

has “unique adaptive characteristics that will help the species adapt to a changing environment.” However, we could not find any information in the “relevant literature” that supported this statement nor any such information in our files.

We also do not consider here the petitioner’s request to list a Delaware River DPS as endangered and to designate critical habitat for the DPS since both of these are dependent on a determination that the Delaware River population may warrant listing as a DPS. However, as described above, the “relevant literature” includes four new reports relative to impacts to the Delaware River population of Atlantic sturgeon or its habitat (*i.e.*, DRBC, 2022a, 2022b; ERC and Verdantas, 2022; Hagy, 2023), and each report speaks to an impact that we previously identified for the Delaware River population (*i.e.*, vessel strikes of the fish and low dissolved oxygen levels within its habitat). The petitioner did not include other information as required at 50 CFR 424.14(d). The petitioner did not include in the “relevant literature” section any new reports or publications relative to a need for a new critical habitat designation for the Delaware River population. Those reports or publications that were included (*e.g.*, Allen *et al.*, 2014; Breece *et al.*, 2013; Brundage *et al.*, 2009; Campbell and Goodman, 2004; and Lazzari *et al.*, 1986) were also considered and used by us when we designated critical habitat in the Delaware River for the New York Bight DPS (82 FR 39160, February 17, 2017; NMFS, 2017).

Petition Finding

We thoroughly reviewed the petition, the list of references provided by the petitioner, and other literature and information readily available to us, and find that the petition does not provide any new information regarding the discreteness of the Delaware River population of Atlantic sturgeon or otherwise offer substantial information not already considered in our status review report (ASSRT, 2007), the listing decision (77 FR 5880, February 6, 2012), or our 5-year review (NMFS, 2022). As such, we find that the petition does not present substantial scientific or commercial information indicating that the petitioned action to identify the Delaware River population of Atlantic sturgeon as a DPS may be warranted. We note that the population will continue to be listed as endangered as part of the New York Bight DPS of Atlantic sturgeon and that critical habitat in the Delaware River will continue to be designated as part of the

critical habitat for the New York Bight DPS.

References Cited

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 23, 2024.

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. 240522–0143]

RIN 0648–BM66

Atlantic Highly Migratory Species; Bluefin Tuna General Category Effort Controls and Related Regulations

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

ACTION: Final rule.

SUMMARY: In this final rule, NMFS is modifying the process of scheduling restricted-fishing days (RFDs) by codifying a schedule of RFDs for the 2024 fishing year and subsequent fishing years, setting an additional non-codified RFD for the 2024 fishing year, establishing a General category default retention limit for large medium or giant bluefin tuna (BFT) on open days (*i.e.*, non-RFDs), and clarifying the BFT dealer regulations and the definition of a bluefin statistical document (BSD) tag. This final action is necessary to increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the General category time period subquotas. Lastly, this final action clarifies existing regulations to ensure better understanding and compliance by General category quota participants.

DATES: This final rule is effective July 1, 2024.

ADDRESSES: Additional information related to this final rule, including electronic copies of the final rule, and supporting documents, are available from the Atlantic Highly Migratory Species (HMS) Management Division

website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>, on <https://www.regulations.gov> (enter “NOAA–NMFS–2024–0021” in the Search box), or by contacting Larry Redd, Jr., or Erianna Hammond (see **FOR FURTHER INFORMATION CONTACT** section).

FOR FURTHER INFORMATION CONTACT:

Larry Redd, Jr., larry.redd@noaa.gov, or Erianna Hammond, erianna.hammond@noaa.gov, at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

BFT fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. Section 635.23 describes the daily retention limits for BFT including retention limits on RFDs. Section 635.27 divides the U.S. BFT quota, established by the United States and other members of the International Commission for the Conservation of Atlantic Tunas (ICCAT), among the various domestic fishing categories per the allocations established in the FMP and its amendments. Section 635.27(a)(1) defines and describes the General category quota for BFT. NMFS is required under the Magnuson-Stevens Act at 16 U.S.C. 1854(g)(1)(D) to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

On February 23, 2024, NMFS published a proposed rule and released a Draft Environmental Assessment (EA) (89 FR 13667, February 23, 2024). The proposed rule and Draft EA contain background information on the potential changes to the General category fishery and are not repeated here. The comment period for the proposed rule closed on March 25, 2024. NMFS received 34 written comments as well as oral comments during the public hearing held by webinar on March 18, 2024. The comments received, and the responses to those comments, are summarized in the Response to Comments section.

In developing the final measures, NMFS considered the objectives of this rulemaking along with public comments on the proposed rule and Draft EA. After reviewing this information, NMFS has concluded that the codification of a

three-day default RFD schedule from July 1 through November 30 on Tuesdays, Fridays, and Saturdays is warranted to accomplish the objective of extending fishing opportunities through a greater portion of the General category time periods, and this final rule implements such codification.

Additionally, NMFS believes that the addition of a fourth RFD per week on Sundays is appropriate in 2024 in order to further this objective and gather additional information about how the fishery operates with 4 RFDs and determine whether it would be appropriate for the future. As such, this final action implements 4 RFDs each week in 2024: Sunday, Tuesday, Friday, and Saturday from July 1 through November 30. At this time, Sunday will be an RFD only in 2024. After November 30, 2024, NMFS will consider whether a fourth RFD per week is needed in future years and whether Sunday should be that day. More information regarding this modification to the proposed rule can be found in both the "Response to Comments" and "Changes from the Proposed Rule" sections.

In brief, the final management measures implemented in this rule are: (1) the codification of a default regulatory RFD schedule consisting of every Tuesday, Friday, and Saturday from July 1 through November 30 of each year; (2) the setting of an additional non-codified RFD specifically in 2024 on every Sunday from July 1 through November 30, 2024; (3) the establishment of a General category default daily retention limit of three large medium or giant BFT per vessel on open days in June and one large medium or giant BFT per vessel on open days for all other months in time periods where the fishery is open (*i.e.*, January through March and July through December, noting that the General category BFT fishery is not open during the months of April and May); and (4) the clarification of BFT regulations regarding dealer activities on RFDs and the definition of a BSD tag. 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. However, on an RFD, Atlantic Tunas General category permitted vessels may fish for, possess, retain, land, or sell other Atlantic HMS tunas (*e.g.*, bigeye, albacore, yellowfin, and skipjack). Furthermore, on an RFD, HMS Charter/Headboat permitted vessels with a commercial sale endorsement also are subject to these restrictions and may not fish commercially for BFT under the General

category restrictions and retention limits. However, such vessels may still fish for, possess, retain, or land BFT when fishing recreationally under applicable HMS Angling category rules.

As described in the Responses to Comments below, NMFS made one change to the preferred alternatives between the proposed and final rule, based in part on public comments. The specific change is described below in the section titled "Changes from the Proposed Rule."

NMFS has prepared a final EA, Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA), which analyze the anticipated environmental, social, and economic impacts of several alternatives considered for this final rule. The full list of alternatives and their analyses are provided in the final EA/RIR/FRFA and are not repeated here. A summary of the FRFA is provided below. A copy of the final EA/RIR/FRFA prepared for this final rule is available from NMFS (see **ADDRESSES**).

Response to Comments

NMFS received 34 written comments from individual members of the public. All written comments can be found at www.regulations.gov; type "NOAA-NMFS-2024-0021" in the Search box (*note*: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Below, NMFS summarizes and responds to the comments made on the proposed rule during the comment period.

Comment 1: NMFS received multiple comments expressing concerns with codifying specific days as RFDs. Commenters felt that codifying RFDs would not provide NMFS the flexibility to respond to changes in BFT stock status, the environment, the regulations, and market conditions.

Response: NMFS disagrees that codifying specific days as RFDs would reduce the flexibility needed to respond to such changes. As stated in the proposed rule, NMFS may waive previously scheduled RFDs under certain circumstances, consistent with § 635.23(a)(7). Specifically, NMFS may waive an RFD(s) 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)(7). These considerations include, among other things, review of dealer reports, daily landing trends, and the availability of BFT on fishing grounds. We would announce any such waiver by filing a retention limit adjustment with the Office of the Federal Register for publication. 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 tag-and-release fishing for BFT. Similarly, if NMFS is conducting a rulemaking as a result of changes in the BFT stock status, BFT quotas, or other related situations, NMFS could consider the combined impacts of RFDs and those changes on the fishery, and, if needed and appropriate, propose changes to the codified RFD schedule.

Comment 2: NMFS received several comments suggesting that the preferred 3-day RFD schedule has not been effective in extending the length of the season. Some commenters noted that data pre- and post-establishment of RFDs indicate that NMFS should take other measures to control effort better. Many commenters stated that NMFS should set additional RFDs per week as the preferred 3-day RFD schedule has not accomplished the primary goal to allow fishing opportunities later into the applicable time periods.

Response: NMFS disagrees that RFDs have not been effective in meeting its primary goal of extending the fishing season. NMFS acknowledges that in the past few years, with the 3-day RFD schedule of Tuesday, Friday, and Saturday from July 1 through November 30, the subquotas have still been harvested before the end of each time period, necessitating an early closure. However, this is because landings rates continue to be very high compared to past landings rates. This increase in landings rates may be due to various factors including increased availability of BFT and favorable weather conditions. The use of RFDs has extended the applicable time periods and has provided for additional fishing opportunities throughout each time period. Without RFDs, because of those high landings rates, the time period subquotas would likely have been met within days of each time period opening. Such a quick closure would not provide fishing opportunities through much of the fishing season.

Thus, after considering public comment and reviewing daily catch landings data in recent and past years, NMFS is finalizing the codification of a 3-day RFD schedule. NMFS is further setting a fourth, non-codified RFD for the 2024 fishing year (see Responses 3 and 4 for more information). NMFS believes the addition of a fourth day will further the objective of extending the fishing season and continuing to provide equitable fishing opportunities throughout the year and intends to evaluate after the 2024 fishing year

whether a permanent codification of a fourth RFD is warranted.

Comment 3: NMFS received a variety of comments regarding a specific RFD schedule. Some commenters supported the preferred 3-day RFD schedule. One commenter supported a 3-day RFD schedule, but suggested that NMFS modify the days to Sunday, Monday, and Friday. The majority of commenters suggested that NMFS set 4 RFDs per week from July 1 through November 30, with Sunday being added as the additional RFD. These commenters felt that the past years' schedule of 3 RFDs per week was not effective in extending the fishing season and stated that a 4-day RFD schedule would extend the quota later into the season, while also reducing market saturation and improving BFT prices. Other commenters felt having 4 RFDs a week would have a negative economic impact on local coastal communities, would eliminate fishing opportunities for participants who can only fish during the weekend, and could result in safety-at-sea issues. Without specifying which specific days, some commenters supported 4 or more RFDs. A few of these commenters suggested 6 RFDs a week as long as NMFS had the flexibility to increase or decrease fishing days by waiving RFDs when needed, while one comment supported as many RFDs per week as would be needed to stabilize the BFT market. One commenter supported 4 RFDs per week from August through December.

Response: A primary objective of this action is to slow the harvest rate of BFT in order to provide General category fishing opportunities through a greater portion of the General category time periods. As stated in the response to Comment 2, the RFD schedule in recent years (e.g., 3 RFDs per week on Tuesdays, Fridays, and Saturdays) has been effective at allowing extra fishing opportunities. However, the time period subquotas have still been reached quickly resulting in early closures of the General category. After reviewing public comments and catch rate data, NMFS has determined that it is appropriate to set a fourth RFD per week from July 1 through November 30 in 2024 to further slow the rate of catches in the General category and provide for additional fishing opportunities later into the applicable time periods. NMFS will evaluate/review the data from the 2024 fishing season to determine how well a fourth RFD achieves that objective. NMFS recognizes that a 4-day RFD schedule in 2024, specifically a Sunday, Tuesday, Friday, and Saturday schedule, would eliminate BFT commercial fishing opportunities on the

weekend and may negatively affect commercial fishermen that currently only fish for BFT on the weekend. However, all General category and HMS Charter/Headboat permit holders that fish commercially for BFT are affected when the subquota is harvested quickly and the season is closed after only a few days. In those cases, commercial fishing opportunities for all General category and HMS Charter/Headboat permit holders fishing commercially for BFT are negatively affected. By setting a 4-day RFD schedule in 2024, we believe more fishing opportunities will be available for all General category participants later into each time period. Furthermore, NMFS has the ability to waive RFDs, if necessary. We believe this added flexibility provides NMFS effective tools to manage the General category fishery.

Regarding safety-at-sea, NMFS recognizes that fishing can be dangerous in the best of circumstances. NMFS does not believe that a 4-day RFD schedule inherently causes more safety issues than a 3-day RFD schedule. Under either schedule, fishermen are not required to go fishing and must make their own determination about whether to fish given the weather or other safety-at-sea conditions. If a schedule of 4 RFDs per week in 2024 is successful at extending fishing opportunities throughout the fishing season, fewer fishermen may feel the need to go fishing on a non-RFD if the weather or other conditions are hazardous.

Comment 4: NMFS received many comments in support of adding Sunday as a fourth RFD per week. The commenters who supported adding Sunday as an RFD noted the highest commercial landings and effort occur on Sunday. Some recreational commenters who supported Sunday as a fourth RFD felt the high commercial fishing effort on Sundays is detrimental to any recreational vessels trying to fish. One commenter noted fishing tournaments in New England do not operate on Sundays, and therefore a Sunday RFD would not cause any impacts to any General category participants in such tournaments. Some commenters opposed the addition of a Sunday RFD, noting that the addition of Sunday would eliminate commercial BFT fishing on weekends.

Response: After considering public comment and further reviewing daily catch landings data in recent and past years, NMFS has determined that Sunday should be added as an additional non-codified RFD in 2024 because Sundays have recently been high landings days in the General category. From 2021 through 2023 for

the months with RFDs in place, the rate of landings on Sundays was relatively high (~14 metric tons (mt) per day). Recognizing the concerns from stakeholders regarding the addition of Sunday, at this time we are adding Sunday as an additional non-codified RFD per week only for the 2024 fishing year. This limited time should allow the opportunity to collect data and determine if it would be appropriate to include Sunday as a codified fourth RFD in future years. We recognize that the use of RFDs may allow for an increase in recreational catches of BFT on RFDs, including on weekends. However, the purpose of this action is not to increase recreational landings, but to extend the General category BFT fishery for 2024 year and during subsequent years. Although recreational landings may increase on RFDs, we note that the recreational quota has not been reached in recent years. Additionally, we emphasize that Charter/Headboat permitted vessels must abide by established retention limits when fishing recreationally on RFDs. Thus, NMFS anticipates that recreational landings would remain within the current annual Angling category quota as specified at 635.27(a)(2).

Furthermore, NMFS acknowledges that some HMS tournaments in the New England region may not include fishing on Sundays. However, NMFS is aware of some fishing tournaments that take place on Sundays in other regions during time periods when catch rates are high. RFDs that occur on a tournament date may negatively affect BFT fishing at those tournaments since some tournament participants are General category permit holders and are prohibited from fishing for BFT on RFDs. However, on an RFD, General category permit holders may still participate in non-BFT fishing during the tournament and may land sharks (if they also hold a shark endorsement), swordfish, billfish, and/or bigeye, albacore, yellowfin (YFT), and skipjack tunas recreationally as otherwise allowed. Additionally, on an RFD, Charter/Headboat-permitted vessels may participate recreationally in HMS fishing tournaments, including for BFT, under the applicable Angling category restrictions and size class limits.

Comment 5: NMFS received multiple comments that did not support establishing a default three-fish daily retention limit in the month of June and a default one-fish daily retention limit for all other months in time periods when the fishery is open (i.e., January through March and July through December). Commenters expressed concerns that a three-fish daily retention

limit for the month of June results in too many landings in June for the June through August time period, which is contrary to the goal of this action. These commenters were also concerned that the default retention limit would not provide NMFS the flexibility to modify the retention limit if needed. Other commenters stated that a one-fish daily retention limit would preserve resources and ensure better market prices for BFT.

Response: NMFS disagrees that having a default three-fish daily retention limit in June is contrary to the objectives of this action or would reduce the flexibility needed to modify the retention limit. In recent years, the rate of landings and overall fishing effort in the General category is typically slow in early June. For example, in 2023, the average amount of BFT harvested per day in June (*i.e.*, 30 open days), with the three-fish daily limit, was 1.5 mt. From July 1 through August 17 (*i.e.*, 28 open days), with the one-fish daily limit, the average amount harvested per day was 11.8 mt. In recent years, after consideration of the relevant criteria provided under § 635.27(a)(7), which includes consideration of catch rates, NMFS has regularly set the daily retention limit for the beginning of the June through August time period at three fish (*e.g.*, 86 FR 27814, May 24, 2021; 87 FR 32094, May 27, 2022; 88 FR 34454, May 30, 2023). During the month of June, NMFS monitors the landings closely, and, as appropriate, NMFS can reduce the limit to a one-fish daily retention limit to ensure fishing opportunities in all respective General category time periods and to ensure that the available quota is not exceeded. Any change in the retention limit considers the relevant criteria and includes consideration of the catch rates associated with the various authorized gear types (*i.e.*, harpoon, rod and reel). Throughout the season, NMFS monitors landings and catch rates and will close the fishery or modify retention limits as appropriate to ensure the quotas are not exceeded. NMFS will continue to monitor and evaluate the effectiveness of all these management measures in the context of current conditions to determine whether other actions are necessary.

Comment 6: NMFS received multiple comments suggesting that NMFS negotiate for more BFT quota at ICCAT citing increases in BFT biomass and shifts in BFT fishing grounds, resulting in high landings. Several commenters noted that the BFT stock has rebounded and is healthy. Some commenters noted that more quota is needed to address recreational trophy and tournament landings, both of which potentially

affect General category participation and landings. One commenter expressed that NMFS should consider a special allocation for giant BFT caught in tournaments with no commercial sale.

Response: The most recent western Atlantic BFT stock assessment, conducted in 2021, determined that the overfished status remains unknown and that the stock is not subject to overfishing. This stock status remains in effect. In 2022, NMFS increased the baseline U.S. BFT quota to 1,316.14 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), as codified at § 635.27(a), consistent with Recommendation 21–07 adopted by ICCAT at the November 2021 annual meeting (87 FR 33049, June 1, 2022). ICCAT Recommendation 22–10 maintained the U.S. BFT quota as specified above. Further information on the BFT stock assessment and stock status can be found in the 2022 rule referenced above and associated EA.

Regarding more quota for recreational trophy and tournament landings this would require modifications to the BFT quota for the Angling category quota and subquotas and NMFS is not considering modifications of the Angling category in this action. Additionally, regarding a special allocation for giant BFT caught in tournaments with no commercial sale, NMFS is not considering this modification, as it would require modifications to the BFT quota for the General category quota and subquotas. Amendment 13 to the 2006 Consolidated HMS FMP and its final rule (87 FR 59966, October 3, 2022) considered modifications to the BFT category subquotas. As described in Amendment 13, NMFS determined that the current structure of the BFT fishery provides equitable fishing opportunities. As such, Amendment 13 did not modify the General category subquota percentages. However, Amendment 13 eliminated the Purse Seine category and proportionally reallocated Purse Seine category quota to all of the other BFT quota categories, including the General and Angling categories, resulting in an increase to the General category and Angling category quota and subquotas.

Comment 7: One commenter referenced National Standard 4, which requires that conservation and management measures shall not discriminate between residents of different states, and expressed concerns that RFDs are set only for when BFT arrive off Maine versus year-round.

Another commenter stated that NMFS has a responsibility to protect the economic value of the BFT fishery under the Magnuson-Stevens Act and codifying effort controls will not provide the flexibility to do so.

Response: The preferred alternatives are designed to extend fishing opportunities through a greater portion of the General category time period subquotas, prevent the overharvest of quota in any period, and improve distribution of fishing opportunities without increasing BFT mortality. This action also provides flexibility to waive codified RFDs (see response to comment 1). Consistent with National Standard 4, the preferred alternatives do not discriminate between residents of different States, as the measures considered in this action apply the same rules to all General category and HMS Charter/Headboat permit holders with a commercial sale endorsement fishing commercially for BFT regardless of their state of residence. The preferred RFD schedule does not apply only to certain regions. Instead, it applies to all regions, during time periods in which landings have been the highest, shortening the time it takes to meet relevant subquotas, resulting in inseason closures earlier than desired, and contributing to market gluts. In the final rule establishing the 2023 RFD schedule, NMFS considered, among other things, RFDs for the December, and the January through March time periods (88 FR 33839, May 25, 2023). Based on public comment, at that time, NMFS did not finalize RFDs for those time periods, in part because the weather during those periods already limits participation. NMFS did not reconsider RFDs during those time periods in this rule, as the reasons for not finalizing them in 2023 still apply.

NMFS emphasizes that the Magnuson-Stevens Act requires the consideration and application of numerous factors when developing fishery conservation and management measures, including the ten National Standards at 16 U.S.C. 1851(a)(1)–(10). The proposed rule and EA did discuss past market conditions and recognized that this action should also help prevent large numbers of BFT from entering the market at the same time, which may indirectly affect price. While NMFS considered economic factors in the development of this action, the primary purpose of RFDs is not economic in nature. Rather, RFDs are an effort control used to extend General category fishing opportunities through a greater portion of the General category time period subquotas, prevent overharvest of quota in any period, and improve

distribution of fishing opportunities without increasing BFT mortality.

Comment 8: NMFS received multiple comments expressing concerns with General category permit holders' participation in HMS tournaments. These commenters stated that tournaments contribute significantly to landings of General category BFT in the summer. Some commenters noted that BFT landed by General category vessels participating in tournaments that include BFT should not count toward the General category quota. Some commenters suggested that NMFS should require tournaments to be catch and release only for BFT. Some commenters suggested that NMFS should require all commercially-sized BFT that are landed during tournaments be weighed in dressed form rather than whole form. One commenter expressed that HMS Charter/Headboat vessels should be able to continue to fish in and sell BFT landed in tournaments.

Response: NMFS disagrees that tournament landings contribute significantly to BFT General category landings in the summer. While NMFS acknowledges that tournament landings do affect landings in the General category, non-tournament landings constitute the majority of landings in the General category fishery in the summer. Furthermore, under the current regulations General category and HMS Charter/Headboat permitted vessels with a commercial sale endorsement may participate in BFT fishing tournaments (on non-RFDs) and must comply with the Atlantic Tunas General category regulations to land and sell commercial sized BFT (see § 635.4(c)(3)). In recent years both fishermen and dealers have expressed concerns regarding General category participation in HMS fishing tournaments. At this time, NMFS is not considering action to modify existing regulations regarding General category participation in HMS tournaments. NMFS may consider potential changes to these regulations in the future, if warranted.

Comment 9: NMFS received multiple comments suggesting alternative options to RFDs for the purpose of controlling fishing effort. One commenter suggested that NMFS take action regarding dealer and fishermen communication to reduce unsold fish. Some commenters noted that NMFS should not issue permits unless General category or HMS Charter/Headboat permit holders show proof of meeting safety regulations. These commenters cited that non-compliance of commercial safety gear, stickers, and handling restrictions by Charter/Headboat permit holders leads

to an increase in General category fishing by inexperienced or unsafe fishermen resulting in BFT that are not handled properly for sale or landed and unsold.

Response: NMFS believes that RFDs and retention limits offer the best options to pace General category landings to extend fishing opportunities through a greater portion of the time periods. Furthermore, as part of this action, NMFS is clarifying existing regulations to improve the understanding of vessel and dealer restrictions and requirements for participants in the General category BFT fishery. Through these measures, NMFS believes the number of unsold fish should be reduced. Additionally, in recent years (most recently in 2023), NMFS has actively encouraged operators of vessels authorized to sell bluefin tuna to contact their local Atlantic tuna dealers before departing on a trip to determine if dealers are willing to purchase BFT.

Regarding the commercial fishing vessel safety requirements, these requirements are promulgated and enforced by the U.S. Coast Guard, not by NMFS. Such provisions can be found in 46 CFR part 28. Modifying the prerequisites to obtain an HMS permit is outside the scope of this action, however NMFS takes the suggestion under advisement.

Comment 10: NMFS received one comment requesting that NMFS ban imports of BFT or YFT when the fishery is open and ban imported farm/pen raised tunas.

Response: This comment is outside of the scope of this action. Information regarding import restrictions can be found on the NMFS Office of International Affairs, Trade, and Commerce web page at <https://www.fisheries.noaa.gov/about/office-international-affairs-trade-and-commerce>.

Changes From the Proposed Rule

Changes from the proposed rule were made in response to public comment and refined analyses for this final rule. Therefore, where relevant, the description of measures implemented by this final rule includes any changes from the measures in the proposed rule and EA. All changes in this final rule fall within the scope of, or are a logical outgrowth of, the alternatives in the proposed rule and Draft EA. The only changes from the proposed measures are to add Sunday as a temporary fourth RFD each week from July 1 through November 30, 2024, and some minor changes to the regulatory text as described below.

NMFS proposed to set and codify a 3-day RFD schedule for every Tuesday, Friday, and Saturday from July 1 through November 30. As stated in the proposed rule, NMFS has used this RFD schedule since 2022 (in 2021, NMFS used the same 3-day schedule from September 3 through November 30) to correspond with the time periods when catch rates have been historically high in the General category often resulting in premature closures of the fishery. In this final rule, NMFS is codifying the preferred RFD schedule of every Tuesday, Friday, and Saturday from July 1 through November 30, as proposed.

However, as described in the responses to Comments 3 and 4, NMFS received many public comments suggesting that NMFS set a 4-day RFD schedule by adding Sunday as an additional RFD. Based on those public comments and refined analyses, NMFS decided to add Sunday as a fourth RFD each week for the 2024 fishing year. This change applies only to 2024, and NMFS is not codifying by regulation a Sunday RFD through this action. Instead, NMFS may consider codifying Sunday as an additional RFD in the future if deemed appropriate.

Thus, as part of this rule, NMFS is setting 4 RFDs per week for the 2024 fishing year: every Sunday, Tuesday, Friday, and Saturday from July 1 through November 30. As stated in the Response to Comments section, NMFS maintains the ability to waive previously scheduled RFDs and would announce such waivers by filing a retention limit adjustment with the Office of the Federal Register for publication.

NMFS has made a few minor changes to the regulatory text, which includes adding the word "fishing" to tag-and-release activities to § 635.23(a)(7)(i), adding the words "local time" to § 635.31(a)(1), and technical editorial corrections to meet the Office of Federal Register guidelines.

Classification

Pursuant to section 304(g) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law.

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

A FRFA was prepared for this final rule. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to

the IRFA, NMFS' responses to those comments, and a summary of the analyses updated in response to the comments and completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary is provided below.

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires agencies to state the need for, and objective of, the final action. This action is consistent with the objectives of the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law. The need for this action is to simplify and clarify the regulatory process regarding RFDs. RFDs increase the likelihood of pacing General category landings to extend fishing opportunities through a greater portion of the General category time period subquotas. Additionally, this action would reestablish a General category retention limit on open days for better understanding by General category quota participants and clarify the existing HMS dealer regulations to improve the understanding of vessel and dealer restrictions and requirements for participants in the General category BFT fishery to ensure better compliance by dealers and dealers' agents when operating on an RFD. In short, the objective of this action is to modify the process of scheduling RFDs and reestablish a General category default daily retention limit for large medium or giant BFT on open days. As effort controls, both RFDs and daily retention limits are meant to extend General category fishing opportunities through a greater portion of the General category time period subquotas, prevent overharvest of quota in any period, and improve distribution of fishing opportunities without increasing BFT mortality. Lastly, this action would clarify existing HMS dealer regulations and the definition of a BSD tag to improve the understanding of vessel and dealer restrictions and requirements for participants in the General category BFT fishery.

Section 604(a)(2) of the RFA requires a summary of significant issues raised by the public in response to the IRFA, a summary of the agency's assessment of such issues, and a statement of any changes made in the rule as a result of the comments. NMFS received 34 written comments on the proposed rule and Draft EA during the public comment period. A summary of those comments and the agency's responses are described above. No comments specifically referenced the IRFA, although some comments raised a variety of economic concerns including

viability of the General category fishery with RFDs (see comment 3), retention limit impacts on ensuring higher market prices (see comment 5) and NMFS responsibility to protect the economic value of the BFT fishery (see comment 7). NMFS' responses to those comments are summarized above. After careful consideration of all the comments received, NMFS is: (1) codifying an RFD schedule every Tuesday, Friday, and Saturday from July 1 through November 30 that will apply in 2024 and future years; (2) adding Sunday as an additional RFD for the 2024 fishing year; (3) establishing a General category default daily retention limit of three large medium or giant BFT per vessel on open days in June and one large medium or giant BFT per vessel on open days for all other months in time periods where the fishery is open; and (4) clarifying the regulations regarding BFT dealer activities on RFDs and the definition of a BSD tag.

Section 604(a)(3) of the RFA requires the agency to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made in the rule as a result of such comments. NMFS did not receive any comments from the Chief Counsel for Advocacy of the SBA in response to the proposed rule. As noted above, no comments specifically referenced the IRFA, although some comments raised a variety of economic concerns including viability of the General category fishery with RFDs (see comment 3), retention limit impacts on ensuring higher market prices (see comment 5) and NMFS responsibility to protect the economic value of the BFT fishery (see comment 7).

Section 604(a)(4) of the RFA requires agencies to provide descriptions of, and where feasible, 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 (North American Industry Classification System (NAICS) 11411) for RFA compliance purposes. The 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 (*e.g.*, charter/party boat) fishing entities. The SBA has defined a small entity under the scenic and sightseeing transportation (*i.e.*, water) sector as one with average annual receipts (*i.e.*, revenue) of less than \$14 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 \$14 million. As of October 2022, there are 2,630 General category permit holders and 4,175 HMS Charter/Headboat permit holders, of which 1,873 hold HMS Charter/Headboat permits with a commercial sale endorsement.

Section 604(a)(5) of the RFA requires agencies to describe any new reporting, record-keeping, and other compliance requirements. This final rule does not contain any new collection of information, reporting, or record-keeping requirements.

Section 604(a)(6) of the RFA requires agencies to describe the steps taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

As described below, NMFS analyzed several different alternatives in this final rulemaking, including by incorporating updates as a result of public comments and additional data reviewed. NMFS also provides rationales for identifying the preferred alternatives to achieve the desired objectives. For purposes of the FRFA, NMFS assumes that each vessel will have similar catch and gross revenues to show the relative impact of the final action on vessels.

Under Alternative A, the status-quo alternative, NMFS would maintain the status quo, and as needed, would continue the recent practice of conducting an annual rulemaking to set the schedule of RFDs for upcoming fishing years. The average annual revenue for BFT landed in the General category is approximately \$9.9 million based on the average ex-vessel price from 2018 through 2022 and adjusted for inflation using the GDP Deflator. Overall, RFDs do not modify the General category quota and are designed to extend fishing opportunities through a greater proportion of the time periods in which they apply by spreading fishing effort out over time. 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 short-term increase in

BFT prices, and the value of BFT for the applicable General category time periods could increase. These increases in price are unlikely to impact the overall average annual revenue. Under this alternative, General category participants would continue to have the same opportunity to land the annual General category quota and subquotas as they have in the past few years. As such, NMFS expects this status quo alternative would have neutral economic impacts as it does not expect this alternative to have new economic impacts on small entities participating in the fishery beyond those currently occurring.

Under Alternative B (Preferred Alternative), which NMFS is considering as four sub-alternatives (B1 is the preferred sub-alternative), NMFS would modify the process for setting an RFD schedule. Under this alternative, NMFS would no longer need to conduct an annual rulemaking to set an RFD schedule. Instead, NMFS would codify the General category time periods and days in which RFDs would be applied as a default. NMFS could, if needed and as appropriate, conduct rulemaking to change the codified RFD schedule (*e.g.*, remove an RFD or add an RFD). NMFS clarifies that this rulemaking could be for a change to the schedule on either a temporary or permanent basis. NMFS may waive these scheduled RFDs for the specific time periods and days on which they apply by adjusting the daily BFT retention limit from zero up to five after considering the criteria at § 635.27(a)(7). 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 only tag-and-release fishing for BFT under § 635.26(a). Codification of default RFDs would provide greater certainty and predictability than annual rulemaking to schedule all RFDs for a certain year, providing some positive economic impacts to General category participants and dealers in terms of business planning. As stated above, the average annual revenue for BFT landed in the General category is approximately \$9.9 million based on the average ex-vessel price from 2018 through 2022 and adjusted for inflation using the GDP Deflator. 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 short-term increase in BFT prices, and the value of BFT for the

applicable General category time periods could increase.

As part of Alternative B, NMFS is considering four sub-alternatives specifying different days of the week when RFDs would take place to the RFD schedule for 2024 and subsequent years. In general, three of the sub-alternatives (B1, B2, B3) have similar economic impacts because they establish the same number of RFDs and RFDs do not modify the General category quota. Instead, RFDs are designed to extend fishing opportunities through a greater proportion of the time periods in which they apply by spreading fishing effort out over time. 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 short-term increase in BFT prices, and the value of the General category time period subquotas could increase.

Under Sub-Alternative B1, the preferred sub-alternative for the RFD schedule, NMFS will codify a 3-day-per-week RFD schedule for every Tuesday, Friday, and Saturday from July 1 through November 30. This sub-alternative could have neutral to minor beneficial economic impacts on small entities participating in the fishery beyond those currently occurring because this schedule could extend fishing opportunities through a greater portion of the General category time periods in the fishing year while also reducing the influx of BFT products into the market, resulting in short-term increases in ex-vessel prices and revenues for General category participants. However, these short-term increases in price are unlikely to impact the overall average annual revenue.

Under Sub-Alternative B2, NMFS would codify a 3-day-per-week RFD schedule for every Thursday, Friday, and Saturday from July 1 through November 30. This sub alternative could have neutral to minor adverse economic impacts on small entities participating in the fishery as four consecutive landings days could increase the influx of BFT products into the market resulting in a short-term decrease in ex-vessel prices and revenues for General category participants. This short-term decrease in BFT prices would be unlikely to impact the overall average annual revenue.

Under Sub-Alternative B3, NMFS would codify a 3-day-per-week RFD schedule for every Friday, Saturday, and Sunday from July 1 through November 30. This sub-alternative could have

neutral to minor adverse economic impacts on small entities participating in the fishery as RFDs for an entire weekend could negatively impact General category participants who can only commercially fish for BFT on the weekends. At this time, because current reporting requirements only track when a BFT is landed and not how often or when vessels fish, NMFS does not have estimates on how many General category permit holders follow this approach. However, under this sub-alternative, as with the other sub-alternatives, all permit holders would have the opportunity to fish for BFT on non-RFDs. Based in part on public comments and upon reviewing fishing activities in past years, NMFS anticipates that General category participants would adjust their schedules, similar to fishermen behavior during past years' RFD schedules. As such, allowing 4 consecutive landing days (even with the weekend restricted) could increase the influx of BFT products into the market resulting in a short-term decrease in ex-vessel prices and revenues for General category participants. This short-term decrease in BFT prices is unlikely to impact the overall average annual revenue.

Under Sub-Alternative B4, NMFS would codify a 4-day (or more)-per-week RFD schedule. Based on public comment and further reviewing of catch data, NMFS now believes that this sub-alternative could have minor beneficial to adverse economic impacts on small entities participating in the General category fishery as 4 or more RFDs could, rather than extending fishing opportunities, actually limit opportunities for General category participants to land the BFT quota and subquotas possibly resulting in underharvest and derby-like conditions. NMFS believes that a greater derby-like effect is expected with a greater number of RFDs per week. This derby-like effect, if large enough, could lead to an influx of BFT products into the market, which, depending on the schedule, could result in a decrease in ex-vessel prices and revenues for General category participants, which may negatively impact overall average revenue. For instance, based on public comment, NMFS now believes that a 4 non-consecutive-day RFD schedule could reduce the influx of BFT products into the market which could result in short-term increases in ex-vessel prices and revenues and thus minor beneficial impacts for some General category participants who are able to participate on all open days. Overall, for the fleet, such a schedule would result in 3 days

per week for commercial BFT fishing opportunities. Under this scenario, NMFS would anticipate that some General category participants may be unable to take advantage of the limited open days; however, NMFS would anticipate the General category quota being fully utilized as effort would likely shift to the 3 open days. This would likely have neutral economic impacts because all participants will have the same opportunities to fish commercially on open days. However, an RFD schedule of 5 or more days per week would result in 2 or fewer days per week for commercial BFT fishing opportunities. Under this scenario, NMFS would anticipate greater numbers of General category participants being unable to take advantage of more limited open days. If fishing effort is reduced enough, this may lead to an underharvest of the General category quota and subquotas, and the underutilization of the available fishery resource. In this scenario, NMFS would anticipate more adverse economic impacts.

As stated above in Sub-Alternative B1, NMFS is codifying a three-day RFD schedule on Tuesdays, Fridays, and Saturdays from July 1 through November 30. However, based on public comment on the proposed rule and Draft EA, NMFS is adding Sunday as an additional non-codified fourth RFD for the 2024 fishing year. Additionally, as noted above in the comments and responses, in further reviewing recent catch data, NMFS notes that from 2021 through 2023 for the months with RFDs in place, the rate of landings on Sundays was relatively high (*i.e.*, ~14 mt per day). The Sunday RFD will not be codified into the regulations at this time to allow for NMFS to gather additional data and observe how the fishery functions. Thus, for the 2024 fishing year, NMFS is setting an RFD schedule of 4 days (*i.e.*, Sunday, Tuesday, Friday, and Saturday) every week from July 1 through November 30. When the July through November time period is open to fishing, all General category participants could fish on Monday, Wednesday, and Thursday. At this time, NMFS believes that this schedule in 2024 would likely have neutral to adverse economic impacts on individual General category participants who could only commercially fish for BFT on the weekends. However, these individuals would have the opportunity to fish commercially for other tunas (*e.g.*, bigeye, albacore, yellowfin, skipjack) and non-HMS managed species on the weekends. Overall, for the fleet, such a schedule would likely have neutral to

minor beneficial economic impacts because all participants will have the same opportunities to fish commercially on open days, and there is no change to the overall BFT General category quota and subquotas which NMFS anticipates would be fully landed with a possible increase in ex-vessel price due to landings being spread out over time.

Under Alternative C, NMFS would remove RFDs from the existing HMS regulations and no longer set RFDs for the General category. As stated earlier in this document, the goal of RFDs is to extend General category fishing opportunities through a greater portion of the General category time periods. Without RFDs, high catch rates early in each time period would prompt NMFS to prematurely close the General category because the quota has been reached, even though fish may still be available on fishing grounds. Premature closure would mean commercial fishermen operating under the General category could not fish for, possess, retain, or sell commercial sized fish. 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 short-term increase in BFT prices, and the value of the General category time period subquotas could increase. This alternative could have neutral to minor adverse economic impacts on small entities participating in the fishery. General category participants would likely land the subquotas over an extremely short time period increasing the influx of BFT products into the market, potentially resulting not only in an earlier closure of the fishery but also a slight decrease in ex-vessel prices and revenues for General category participants which may negatively impact overall average revenue.

As part of Alternative D, NMFS is considering three alternatives specifying the General category retention limits for BFT. In general, the three Sub-Alternatives (D1, D2, and D3) have similar economic impacts as retention limits overall are designed to extend the length of the General category time periods when BFT can be landed, providing additional fishing opportunities while also reducing the influx of BFT products into the market, which could result in a short-term increase in ex-vessel prices for General category participants.

Under Sub-Alternative D1, the status-quo alternative for retention limits, NMFS would maintain the current

regulations at § 635.23(a)(3) which do not establish a default retention limit on open days (*i.e.*, non-RFDs) when the General category is open. Under this alternative NMFS may set the General category default daily retention limit for large medium or giant BFT over a range of zero (on RFDs) to five BFT per vessel for each time period in an action published in the **Federal Register**. The daily retention limit would apply to General category permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. Overall, the use of retention limits would likely have neutral to minor beneficial economic impacts on small entities participating in the General category fishery as they could extend the length of the General category time periods when BFT can be landed, providing additional fishing opportunities while also reducing the influx of BFT products into the market which could result in a short-term increase in ex-vessel prices for General category participants. This short-term increase in BFT prices are unlikely to impact the overall average annual revenue. NMFS expects the status-quo alternative to have neutral economic impacts as it does not change existing management.

Under Sub-Alternative D2, NMFS would establish a General category default daily retention limit of one large medium or giant BFT per vessel on days when the General category is open. The daily retention limit would apply to General category permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. Retention limits would likely have neutral to minor beneficial economic impacts on small entities participating in the General category fishery as they could extend the length of the General category time periods when BFT can be landed, providing additional fishing opportunities while also reducing the influx of BFT products into the market which could result in a short-term increase in ex-vessel prices for General category participants. However, since the current practice in recent years is to set a daily retention limit of three large medium or giant BFT per vessel on days when the General category is open, starting June 1 through June 30, a default of one BFT could potentially constrain the revenue of vessels that might have been able to land two or three BFT on open days from June 1 through June 30. Although this alternative may have a short-term minor

adverse impact on a limited number of individuals and their revenues (likely resulting in a short-term decrease in ex-vessel prices), NMFS expects that the overall average annual revenue would unlikely be impacted.

Under Sub-Alternative D3, the preferred sub-alternative for retention limits, NMFS is establishing a General category daily retention limit of three large medium or giant BFT per vessel on open days in June and one large medium or giant BFT on days during all other months when the fishery is open (*i.e.*, January through March and July through December; the General category BFT fishery is not open during the months of April and May) unless adjusted with an inseason action. The daily retention limit would apply to General category permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. Retention limits would likely have neutral to minor beneficial economic impacts on small entities participating in the General category fishery as retention limits could extend the length of the General category time periods when BFT can be landed, providing additional fishing opportunities while also reducing the influx of BFT products into the market which could result in a short-term increase ex-vessel prices for General category participants. Implementation of these default retention limits would align with current management practices and provide additional fishing opportunities in all respective time periods. Codifying the current retention limits and management practices would potentially reduce some uncertainty regarding future retention limits for General category participants and dealers and thus lead to some positive economic impacts associated with their improved business planning. NMFS expects that the overall average annual revenue would be unlikely to be impacted.

Therefore in this final action, NMFS will finalize Alternative B, specifically the RFD schedule of Sub-Alternative B1, which would modify the process for setting an RFD schedule and codify a three-day-per-week schedule of RFDs for every Tuesday, Friday, and Saturday from July 1 through November 30 for 2024 and subsequent years. Additionally, based on public comments, NMFS is also adding Sunday as an additional non-codified RFD for the 2024 fishing year. This change occurred as a logical outgrowth of public comments and refined analyses of recent catch rates. Based on this change we are setting a four-day-per-

week RFD schedule of every Sunday, Tuesday, Friday, and Saturday from July 1 through November 30, 2024. NMFS may waive these scheduled RFDs for the specific time periods and days on which they apply by adjusting the daily BFT retention limit from zero up to five, after considering the criteria at 50 CFR 635.27(a)(7). 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 only tag-and-release fishing for BFT under 50 CFR 635.26(a). NMFS may also remove or establish additional RFDs, either temporary ones (*i.e.*, effective only for one fishing year) or permanent ones, as appropriate, through further rulemaking.

NMFS also will finalize Sub-Alternative D3, which would establish a retention limit of three large medium or giant BFT (*i.e.*, one fish measuring 73 inches or greater) per vessel on open days when the General category is open, for June 1 through June 30 unless adjusted with an inseason action, if warranted. For all other months in time periods where the fishery is open (*i.e.*, January through March and July through December; note that the General category BFT fishery is not open during the months of April and May), the default retention limit of one large medium or giant BFT would go into effect on open days when the General category is open.

In this final rule, NMFS is clarifying the regulations to specify explicitly when Atlantic Tunas General category and HMS Charter/Headboat permit holders can sell BFT and permitted dealers can buy BFT related to RFDs as discussed in the proposed rule. These clarifications to the existing regulations are intended to aid in the enforcement of RFDs and address questions from fishing participants and dealers. As described in the proposed rule, these changes are administrative in nature and are therefore not expected to have any economic impact.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104–121) 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” (see 5 U.S.C. 601). The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS has prepared a small entity compliance booklet summarizing

fishery information and regulations for Atlantic BFT General category RFDs, retention limits, and dealer requirements for 2024 and subsequent years. That booklet serves as the small entity compliance guide for this rule. Copies of this final rule and compliance guide are available on the HMS Management Division website.

This final 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: May 23, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 635 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, remove the definition of “BSD tag” and add, in alphabetical order, the definition of “Bluefin statistical document (BSD) tag” to read as follows:

§ 635.2 Definitions.

* * * * *

Bluefin statistical document (BSD) tag means a numbered tag affixed to a BFT issued by any country in conjunction with a catch statistics information program and recorded on a BSD.

* * * * *

■ 3. In § 635.5, revise paragraph (b)(2)(ii)(A) to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(A) *Affixing dealer tags.* A dealer or a dealer’s agent must affix a dealer tag to each BFT purchased or first received from a U.S. vessel immediately upon offloading the BFT. A dealer’s agent is a person who is currently employed by a place of business covered by the dealer’s permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are received; and fills out dealer reports as required

under § 635.5. If a vessel is placed on a trailer, the dealer or dealer's agent must affix the dealer tag to the BFT immediately upon the vessel being removed from the water. The dealer tag must be affixed to the BFT between the fifth dorsal finlet and the caudal keel. Regardless of when the BFT was landed, on an RFD (as specified at § 635.23(a)), no dealer or dealer's agent shall purchase, first receive, or affix a dealer tag to a BFT that is on or from a vessel that has an Atlantic Tunas General category permit or HMS Charter/Headboat permit with a commercial sale endorsement.

* * * * *

■ 4. In § 635.23, revise paragraphs (a) and (c)(3) to read as follows:

§ 635.23 Retention limits for bluefin tuna.

* * * * *

(a) *General category.* (1) No school, large school, or small medium size class BFT may be possessed, retained, landed, or sold on or from a vessel that has an Atlantic Tunas General category permit.

(2) The following default daily retention limits apply to vessels that have an Atlantic Tunas General category permit or HMS Charter/Headboat permit with a commercial sale endorsement fishing under the General category restrictions and retention limits when the General category is open and the day is not an RFD and the retention limit has not been adjusted per paragraph (a)(3) of this section.

(i) January 1 through March 31—one large medium or giant BFT, per vessel per day;

(ii) June 1 through June 30—three large medium or giant BFT per vessel per day; and

(iii) July 1 through December 30—one large medium or giant BFT per vessel per day.

(3) To provide for maximum utilization of the quota for BFT, NMFS may adjust the daily retention limit of large medium or giant BFT over a range from zero (on RFDs) to a maximum of five per vessel per the inseason criteria provided under § 635.27(a)(7).

(4) Regardless of the length of trip, no person may land, possess, or retain more than the daily retention limit in effect for that day. When the applicable retention limit for large medium or giant BFT has been reached, no person aboard such vessels may continue to fish, and the vessel must immediately proceed to port.

(5) From July 1 through November 30 of each year, every Tuesday, Friday, and Saturday is an RFD unless waived per paragraph (a)(7) of this section. On an RFD, no person who has been issued an

Atlantic Tunas General category permit or issued an HMS Charter/Headboat permit and fishing commercially may fish for, possess, retain, land, or sell a BFT of any size class; or catch and release or tag and release, as specified under § 635.26(a), a BFT of any size class.

(6) NMFS may remove or establish additional designated RFDs, as appropriate, following public comment via publication in the **Federal Register**.

(7) Designated RFDs may be waived in the following circumstances.

(i) If the General category fishery is closed under § 635.28(a), any remaining RFDs for the relevant time period(s) are waived so that persons aboard vessels issued an Atlantic Tunas General category permit may conduct tag-and-release fishing for BFT under § 635.26(a).

(ii) If, based on the criteria at § 635.27(a)(7), NMFS determines that RFDs are not necessary, NMFS may waive RFDs by increasing the daily retention limit per paragraph (a)(3) of this section for a specific time period(s) via publication in the **Federal Register**.

* * * * *

(c) * * *

(3) When fishing other than in the Gulf of Mexico when the General category fishery is open and no RFD is in effect, a person aboard a vessel that has been issued an HMS Charter/Headboat permit with a commercial sale endorsement may fish under either the General category restrictions and retention limits as specified in paragraphs (a)(1) through (2) and paragraphs (4) through (5) of this section or the Angling category restrictions and retention limits as specified in paragraphs (b)(1) through (3) of this section. The size category of the first BFT retained will determine whether the General category or Angling category restrictions and retention limits apply to the vessel that day.

* * * * *

■ 5. In § 635.31, revise paragraph (a)(1) and add paragraph (a)(2)(iii) to read as follows:

§ 635.31 Restrictions on sale and purchase.

(a) * * *

(1) A person who owns or operates a vessel from which an Atlantic tuna is landed or offloaded may sell such Atlantic tuna only if that vessel has a valid HMS Charter/Headboat permit with a commercial sale endorsement; a valid Atlantic Tunas General, Harpoon, Longline, or Trap category permit; or a valid HMS Commercial Caribbean Small Boat permit issued under this part and

the appropriate category has not been closed as specified at § 635.28(a). No person may sell a BFT smaller than the large medium size class. No large medium or giant BFT may be sold if caught by a person aboard a vessel with an Atlantic HMS Charter/Headboat permit fishing in the Gulf of Mexico at any time or outside the Gulf of Mexico when the General category fishery has been closed (see § 635.23(c)). A person may sell Atlantic BFT only to a dealer that has a valid permit for purchasing Atlantic tunas issued under this part. A person may not sell or purchase Atlantic tunas harvested with speargun fishing gear. A person issued an Atlantic Tunas General category permit or HMS Charter/Headboat permit with a commercial sale endorsement must land, sell, or transfer a BFT to a dealer that has a valid permit for purchasing Atlantic tunas no later than 0000 local time the day prior to an RFD, as specified at § 635.23(a). If that person is unable to sell or otherwise transfer the BFT to a dealer who has a dealer permit for Atlantic tunas no later than 0000 local time, the person must follow the restrictions applicable to landed but not sold BFT specified at § 635.5(a)(3). In no case shall such person possess a BFT on an RFD.

(2) * * *

(iii) Dealers may not first receive a BFT from a vessel that has a valid Atlantic Tunas General permit or HMS Charter/Headboat permit with a commercial sale endorsement after 0000 local time on an RFD, as specified at § 635.23(a).

* * * * *

■ 6. In § 635.71, revise paragraph (b)(13) and add paragraph (b)(29) to read as follows:

§ 635.71 Prohibitions.

* * * * *

(b) * * *

(13) As a vessel with an Atlantic Tunas General category permit, fail to immediately cease fishing and immediately return to port after catching the applicable limit of large medium or giant bluefin tuna on a commercial fishing day, as specified in § 635.23(a)(4).

* * * * *

(29) As a dealer or dealer's agent, purchase, first receive, or affix a dealer tag to a BFT that is on or from a vessel that has been issued an Atlantic Tunas General category permit or HMS Charter/Headboat permit with a commercial sale endorsement, as

specified in § 635.5(b)(2)(ii)(A), after 0000 local time on an RFD.

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919–0193; RTID 0648–XD922]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Closure of the Angling Category Gulf of Mexico Area Trophy Fishery for 2024

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the Angling category Gulf of Mexico area fishery for large medium and giant (“trophy” (*i.e.*, measuring 73 inches (185 centimeters) curved fork length or greater)) Atlantic bluefin tuna (BFT). This action applies to Highly Migratory Species (HMS) Angling and HMS Charter/Headboat permitted vessels when fishing recreationally.

DATES: Effective 11:30 p.m., local time, May 29, 2024, through December 31, 2024.

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SUPPLEMENTARY INFORMATION: BFT fisheries are managed under the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota 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. NMFS is required under the Magnuson-Stevens Act at 16 U.S.C. 1854(g)(1)(D) to provide

U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements, such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

Under § 635.28(a)(1), NMFS files a closure action with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under that quota category is prohibited on and after the effective date and time of a closure action for that category, for the remainder of the fishing year, until the opening of the subsequent quota period or until such date as specified.

The 2024 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2024. The Angling category season opened January 1, 2024, and continues through December 31, 2024. As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 metric tons (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 per § 635.27(a)(3)). The Angling category baseline quota is 297.4 mt, of which 9.2 mt (3.1 percent of the annual Angling category quota) is suballocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 2.3 mt (25 percent of the annual large medium and giant BFT Angling category quota) allocated for each of the following areas: north of lat. 42° N (the Gulf of Maine area); south of lat. 42° N and north of lat. 39°18' N (the southern New England area); south of lat. 39°18' N, and outside of the Gulf of Mexico (the southern area); and the Gulf of Mexico region. Trophy BFT measure 73 inches (185 centimeters) curved fork length or greater. We note, when the Gulf of Mexico area trophy fishery is open, no large medium or giant BFT may be retained, possessed, landed, or sold in the Gulf of Mexico, except one per vessel per year may be landed if caught incidentally to fishing for other species as specified at § 635.23(b)(1)(i) while the fishery is open. This closure action applies to the Gulf of Mexico area.

Angling Category Large Medium and Giant Gulf of Mexico “Trophy” Fishery Closure

Based on landings data from the NMFS Automated Catch Reporting System, as well as average catch rates and anticipated fishing conditions, the Angling category Gulf of Mexico area

trophy BFT subquota of 2.3 mt has been reached and exceeded. Therefore, retaining, possessing, or landing large medium or giant (*i.e.*, measuring 73 inches (185 centimeters) curved fork length or greater) BFT in the Gulf of Mexico by persons aboard HMS Angling and HMS Charter/Headboat permitted vessels (when fishing recreationally) must cease at 11:30 p.m. local time on May 29, 2024. This closure will remain effective through December 31, 2024. This action applies to HMS Angling and HMS Charter/Headboat permitted vessels when fishing recreationally for BFT, and is taken consistent with the regulations at § 635.28(a)(1). This action is intended to prevent further overharvest of the Angling category Gulf of Mexico area trophy BFT subquota.

If needed to ensure available quotas or subquotas are not exceeded or to enhance fishing opportunities, subsequent Angling category adjustments or closures will be published in the **Federal Register** per § 635.27(a)(7) and § 635.28(a)(1). Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 centimeters) to less than 73 inches (185 centimeters), and any further Angling category adjustments, is available at <https://hmspermits.noaa.gov>. During a closure, fishermen aboard HMS Angling and HMS Charter/Headboat permitted vessels when fishing recreationally may continue to catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at <https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure>.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Per § 635.5(c)(1), HMS Angling and HMS Charter/Headboat permitted vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing <https://hmspermits.noaa.gov>, using the HMS Catch Reporting app, or calling 888–872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).