

demonstrate the level of effectiveness of those technologies and designs in addressing the claimed concerns regarding the installation of ELDs. However, the petitioner provided only high-level, anecdotal information about their broad, general concerns. Furthermore, petitioner failed to provide any solutions to those concerns.

3. *SBTC has not provided the substance that a standard would be comprised of.*

As stated in previous NHTSA guidance,⁹ the petition should describe the requested standard (*i.e.*, the performance requirements, test conditions, and test procedures), the supporting research and reasons why those performance requirements, test conditions, and test procedures are appropriate and provide proposed regulatory text. However, SBTC failed to provide any substantive information regarding what a new FMVSS would be comprised of that would resolve the alleged concerns regarding the ELD installation.

B. SBTC's Petition To Amend the Existing FMVSS Nos. 105, 121, and 124, and NHTSA's Rationale for Denying This Petition

Like the first petition for a new FMVSS, this second petition should demonstrate a safety need that could be resolved by amending the existing FMVSSs. However, SBTC merely contended that the alleged vulnerabilities of telematics systems could impact braking and acceleration control systems and did not provide sufficient information or evidence of such attacks occurring in heavy vehicles. The resources provided by the petitioner cover a wide range of potential telematics vulnerabilities in light passenger vehicles, many of which are directly impacted by specific vehicle architectures (*i.e.*, make and model specific, in many instances). Petitioner has failed to provide evidence that indicates there is a general safety need related to telematics units in heavy vehicles that warrants modification of existing FMVSS. Without an identified safety need, it is unclear how petitioner's request would meet the need for safety.¹⁰

Similarly, the petitioner failed to provide practical means or solutions by which NHTSA could resolve its concern. SBTC provided only high-level, anecdotal information about its broad, general concerns regarding the interaction between telematics and heavy vehicle braking and acceleration

control systems regulated by the existing FMVSSs. SBTC also failed to provide any substantive information regarding the amendments of the existing FMVSSs to resolve its concerns.

Therefore, NHTSA is denying both of the SBTC's rulemaking petitions because they lacked sufficient information as discussed above. Furthermore, the agency is discretionarily allocating and managing its vehicle safety resources to those rulemakings that are mandated by Congress and others that have a demonstrated safety need with solutions available to resolve those needs.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.95.

Steven S. Cliff,

Deputy Administrator.

[FR Doc. 2022-04729 Filed 3-4-22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220223-0056]

RIN 0648-BK99

Atlantic Highly Migratory Species; General Category Restricted-Fishing Days

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to set Atlantic bluefin tuna (BFT) General category restricted-fishing days (RFDs) for the 2022 fishing year. This proposed rule would set RFDs for specific days during the months of July through November 2022. On an RFD, Atlantic Tunas General category permitted vessels may not fish for (including catch-and-release or tag-and-release fishing), possess, retain, land, or sell BFT. On an RFD, Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement also are subject to these restrictions to preclude fishing commercially for BFT under the General category restrictions and retention limits, but such vessels may still fish for, possess, retain, or land BFT when fishing recreationally under applicable HMS Angling category rules.

DATES: Written comments must be received by April 6, 2022. NMFS will hold a public hearing via conference call and webinar for this proposed rule on March 24, 2022, from 1 p.m. to 2:30 p.m. For webinar registration information, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0025, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter "NOAA-NMFS-2022-0025" in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

NMFS will hold a public hearing via conference call and webinar on this proposed rule. For specific location, date and time, see the **SUPPLEMENTARY INFORMATION** section of this document.

Copies of this proposed rule and supporting documents are available from the HMS Management Division website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Larry Redd at larry.redd@noaa.gov or 301-427-8503.

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., larry.redd@noaa.gov, 301-427-8503, or Carrie Soltanoff, carrie.soltanoff@noaa.gov, 301-427-8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including BFT fisheries, are managed 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.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota,

⁹ *Id.*

¹⁰ See 49 U.S.C. 30111(a).

recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States, among the various domestic fishing categories per the allocations established in the 2006 Consolidated HMS FMP and its amendments. Section 635.23 specifies the retention limit provisions for Atlantic Tunas General category permitted vessels and HMS Charter/Headboat permitted vessels, including regarding RFDs.

RFDs are used as an effort control to ensure that BFT quotas and subquotas are not exceeded. In 2018, NMFS implemented a final rule that established the overall U.S. BFT quota and subquotas consistent with ICCAT Recommendation 17–06 (83 FR 51391, October 11, 2018) and split that BFT quota into subquotas among fishing categories, including for the Angling category (recreational) and General category (commercial). In 2020, following a stock assessment update, ICCAT adopted Recommendation 20–06, which maintained the total allowable catch of 2,350 metric tons (mt) and the associated U.S. quota. As such, as described in § 635.27(a), the current baseline U.S. quota remains 1,247.86 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The baseline quota for the General category is 555.7 mt. Each of the General category time periods (January through March, June through August, September, October through November, and December) is allocated a portion of the annual General category quota.

In November 2021, following the results of the 2021 western BFT stock assessment, ICCAT adopted Recommendation 21–07, which increased the total allowable catch to 2,746 mt and the associated U.S. quota by 68.28 mt to 1,316.14 mt. NMFS recently published a proposed rule that would implement Recommendation 21–07. If finalized as proposed after considering public comment, the final rule would increase the baseline annual U.S. quota and for BFT to the ICCAT-recommended U.S. BFT quota and subquotas would increase accordingly.

Background

NMFS first established the regulatory authority to set “no fishing” days in a 1995 rule (60 FR 38505, July 27, 1995) as an available effort control that could be used to extend the General category time period subquotas while providing additional inseason management flexibility with regard to quota use and

season length. An RFD is a day, established ahead of time through a schedule published in the **Federal Register**, on which NMFS sets the BFT retention limit at zero for certain categories of permit holders. Specifically, on an RFD, vessels permitted in the Atlantic Tunas General category are prohibited from fishing for (including catch-and-release and tag-and-release fishing), possessing, retaining, landing, or selling BFT (§ 635.23(a)(2)). RFDs also apply to HMS Charter/Headboat permitted vessels to preclude fishing commercially under General category restrictions and retention limits on those days but do not preclude such vessels from recreational fishing activity under applicable Angling category regulations, including catch-and-release and tag-and-release fishing (§ 635.23(c)(3)).

NMFS may waive previously scheduled RFDs under certain circumstances. Consistent with § 635.23(a)(4), NMFS may waive an RFD by adjusting the daily BFT retention limit from zero up to five on specified RFDs, after considering the inseason adjustment determination criteria at § 635.27(a)(8). Considerations include, among other things, review of dealer reports, daily landing trends, and the availability of BFT on fishing grounds. NMFS would announce any such waiver by filing a retention limit adjustment with the Office of the Federal Register for publication. Such adjustments would be effective no less than 3 calendar days after the date of filing for public inspection with the Office of the Federal Register. NMFS also may waive previously designated RFDs effective upon closure of the General category fishery so that persons aboard vessels permitted in the General category may conduct catch-and-release or tag-and-release fishing for BFT under § 635.26(a). NMFS would not modify the previously scheduled RFDs during the fishing year in other ways (such as changing an RFD from one date to another, or adding RFDs).

Due to increased BFT catch rates in the General category in 2019 and 2020, and numerous requests from Atlantic tuna dealers, General category participants, and members of the Atlantic HMS Advisory Panel, NMFS proposed to resume the use of RFDs for 2021 for the first time since 2007 (86 FR 25992, May 12, 2021). Although NMFS proposed a schedule of all Tuesdays, Fridays, and Saturdays from July 20 through November 30, 2021, due to timing issues, the final rule established RFDs on all Tuesdays, Fridays, and Saturdays from September 3 through November 30, 2021 (86 FR 43421,

August 9, 2021). NMFS closed the General category September subquota period on September 23, 2021 (86 FR 53010, September 24, 2021). For the October through November subquota period, the General category remained open until the end of the subquota period (November 30, 2021). Because the use of RFDs in 2021 succeeded in extending fishing opportunities through a greater portion of the relevant subquota periods and the fishing season overall, consistent with management objectives for the fishery, NMFS is proposing an RFD schedule for the 2022 fishing year.

Proposed RFD Schedule for the 2022 Fishing Year

For 2022, NMFS proposes a schedule of RFDs as follows: All Tuesdays, Fridays, and Saturdays from July 1, 2022, through November 30, 2022, while the fishery is open. On these designated RFDs, persons aboard vessels permitted in the General category would be prohibited from fishing for (including catch-and-release and tag-and-release fishing), possessing, retaining, landing, or selling BFT. Persons aboard HMS Charter/Headboat permitted vessels with a commercial sale endorsement also would be prohibited from fishing commercially for BFT. Persons aboard all HMS Charter/Headboat permitted vessels (including those with a commercial sale endorsement) could fish recreationally for BFT under the applicable Angling category restrictions and retention limits.

NMFS is proposing the same weekly schedule as the 2021 RFD schedule (*i.e.*, every Tuesday, Friday, and Saturday). However, while the 2021 RFDs did not start until September 2021, the 2022 RFDs proposed schedule would begin at the start of July and extend through the end of November. This proposed schedule and extension is based on general feedback provided by Atlantic tuna dealers, General category participants and members of the Atlantic HMS Advisory Panel in 2021, a review of average daily catch rate data for recent years, a review of past years’ RFD schedules (including the most recent 2021 RFD schedule), and a review of past closure dates prior to RFDs being set in 2021. Considering that information, NMFS believes that a schedule of Tuesday, Friday, and Saturday RFDs from July 1 through November 30 should continue to increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the subquota periods (similar to the 2021 RFD schedule). It would also allow for two-consecutive-day periods

twice each week (Sunday–Monday; Wednesday–Thursday) for BFT product to move through the market and allow for some commercial fishing activity each weekend (Sunday).

In proposing the same schedule as last year, NMFS did consider the comments and feedback received last year that suggested a different approach. During the public comment period for the 2021 RFD rulemaking, NMFS received comments regarding RFDs potentially negatively impacting HMS tournaments given the limits on weekend fishing. Several of these comments requested that a schedule of RFDs be announced earlier in the fishing year to allow tournament operators the flexibility to adapt their tournaments around RFDs. Publishing the proposed rule and affording an opportunity for comments on the proposed schedule earlier in the year would allow tournament operators the opportunity to comment and later to adjust their scheduled tournaments as needed around the 2022 RFDs. In 2021 after the RFD schedule had published, NMFS also received a request to establish a weekly schedule consisting of three days in a row such as Thursday, Friday, and Saturday. This request stated that a block of days would better assist the bluefin tuna product to move through the market, assist enforcement, and assist the industry with three consecutive days off. NMFS is not proposing that requested schedule at this time but specifically is requesting comment on this topic to help assess whether such a block of time would be less disruptive to the fishery and would better meet the goals of RFDs.

Additionally, in late 2021, NMFS received requests from some winter fishery participants to extend RFDs through the December subquota period. These dealers and General category participants suggested that establishing RFDs in December would assist in facilitating entry of BFT product to the market while also allowing rest days for commercial BFT fishermen. These requests specifically suggested Wednesdays and Saturdays as December subquota period RFDs. Over the last five years, closure of the December subquota period has been necessary in 2017, 2020, and 2021, with the fishery remaining open through the end of the month in 2018 and 2019. At this time NMFS is not proposing to extend RFDs through the December subquota period for the 2022 fishing year. However, in the **Federal Register** notice, NMFS specifically requests comment on whether RFDs should be extended through the December subquota period. NMFS will consider comments before deciding on a final schedule.

Lastly, NMFS also received a suggestion to implement RFDs for the January through March subquota period. Given that the 2022 January through March subquota period is currently underway, NMFS is not proposing RFDs for this period in this rulemaking, given timing considerations. However, NMFS requests comment on whether it could be appropriate to implement RFDs for the January through March subquota period in the future, including the 2023 January through March subquota period.

Under existing regulations, based on consideration of regulatory criteria at § 635.27(a)(8), NMFS may waive certain RFDs consistent with § 635.23(a)(4), either by adjusting the retention limit upwards on a previously-scheduled RFD or by waiving an RFD to allow recreational fishing under the Angling category restrictions and retention limits when the General category closes. Once the schedule is set, however, NMFS would not modify RFDs in other ways (e.g., switching days or adding RFDs).

Request for Comments

NMFS is proposing a schedule of RFDs for every Tuesday, Friday, and Saturday from July 1, 2022, through November 30, 2022. NMFS is requesting comments on this RFD schedule for the 2022 fishing year. NMFS is also specifically requesting comments on (1) whether the RFD schedule should be three days in a row per week, (2) whether RFDs should also be considered for the General category December subquota period, and (3) whether RFDs should be considered for the January through March subquota period for future rulemakings since this subquota period is currently closed. Comments on this proposed rule may be submitted via www.regulations.gov or at a public conference call and webinar. NMFS solicits comments on this action by April 6, 2022 (see **DATES** and **ADDRESSES**).

During the comment period, NMFS will hold a public hearing via conference call and webinar for this proposed action. Requests for sign language interpretation or other auxiliary aids should be directed to Larry Redd at larry.redd@noaa.gov or 301–427–8503, at least 7 days prior to the meeting.

The conference call and webinar will take place on March 24, 2022. Information for registering and accessing the webinars can be found at <https://www.fisheries.noaa.gov/action/proposed-2022-restricted-fishing-days-atlantic-bluefin-tuna-fishery>.

The public is reminded that NMFS expects participants at conference calls and webinars to conduct themselves

appropriately. At the beginning of each conference call and webinar, the moderator will explain how the conference call and webinar will be conducted and how and when participants can provide comments. NMFS representative(s) will structure the conference call and webinar so that all members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Participants are expected to respect the ground rules, and those that do not may be asked to leave the conference calls and webinars.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. Section 603(b)(1) requires agencies to describe the reasons why the action is being considered. The purpose of this proposed rulemaking is, consistent with the objectives of the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law, to potentially set a schedule of RFDs for the 2022 fishing year as an effort control for the General category quota, and to extend General category fishing opportunities through a greater portion of the General category subquota periods. Implementation of the proposal would further the management goals and objectives in the 2006 Consolidated HMS FMP and its amendments.

Section 603(b)(2) of the RFA requires agencies to state the objectives of, and legal basis for, the proposed action. The objective of this proposed rulemaking is to set a schedule of RFDs for the 2022 fishing year to increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the subquota periods (similar to the 2021 RFD schedule). The

legal basis for the proposed rule is the Magnuson-Stevens Act and ATCA.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. NMFS established a small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210), which includes for-hire (charter/party boat) fishing entities. The SBA has defined a small entity under the scenic and sightseeing transportation (water) sector as one with average annual receipts (revenue) of less than \$8.0 million. NMFS considers all HMS permit holders, both commercial and for-hire, to be small entities because they had average annual receipts of less than their respective sector's standard of \$11 million and \$8 million. The 2020 total ex-vessel annual revenue for the BFT fishery was \$8.4 million. Since a small business is defined as having annual receipts not in excess of \$11.0 million, each individual BFT permit holder would fall within the small entity definition. The numbers of relevant annual Atlantic Tunas or Atlantic HMS permits as of October 2021 are as follows: 2,730 General category permit holders and 4,055 HMS Charter/Headboat permit holders, of which 1,793 hold HMS Charter/Headboat permits with a commercial sale endorsement.

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping, and other compliance requirements. This proposed rule does not contain any new collection of information, reporting, or record-keeping requirements. This proposed rule would set a schedule of RFDs for 2022 as an effort control for the General category.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other fishery management

measures. These include, but are not limited to, the Magnuson-Stevens Act, 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. This proposed action has been determined not to duplicate, overlap, or conflict with any Federal rules.

Under section 603(c) of the RFA, agencies must describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Specifically, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives to 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, or any part thereof, for small entities.

Regarding the first, second, and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it, because all of the businesses impacted by this rule are considered small entities, and thus the requirements are already designed for small entities. Regarding the third category, NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking.

This proposed rule would not change the U.S. Atlantic BFT quotas or implement any new management measures not previously considered under the 2006 Consolidated HMS FMP and its amendments. NMFS proposes continuation of the use of RFDs for the General category in 2022 and provides the regulated community the opportunity to comment on the proposed RFD schedule. Under the regulations, when a General category subquota period is reached or projected

to be reached, NMFS closes the General category fishery. Retaining, possessing, or landing BFT under that quota category is prohibited on and after the effective date and time of a closure notice for that category, for the remainder of the fishing year, until the opening of the subsequent quota period or until such date as specified. In recent years, these closures, if needed, have generally occurred toward the end of a subquota period. According to communications with dealers and fishermen, several of the high-volume Atlantic tunas dealers in 2019 and 2020 were limiting their purchases of BFT and buying no or very few BFT (such as harpooned fish only) on certain days during the beginning portion of the June through August subquota period in order to extend the available quota until later in the subquota period given market considerations. However, while these actions may have prevented large numbers of BFT from entering the market at the same time and may have lengthened the time before any particular subquota period was closed, because these actions were not pre-scheduled or consistently implemented across the fishery, there were negative impacts experienced by some General category and Charter/Headboat permitted fishermen, who could not find buyers for their BFT. As a result, a number of BFT that normally would have been sold were not, and opportunities may not have been equitably distributed among all permitted vessels. In 2021, NMFS set pre-scheduled RFDs for the General category fishery on certain days (Tuesdays, Fridays, and Saturdays) from September through November to increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the subquota periods. Table 1 shows the number and total metric tons (mt) of BFT that were landed but not sold by fishermen fishing under the General category quota for 2017 through 2021. The number and weight of unsold BFT increased from 2018 through 2020, with a peak in 2020 (173 BFT and 25.8 mt) in part to the pandemic and substantially decreased in 2021 (from 143 to 12 BFT and 25.8 mt to 2.0 mt). NMFS believes this substantial reduction in 2021 from the peak in 2020 is a result of the use of RFDs in 2021.

TABLE 1—NUMBER (COUNT) AND WEIGHT (MT) OF BFT LANDED BUT UNSOLD BY GENERAL CATEGORY PARTICIPANTS BY YEAR
[2017–2021]

| Year | Count | Weight (mt) |
|-------------|-------|-------------|
| 2017 | 0 | 0 |
| 2018 | 14 | 2.6 |
| 2019 | 20 | 3.8 |
| 2020 | 143 | 25.8 |
| 2021 | 12 | 2.0 |
| Total | 189 | 34.2 |

Table 2 shows the average ex-vessel price per pound of BFT during each General category subquota time period for 2017 through 2021. Ex-vessel price per pound was lower for the June through August period, with an average (2017 through 2021) of \$6.21, and

increased over the summer and fall period, with averages of \$6.26 for the September period and \$6.73 for the October through November period). In 2021, the average price per pound was higher for all time periods compared to the average price per pound during the

time periods in 2020. In most time periods, the 2021 average price per pound was also higher than the 2019 average price per pound. NMFS believes that this increase in average price was in part due to the use of RFDs in 2021.

TABLE 2—AVERAGE EX-VESSEL PRICE PER POUND (\$) OF BFT BY GENERAL CATEGORY SUBQUOTA TIME PERIOD
[2017–2021]

| Year | Subquota time period | | | | |
|---------------------------------|-----------------------|---------------------|-----------|--------------------------|----------|
| | January through March | June through August | September | October through November | December |
| 2017 | \$7.37 | \$6.72 | \$7.08 | \$7.56 | \$9.83 |
| 2018 | 7.43 | 6.92 | 6.55 | 7.58 | 9.56 |
| 2019 | 6.06 | 5.61 | 6.36 | 5.53 | 12.25 |
| 2020 | 6.13 | 4.90 | 5.21 | 5.61 | 5.76 |
| 2021 | 6.22 | 6.92 | 6.09 | 7.38 | 8.51 |
| 2017 through 2021 average | 6.64 | 6.21 | 6.26 | 6.73 | 9.18 |

Table 3 shows the number of open days during each General category subquota time period for 2017 through 2021. On an annual basis, the average number of General category open days tends to be higher earlier in the fishing year (*i.e.*, 64 days for the January through March period and 79 days for the June through August period) and

decreases as the season progresses into the late fall and winter seasons (*i.e.*, 21 days for September period, 21 days for October through November period, and 20 days for the December period). In 2021, the total number of open days was higher compared to the total number of days in 2019. NMFS set RFDs for the September and October through

November subquota periods in 2021. Although the number of open days for the September 2021 subquota period was the lowest except for 2019, the October through November 2021 subquota period remained open for more days compared to the previous four years. NMFS believes that increase in fishing days was in part due to RFDs.

TABLE 3—GENERAL CATEGORY NUMBER OF OPEN DAYS BY SUBQUOTA TIME PERIOD
[2017–2021]

| Year | Subquota time period | | | | | |
|---------------------------------|-----------------------|---------------------|-----------|--------------------------|----------|-------|
| | January through March | June through August | September | October through November | December | Total |
| 2017 | 88 | 77 | 17 | 5 | 6 | 193 |
| 2018 | 61 | 92 | 23 | 15 | 31 | 222 |
| 2019 | 59 | 69 | 13 | 13 | 31 | 185 |
| 2020 | 55 | 91 | 27 | 11 | 14 | 200 |
| 2021 | 58 | 65 | 14 | 34 | 18 | 189 |
| 2017 through 2021 average | 64 | 79 | 19 | 16 | 20 | 198 |

NMFS is proposing to establish a schedule of RFDs for the 2022 fishing year that would specify days on which fishing and sales will not occur. Specifically, the proposed schedule allows for two-consecutive-day periods twice each week for BFT product to move through the market while also allowing some commercial fishing activity to occur each weekend (*i.e.*, Sundays). Because this schedule of RFDs would apply to all participants equally, NMFS anticipates that this schedule would extend fishing opportunities through a greater proportion of the subquota periods in which they apply by spreading fishing effort out over time similar to the 2021 fishing season. Further, to the extent that the ex-vessel revenue for a BFT sold by a General or HMS Charter/Headboat permitted vessel (with a commercial endorsement) may be higher when a lower volume of domestically-caught BFT is on the market at one time, the use of RFDs may result in some increase in BFT price, and the value of the General category subquotas could increase similar to that of 2021. Thus, although NMFS anticipates that the same overall amount of the General category quota would be landed as well as the same amount of BFT landed per vessel, there may be some positive impacts to the General category and Charter/Headboat (commercial) BFT fishery. Using RFDs may more equitably distribute opportunities across all permitted vessels for longer durations within the subquota periods.

If NMFS does not implement a schedule, without any other changes, it is possible that the trends of increasing numbers of unsold BFT (Table 1) and decreasing ex-vessel prices (Table 2) from 2017 through 2020 could continue. Additionally, without RFDs in 2022, the General category could have fewer open days later in the fishing season when ex-vessel prices tend to be higher (Table 3) as observed in 2017 through 2020. If those trends were to continue, all active General category permit holders could experience negative economic impacts similar to 2019 and 2020 where dealers were limiting their purchases of BFT and buying no or very few BFT on certain days in order to extend the available quota.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 635

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

Dated: February 28, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220224-0058]

RIN 0648-BL16

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna and North Atlantic Albacore Quotas

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to modify the baseline annual U.S. quota and subquotas for Atlantic bluefin tuna and the baseline annual U.S. North Atlantic albacore (northern albacore) quota. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted in 2021, as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received by April 6, 2022. NMFS will hold a public hearing via conference call and webinar for this proposed rule on March 24, 2022, from 2:30 p.m. to 4 p.m. EDT. For webinar registration information, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0024, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter "NOAA-NMFS-2022-0024" in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part

of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

NMFS will hold a public hearing via conference call and webinar on this proposed rule. For specific location, date and time, see the **SUPPLEMENTARY INFORMATION** section of this document.

Copies of this proposed rule and supporting documents are available from the Highly Migratory Species (HMS) Management Division website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Carrie Soltanoff at carrie.soltanoff@noaa.gov or 301-427-8503.

FOR FURTHER INFORMATION CONTACT:

Carrie Soltanoff (carrie.soltanoff@noaa.gov) or Larry Redd, Jr. (larry.redd@noaa.gov) at 301-427-8503, or Steve Durkee (steve.durkee@noaa.gov) at 202-670-6637.

SUPPLEMENTARY INFORMATION: Atlantic tunas fisheries are managed under the authority of ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. bluefin tuna quota recommended by ICCAT and as implemented by the United States among domestic fishing categories and provides the annual bluefin tuna quota adjustment process. Section 635.23(e) implements the ICCAT-recommended U.S. northern albacore quota and provides the annual northern albacore quota adjustment process.

Since 1982, ICCAT has recommended a total allowable catch (TAC) of western Atlantic bluefin tuna for contracting parties fishing on the stock, and since 1991, ICCAT has recommended specific quotas within that TAC for the United States and other contracting parties. ICCAT adopted a 20-year rebuilding program for western Atlantic bluefin tuna in 1998. The rebuilding plan period was set as 1999 through 2018. In 2017, ICCAT adopted an interim conservation and management measure for western Atlantic bluefin tuna as to transition from the rebuilding program to a long-term management strategy for