

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from MBNMS's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.13(b) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notification would be published in the **Federal Register** within 30 days of the action.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 110210132-1275-02]

RIN 0648-XC035

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; closure of incidental Longline category southern area fishery.

SUMMARY: NMFS closes the incidental Longline category southern area fishery for large medium and giant Atlantic bluefin tuna (BFT) for the remainder of 2012. Fishing for, retaining, possessing, or landing BFT in the Longline category southern area is prohibited for the remainder of 2012. This action is being taken to prevent any further overharvest of the Longline category southern area BFT subquota.

DATES: Effective 11:30 p.m., local time, May 29, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27(a) subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, consistent with the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and subsequent rulemaking.

Under § 635.27(a)(3), the total amount of large medium and giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) that may be caught incidentally and retained, possessed, or landed by vessels that possess Longline category Atlantic Tunas permits is 8.1 percent of the baseline annual U.S. BFT quota. No more than 60 percent of the Longline category incidental BFT quota may be allocated for landing in the area south of 31°00' N. lat. (i.e., the "southern area"). The current Longline category baseline BFT quota is 74.8 mt, with 44.9 mt allocated to the southern area.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year, or for a specified period as indicated in the notification, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

Based on the best available BFT landings information for the incidental Longline category southern area BFT fishery (i.e., 46.9 mt of the available 44.9 mt landed as of May 16, 2012), NMFS has determined that the Longline category southern area BFT subquota has been reached. Therefore, through December 31, 2012, landing large medium or giant BFT south of 31°00' N. lat. by vessels permitted in the Atlantic tunas Longline category must cease at 11:30 p.m. local time on May 29, 2012.

This action is taken consistent with the regulations at §§ 635.27(a)(3) and 635.28(a)(1). The intent of this closure is to prevent any further overharvest of the Longline category southern area BFT subquota.

NMFS will continue to monitor incidental Longline category BFT landings north of 31°00' N. lat. against the available Longline category northern area BFT subquota for the 2012 fishing year and may take further action, if necessary. Any subsequent adjustments to the Longline category fishery for 2012 would be published in the **Federal Register**. In addition, fishermen may call (978) 281-9260, or access www.hmspermits.gov, for fishery updates.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The closure of the Longline category southern area BFT fishery, i.e., prohibiting further BFT landings against the Longline category southern area is necessary to prevent any further overharvest of the 2012 Longline southern area BFT subquota. NMFS provides notification of closures by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on www.hmspermits.gov.

These fisheries are currently underway, and delaying this action would be contrary to the public interest as it could result in excessive BFT landings, which could have adverse effects on the stock and/or may result in future potential quota reductions for the Longline category. NMFS must close the Longline category southern area fishery to landings before large medium and giant BFT further exceed the available subquota for that area. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under §§ 635.27(a)(3) and 635.28(a)(1), and is exempt from review under Executive Order 12866.

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

Dated: May 23, 2012.

Carrie Selberg,

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

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