

to warrant the preparation of a Federalism Assessment.

#### Statement of Energy Effects

The response to petitions for reconsideration of the final rule has been reviewed in accordance with Executive Order 13211 (66 FR 28355, May 22, 2001), which requires agencies to prepare a Statement of Energy Effects describing the effects of certain regulatory actions on energy supply, distribution, or use when such measures are identified as "significant energy actions." FRA certifies that this rulemaking action is not a significant energy action to warrant the preparation of such a statement.

#### List of Subjects in 49 CFR Part 244

Administrative penalties, practice and procedure, Railroad safety, Railroads, Safety Integration Plans.

In consideration of the foregoing, FRA amends part 244 of chapter II of title 49, Code of Federal Regulations, to read as follows:

#### PART 244—[AMENDED]

1. The authority citation for Part 244 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 21301; 5 U.S.C. 553 and 559; Sec. 31001(s)(1), Pub. L. No. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note); and 49 CFR 1.49.

2. Section 244.13 is amended by revising paragraph (j) introductory text to read as follows:

#### § 244.13 Subjects to be addressed in a Safety Integration Plan involving an amalgamation of operations.

\* \* \* \* \*

(j) *Personnel staffing.* Each applicant shall identify the number of employees by job category, currently and proposed, to perform the following types of functions when there is a projected change of operations that will impact workforce duties or responsibilities for employees of that job category:

\* \* \* \* \*

3. Section 244.19 is amended by revising paragraph (c)(1) to read as follows:

#### § 244.19 Disposition.

\* \* \* \* \*

(c) \* \* \*

(1) *By the applicant.* The applicant may amend its Safety Integration Plan, from time to time, provided it explains the need for the proposed amendment in writing to FRA. Any amendment shall take effect no earlier than 30 days after its submission to FRA, unless it is either approved or disapproved by FRA within that period. Any disapproval of

an amendment shall be in accordance with the requirements prescribed in paragraph (b) of this section.

\* \* \* \* \*

Issued in Washington, DC on October 30, 2002.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 02–28096 Filed 11–7–02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 110102E]

#### Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

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

**ACTION:** Opening of General category Atlantic bluefin tuna New York Bight set-aside fishery.

**SUMMARY:** NMFS opens the Atlantic bluefin tuna (BFT) General category New York Bight set-aside fishery. This action is being taken to provide for General category fishing opportunities in the New York Bight.

**DATES:** Effective 1 a.m. on November 5, 2002, until the date that the set-aside quota is determined to have been taken, which will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Brad McHale or Dianne Stephan, 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 (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 subdivides the U.S. BFT landings quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories. The General category landings quota, including time-period subquotas and the New York Bight set-aside, are specified annually as required under § 635.27(a)(1). The 2002 fishing year General category quota and effort control specifications were issued October 1, 2002 (67 FR 61537).

#### Opening of the New York Bight Fishery

The New York Bight set-aside area is defined as the waters south and west of a straight line originating at a point on the southern shore of Long Island where the shoreline intersects 72° 27' W. long. (Shinnecock Inlet) and running SSE 150 true, and north of 38° 47' N. lat. (Delaware Bay). Under § 635.27(a)(1)(iii), NMFS may make available all or part of the 10 mt landings quota set aside for the New York Bight area when the coastwide General category fishery has been closed in any quota period. NMFS closed the coastwide General category fishery on October 25, 2002 (67 FR 66072). At that time, NMFS announced that it would open the New York Bight fishery when it is determined that large medium and giant BFT are available in the New York Bight area. Allowing a few days transition between the closure of the coastwide fishery and the opening of the New York Bight fishery reduces concerns regarding enforcement of regulations applicable to that area. Based on the presence of large medium and giant BFT in the New York Bight area, fishermen have contacted NMFS requesting an opportunity to participate in this fishery. Since the coastwide General category fishery is closed and large medium and giant BFT are now available in the New York Bight, NMFS will open the New York Bight set-aside fishery effective 1 a.m., November 5, 2002, until the date that the set-aside quota of 10 mt is determined to have been taken, which will be published in the **Federal Register**.

For vessels permitted in the General category: upon the effective date of the New York Bight opening, retaining or landing large medium or giant BFT is authorized only within the set-aside area, until the set aside quota for that area has been harvested. The daily retention limit for the set-aside fishery will be one large medium or giant BFT (measuring 73 inches (185 cm) or larger) per vessel per day. BFT harvested from waters outside the defined set-aside area may not be brought into the set-aside area. General category permit holders may tag and release BFT in all areas while the General category is closed, subject to the requirements of the tag-and-release program at § 635.26.

For vessels permitted in the Highly Migratory Species (HMS) Charter/Headboat category: when participating in the General category New York Bight fishery, i.e., fishing for large medium and giant BFT intended for sale, HMS Charter/Headboat category vessels are subject to the same rules as General category vessels. HMS Charter/Headboat

category vessels may continue to fish in all areas under the Angling category regulations while the Angling category is open. Vessels permitted in the HMS Charter/Headboat category that are still eligible for the Angling category trophy fish allowance under § 635.23(c)(1) or (2) may land one large medium or giant trophy BFT prior to May 31, 2003. Trophy BFT may not be sold and must be reported.

The announcement of the New York Bight fishery closure date will be filed with the Office of the **Federal Register**, and further communicated through the

HMS Fax Network, the Atlantic Tunas Information Line, HMS web sites, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of the closure will be provided as far in advance as possible, fishermen are encouraged to call the Atlantic Tunas Information Line or check the HMS web sites to verify the status of the fishery before leaving for a fishing trip. The phone numbers for the Atlantic Tunas Information Line are (978) 281-9305 and (888) USA-TUNA. The web sites are

[www.nmfspermits.com](http://www.nmfspermits.com) and [www.nmfs.noaa.gov/sfa/hmspg.html](http://www.nmfs.noaa.gov/sfa/hmspg.html).

#### **Classification**

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

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

Dated: November 4, 2002.

**Bruce C. Morehead,**

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