offloading. NMFS conducted a detailed, comprehensive socio-economic analysis for the time/area alternatives considered in the 2006 Consolidated HMS FMP and found that the economic impacts of each of the closures considered may be substantial, ranging in losses of up to several million dollars annually, depending upon the closure and displacement of a significant number of fishing vessels. Since the data analysis conducted in the 2006 Consolidated HMS FMP, several events have affected the GOM including Hurricane Katrina, Hurricane Rita, and the DWH/BP oil spill among other events. While social and economic impacts have likely occurred due to these events, NMFS believes the closure analysis in 2006 still reflects the substantial social and economic impacts that would be likely to occur under the time/area closures analyzed. Additionally, Alternative 3 does not meet all of the objectives of this final rule because it does not rapidly enhance BFT stock rebuilding by increasing BFT spawning potential and subsequent recruitment into the fishery (*i.e.,* rapidly implement the action to increase the survival of spawning BFT by spring 2011 in the GOM).

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. Copies of the compliance guide for this final rule is available (see **ADDRESSES**).

Weak Hook Voucher Program

The National Fish and Wildlife Foundation (an independent 501(c)(3) non-profit that preserves and restores our nation's native wildlife species and habitats) is conducting a Weak Hook Voucher Program through which Atlantic Tuna Longline permit holders who use PLL gear in the GOM may obtain an initial supply of weak hooks. The National Fish and Wildlife Foundation will mail vouchers to Atlantic Tuna Longline permit holders that used PLL gear in the GOM in 2009–2010. Atlantic Tuna Longline permit holders that have not received the National Fish and Wildlife Foundation voucher in the mail by April 12, 2011, and are planning to fish with PLL gear in the GOM this year, may request a voucher by contacting Mary Beth Charles with the National Fish and Wildlife Foundation at 202–595–2445 or *Marybeth.charles@nfwf.org.* Weak hook vouchers are for hooks that will be used in the Gulf of Mexico and the National Fish and Wildlife Foundation will consider requests for vouchers on a case-by-case basis.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: March 31, 2011.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is 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 § 635.2, the definition of "round wire stock" is added in alphabetical order to read as follows:

§ 635.2 Definitions.

* * * * *

Round wire stock means round metal wire, typically used in the manufacturing of fishing hooks, that has not been forged, or otherwise modified or treated in any way to increase the original factory tensile strength set by the hook manufacturer.

* * * * *

■ 3. In § 635.21, paragraph (c)(5)(iii)(C)(*2*)(*i*) is revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(C) * * *

(*2*) * * *

(*i*) For purposes of paragraphs (c)(5)(iii)(C)(*1*) and (c)(5)(iii)(C)(*2*) of this section, the outer diameter of an 18/0 circle hook at its widest point must be no smaller than 2.16 inches (55 mm), and the outer diameter of a 16/0 circle hook at its widest point must be no smaller than 1.74 inches (44.3 mm), when measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). The distance between the hook point and the shank (*i.e.,* the gap) on an 18/0 circle hook must be no larger than 1.13 inches (28.8 mm), and the gap on a 16/0 circle hook must be no larger than 1.01 inches (25.8 mm). The allowable offset is measured from the barbed end of the hook, and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side. The only allowable offset circle hooks are those that are offset by the hook manufacturer. In the Gulf of Mexico, as described at § 600.105(c), circle hooks also must be constructed of corrodible round wire stock that is no larger than 3.65 mm in diameter.

* * * * *

■ 4. In § 635.71, add paragraph (a)(54) to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(54) Possess, use, or deploy, in the Gulf of Mexico, any circle hook, other than as described at § 635.21(c). Vessels in the Gulf of Mexico, with pelagic gear onboard, are prohibited from possessing, using, or deploying circle hooks that are constructed of round wire stock which is larger than 3.65 mm in diameter (See: § 635.21(c)(5)(iii)(C)(*2*)(*i*)).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0910051338–0151–02]

RIN 0648–XA304

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trip Limit Adjustments for the Common Pool Fishery

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

ACTION: Temporary rule; inseason adjustment of landing limits.

SUMMARY: NMFS increases the possession limit for George's Bank (GB) cod, Cape Cod (CC)/Gulf of Maine (GOM) yellowtail flounder, and Southern New England (SNE)/Mid-Atlantic (MA) yellowtail flounder, and reduces the trip limit GOM cod and GOM winter flounder for Northeast (NE) multispecies common pool vessels for the 2010 fishing year (FY), through April 30, 2011. This action is authorized under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, and by the regulations implementing Amendment 16 and Framework Adjustment 44 to the NE Multispecies Fishery Management Plan (FMP). The action is intended to facilitate the harvest of GB cod, CC/GOM yellowtail flounder, and SNE/MA yellowtail to allow the total catch of these stocks to approach the pertinent common pool sub-annual catch limits (sub-ACLs). This action is also intended to reduce catch rates of GOM cod and GOM winter flounder by NE common pool vessels and minimize additional overharvest of these stocks relative to the pertinent common pool sub-ACLs.

DATES: The trip limit increases for GB cod and SNE/MA and CC/GOM yellowtail flounder are effective March 31, 2011, through April 30, 2011. The trip limits reductions for GOM cod and GOM winter flounder are effective April 5, 2011, through April 30, 2011.

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