

which is a line directly south from the state boundary of Alabama and Florida.

Except for a person aboard a charter vessel or headboat, during the closure no person aboard a vessel that has been issued a commercial permit for king mackerel may fish for or retain Gulf migratory group king mackerel in the EEZ in the closed zone (50 CFR 622.384(e)(1)). A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zone under the bag and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2), provided the vessel is operating as a charter vessel or headboat (50 CFR 622.384(e)(2)). A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to king mackerel from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(3)).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.388(a)(1) and 622.384(e), and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirements 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 procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and the associated requirement for closure of the commercial harvest when the quota

is reached or is projected to be reached has already been subject to notice and public comment, and all that remains is to notify the public of the closure. Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the king mackerel stock, because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: November 13, 2015.

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 635

RIN 0648-XE316

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Notification that Northeast Distant gear restricted area (NED) quota is filled.

SUMMARY: NMFS announces that the 25-mt quota available for Atlantic bluefin tuna bycatch (including landings and dead discards) by the Longline category in the Northeast Distant gear restricted area (NED) was filled on November 12, 2015. NMFS reminds vessels fishing in the NED that they now must account for any bluefin bycatch retained or discarded dead using IBQ allocation available to the vessel and that any quota debt remaining at the end of 2015 will carry over to 2016.

DATES: Effective November 18, 2015.

FOR FURTHER INFORMATION CONTACT: Tom Warren 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 bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. bluefin tuna quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) 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), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014).

The U.S. bluefin tuna annual quota from the International Commission for the Conservation of Atlantic Tunas (ICCAT) includes, as in previous years, a 25-mt set-aside for bluefin tuna bycatch related to longline fisheries operating in the vicinity of the ICCAT management area boundary. See ICCAT Recommendation 14-05; and 80 FR 52198, (August 28, 2015) (implementing the quota domestically). For management and monitoring purposes, NMFS implements this set-aside in the NED gear restricted area as quota available to Atlantic Longline category permitted vessels. Longline is not a permitted gear for directed fishing on bluefin tuna; any catch must be incidental to fishing for other species. Accounting for this bycatch includes all catch (landings and dead discards). The NED is the Atlantic Ocean area bounded by straight lines connecting the following coordinates in the order stated: 35°00' N. lat., 60°00' W. long.; 55°00' N. lat., 60°00' W. long.; 55°00' N. lat., 20°00' W. long.; 35°00' N. lat., 20°00' W. long.; 35°00' N. lat., 60°00' W. long.

The IBQ Program and the Northeast Distant Area (NED)

Under Amendment 7 (79 FR 71510, December 2, 2014), new rules were implemented for Longline category vessels fishing in the NED. See 50 CFR 635.15(b)(8). Any bluefin tuna bycatch by permitted vessels fishing with pelagic longline gear in the NED counts toward the ICCAT-allocated separate NED quota (25 mt), until that quota has been filled. During that period, the bluefin tuna accounting requirements of the IBQ Program do not apply to those vessels. Once the NED quota is filled, Longline category permitted vessels may fish or continue to fish in the NED, but the permitted vessels must then abide by the applicable requirements of the IBQ program, which requires individual

vessel accounting for bluefin tuna bycatch using quota allocation available to the vessel (either through its own quota share or leasing allocation from another vessel). Bluefin tuna must be accounted for as described at § 635.15(b)(4) and (5).

Based on Atlantic bluefin tuna dealer data and IBQ system data, as of November 10, 2015, 33,484 lb (15.2 mt) of bluefin tuna has been landed, and 90 lb (<0.1 mt) of bluefin tuna has been discarded dead in the NED; an additional 36 bluefin tuna have been reported as retained through Vessel Monitoring System (VMS) bluefin tuna catch reports. These 36 retained bluefin tuna reported via VMS equate to approximately 17,460 lb (7.9 mt) of additional catch, which brings the total estimated bluefin tuna catch from the NED to 51,034 lb (23.2 mt). Based on this data, NMFS has determined that the 25 mt set-aside will be filled on November 12, 2015.

Because the NED the quota has been reached, vessels are notified that they must account for any bycatch of bluefin tuna (landings and/or dead discards) in the NED using IBQ allocation as specified in the regulations at § 635.15(b)(8). Vessel owners will have to account retroactively for their bluefin tuna bycatch with IBQ to the date that the separate quota was reached. NMFS currently anticipates that date will be November 12, 2015, but will notify relevant vessel owners of the precise date when we have complete NED catch data.

With respect to quota accounting for the fishery as whole, bluefin bycatch (landings and dead discards) from the NED beyond the 25 mt set-aside will count toward the Longline category annual baseline subquota. For 2015, NMFS delayed certain regulatory requirements requiring vessels with pelagic longline gear to have a minimum amount of IBQ quota before departing on fishing trips, thus allowing such vessels to fish with pelagic longline gear even if they have quota debt. However, we specified that quota debt will accrue throughout the 2015 fishing year, and vessels will be responsible for accounting for all of their bluefin bycatch at the end of the year. If, by the end of 2015, a permit holder does not have adequate IBQ allocation to settle their vessel's quota debt, the vessel's allocation will be reduced in the amount equal to the quota debt in the subsequent year or years until the quota debt is fully accounted for. Vessels with a negative balance will have to satisfy the quota debt before departing on any trips in 2016.

NMFS will continue to monitor bluefin tuna bycatch by vessels fishing with pelagic longline gear using VMS and dealer data, as well as monitor the accounting for such catch in the IBQ system, to ensure that vessels are accountable for their bluefin bycatch and that quotas are managed consistent with the 2006 Consolidated HMS FMP and our international quota obligations. For fishery updates, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, access the following internet address: www.hmspermits.gov.

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

Dated: November 12, 2015.

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. 140214140-5999-01]

RIN 0648-BD92

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Seabird Avoidance Measures

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

ACTION: Final rule.

SUMMARY: This final rule implements a Seabird Avoidance Program in the Pacific Coast Groundfish Fishery. The rule was recommended by the Pacific Fishery Management Council (Council) in November 2013 to minimize the take of ESA-listed short-tailed albatross (*Phoebastria albatrus*). A 2012 U.S. Fish and Wildlife Service (USFWS) Biological Opinion (Opinion) required NMFS to initiate implementation of regulations within 2 years that mandate the use of seabird avoidance measures by vessels greater than or equal to 55 feet length overall (LOA) using bottom longline gear to harvest groundfish. The seabird avoidance measures, including streamer lines that deter birds from ingesting baited hooks, are modeled after a similar regulatory program in effect for the Alaskan groundfish fishery.

DATES: Effective on December 18, 2015.

ADDRESSES: Information relevant to this final rule, which includes a final environmental assessment (EA), are available from William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070. Electronic copies of this final rule are also available at the NMFS West Coast Region Web site: <http://www.westcoast.fisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Sarah Williams, 206-526-4646; (fax) 206-526-6736; sarah.williams@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this rule is to reduce interactions between ESA-listed seabirds and groundfish longline gear. This final rule amends the regulations governing the Pacific Coast Groundfish Fishery (fishery) to require seabird avoidance measures—specifically, the use of streamer lines and related provisions similar to those currently mandated in the Alaskan groundfish fishery—by vessels 55 ft LOA or greater in the bottom longline fishery.

This rule is needed to minimize takes of endangered short-tailed albatross and comply with a 2012 Biological Opinion (Opinion) issued by the U.S. Fish and Wildlife Service.

In sum, the rule:

- Requires the use of streamer lines in the commercial longline fishery of the Pacific Coast Groundfish Fishery for non-tribal vessels 55 feet in length or greater;
- Requires vessels to deploy one or two streamer lines depending on the type of longline gear being set;
- Requires that streamer lines meet technical specifications and be available for inspection; and
- Allows for a rough weather exemption from using streamer lines for safety purposes. The threshold for the rough weather exemption is a Gale Warning as issued by the National Weather Service.

The rule is designed to be consistent with the requirements of the Opinion and responsive to issues raised through the public process and consultation with experts.

Comments and Responses

NMFS solicited public comment on the proposed seabird avoidance measures (79 FR 53401, September 9, 2014). The comment period ended October 9, 2014. NMFS received seven comment letters from individuals or organizations. The letters are available in their entirety from NMFS (see