

San Miguel Island Fox (*Urocyon littoralis littoralis*)

We have determined that no areas meet the definition of critical habitat under section 3(5)(A) of the Act for San Miguel Island fox. Therefore, no specific areas are designated as critical habitat for this subspecies.

Santa Catalina Island Fox (*Urocyon littoralis catalinae*)

We have determined that no areas meet the definition of critical habitat under section 3(5)(A) of the Act for Santa Catalina Island fox. Therefore, no specific areas are designated as critical habitat for this subspecies.

Santa Cruz Island Fox (*Urocyon littoralis santacruzae*)

We have determined that no areas meet the definition of critical habitat under section 3(5)(A) of the Act for Santa Cruz Island fox. Therefore, no specific areas are designated as critical habitat for this subspecies.

Santa Rosa Island Fox (*Urocyon littoralis santarosae*)

We have determined that no areas meet the definition of critical habitat under section 3(5)(A) of the Act for Santa Rosa Island fox. Therefore, no specific areas are designated as critical habitat for this subspecies.

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Dated: November 1, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 102505B]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily retention limit on previously designated restricted fishing days (RFD) that was published on June 7, 2005, should be adjusted. Certain General category RFDs are being waived to allow for maximum utilization of the coastwide General category BFT quota. Therefore, NMFS waives the RFDs in November and increases the daily

retention limit from zero to two large medium or giant BFT on the previously designated RFDs during the month of November 2005.

DATES: Effective dates for BFT daily retention limits are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: 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. The 2005 BFT fishing year began on June 1, 2005, and ends May 31, 2006. The final initial 2005 BFT specifications and General category effort controls (June 7, 2005; 70 FR 33033) established the following RFD schedule for the 2005 fishing year: All Fridays, Saturdays, and Sundays from November 18, 2005, through January 31, 2006, and Thursday, November 24, 2005, inclusive, provided quota remained available and the fishery was open. RFDs are intended to extend the General category BFT fishery late into the season and provide for a winter fishery in the southern Atlantic region.

TABLE 1. EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS

Permit Category	Effective Dates	Area	BFT Size Class Limit
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially)	November 18-20, 2005, and November 24-27, 2005	All	Two BFT per vessel per day/trip, measuring 73 inches (185 cm) CFL or larger

Adjustment of General Category Daily Retention Limits

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the General category daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. On September 28, 2005 (70 FR 56595), NMFS adjusted the commercial daily BFT retention limit, in all areas, for those vessels fishing under the General category quota, to two large medium or giant BFT, measuring 73 inches (185 cm) or greater curved fork length (CFL), per vessel per day/trip. This retention limit was supposed to be effective through January 31, 2005, inclusive, provided quota remained available and the fishery remained open.

Based on a review of dealer reports, daily landing trends, available quota,

weather conditions, and the availability of BFT on the fishing grounds, NMFS has determined that waiving RFDs and increasing the General category daily BFT retention limit on those RFDs previously established for the month of November, is warranted. Therefore, NMFS adjusts the General category daily BFT retention limits for November 18, 19, 20, 24, 25, 26, and 27, 2005, to two large medium or giant BFT per vessel. NMFS has selected these days in order to give adequate advance notice to fishery participants. While catch rates have continued to be low so far this season, NMFS recognizes that they may increase. In order to ensure equitable fishing opportunities in all areas and provide opportunities for a late winter General category BFT fishery, NMFS has not waived the RFDs scheduled in December and January at this time. If catch rates continue to be low, some or

all of the remaining previously scheduled RFDs may be waived as well.

The intent of this adjustment is to allow for maximum utilization of the U.S. landings quota of BFT while maintaining an equitable distribution of fishing opportunities to help achieve optimum yield in the General category BFT fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP.

Monitoring and Reporting

NMFS selected the RFDs being waived after examining current fishing year catch and effort rates, previous fishing years catch and effort rates, and analyzing the available quota for the 2005 fishing year. NMFS will continue to monitor the BFT fishery closely through dealer landing reports. Depending on the level of fishing effort

and catch rates of BFT, NMFS may determine that additional retention limit adjustments are necessary to ensure available quota is not exceeded or, to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access the Internet at www.nmfspermits.com for updates on quota monitoring and retention limit adjustments.

Classification

The Assistant Administrator for Fisheries, NOAA (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.

NMFS has recently become aware of increased availability of large medium and giant BFT on the fishing grounds. This increase in abundance provides the potential to increase General category landings rates if participants are authorized to harvest two large medium or giant BFT per day on previously

designated RFDs. The regulations implementing the 1999 Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on a review of the availability of BFT on the fishing grounds, dealer reports, daily landing trends, available quota, and weather conditions, NMFS has determined that this retention limit adjustment is warranted. Adjustment of retention limits is also necessary in order to avoid excessive quota rollovers from one fishing year to the next.

Delays in waiving the previously designated November RFDs, thereby increasing the General category daily retention limit, would be contrary to the public interest. Such delays would adversely affect those General category vessels that would otherwise have an opportunity to harvest BFT on a RFD and would further exacerbate the problem of low catch rates. Limited opportunities to access the General category quota may have negative social

and economic impacts to U.S. fishermen that depend on catching the available quota. For the General category, waiving of the November RFDs needs to be done as expeditiously as possible for the General category participants to be able to use the waived RFDs to take advantage of the adjusted retention limits and plan accordingly.

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, and because this action relieves a restriction (i.e., waives a number of RFDs, thus increasing the opportunity to retain more fish), there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

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

Dated: November 3, 2005.

Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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