

claims in the packages it creates to refer its claims to DOJ for litigation. NEH will provide originals of such documents immediately upon DOJ's request.

**§ 1177.36 Minimum amount of referrals to the Department of Justice.**

(a) NEH will not refer to DOJ for litigation any claims of less than \$2,500, exclusive of interest, penalties, and administrative costs, or such other amount as the Attorney General shall from time to time prescribe. DOJ will promptly notify NEH if the Attorney General changes this minimum amount.

(b) NEH will not refer claims of less than the minimum amount unless:

(1) Litigation to collect such smaller claims is important to ensure compliance with NEH's policies or programs;

(2) NEH is referring the claim solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. 3201 and returned to NEH for enforcement; or

(3) The debtor has the clear ability to pay the claim and the Government can effectively enforce payment, with due regard for the exemptions available to the debtor under state and Federal law and the judicial remedies available to the Government.

(c) NEH will consult with the Executive Office for United States Attorneys' Financial Litigation Staff at the DOJ prior to referring claims valued at less than the minimum amount.

Dated: October 27, 2021.

**Samuel Roth,**

*Attorney-Advisor, National Endowment for the Humanities.*

[FR Doc. 2021-23742 Filed 11-23-21; 8:45 am]

BILLING CODE 7536-01-P

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 180117042-8884-02; RTID 0648-XB554]

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

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

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS is transferring 9.5 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category and 20.2 mt from the Harpoon category

to the General category for the remainder of the 2021 fishing year. The adjusted General category December subquota, Reserve category quota, and Harpoon category quota will be 39.1 mt, 2 mt, and 0 mt respectively. This action is intended to provide further opportunities for General category fishermen to participate in the December General category fishery, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action would affect Atlantic Tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

**DATES:** Effective December 1, 2021, through December 31, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Larry Redd, Jr., *larry.redd@noaa.gov*, 301-427-8503, or Nicholas Velseboer, *nicholas.velsboer@noaa.gov*, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations 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 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.

The baseline General, Reserve, and Harpoon category quotas are 555.7 mt, 29.5 mt, and 46 mt respectively. The General category baseline subquota for the December time-period is 28.9 mt. On December 23, 2020, NMFS transferred 19.5 mt of BFT quota from the December 2021 subquota time-period to the January through March 2021 subquota time-period resulting in an adjusted subquota of 9.4 mt for the December 2021 time period (85 FR 83832, December 23, 2020).

To date for 2021, NMFS has published several actions that adjusted the Reserve and Harpoon category quotas (86 FR 8717, February 9, 2021; 86 FR 43420, August 9, 2021; 86 FR 51016, September 14, 2021; 86 FR 54659, October 4, 2021; 86 FR 54873, October 5, 2021). The current adjusted Reserve and Harpoon category quotas are 11.5 mt and 76 mt, respectively. Per § 635.27(a)(5), the Harpoon category fishery automatically closed for the year on November 15, 2021. At that time, 20.2 mt of the Harpoon category quota remained unharvested.

**Quota Transfer**

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories after considering determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by tuna dealers provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including during the summer/fall and winter fisheries in the last several years) and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). To date, preliminary landings data indicate that the Harpoon category landed 55.8 mt of the 76 mt adjusted Harpoon category quota before closing. Transferring 20.2 mt from the Harpoon category to the December 2021 subquota time-period would result in 29.6 mt (9.4 mt + 20.2 mt = 29.6 mt) being available to the General category in December, restoring the December subquota to roughly its base amount prior to the December 23, 2020 transfer (85 FR 83832). Without a quota transfer at this time, NMFS would likely need to close the General category fishery shortly after opening, and participants would have to stop BFT fishing activities while commercial-sized BFT remain available in the areas where

General category permitted vessels operate at this time of year. Transferring 9.5 mt of quota from the Reserve category in this same action would provide limited additional opportunities to harvest the U.S. BFT quota while avoiding exceeding it, leave 2 mt (11.5 mt – 9.5 mt = 2 mt) in the Reserve category to account for any BFT mortalities associated with research and/or any overharvests that may occur in December, and result in a total of 39.1 mt (29.6 mt + 9.5 mt = 39.1 mt) being available for the General category December 2021 subquota time period.

Regarding the projected ability of the vessels fishing under the General category quota to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors, such as the restrictions that some dealers placed on their purchases of BFT from General category participants this year. Thus, this quota transfer would allow fishermen to take advantage of the availability of BFT on the fishing grounds and provide a reasonable opportunity to harvest available U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the BFT fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2021 landings and dead discards. In the last several years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. NMFS recently took such an action to carryover the allowable 127.3 mt of underharvest from 2020 to 2021 (86 FR 54659). NMFS will need to account for 2021 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the transfer on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). This transfer would be consistent with established quotas and subquotas, which are implemented consistent with ICCAT recommendations (established in Recommendation 17–06 and maintained in Recommendation 20–06), ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. In establishing these quotas and subquotas

and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. This quota transfer is in line with the established management measures and stock status determinations. Another principal consideration is the objective of providing opportunities to harvest the available General category quota without exceeding the annual quota, based on the objectives of the 2006 Consolidated HMS FMP and its amendments, including to achieve optimum yield on a continuing basis and to allow all permit categories a reasonable opportunity to harvest available BFT quota allocations (related to § 635.27(a)(8)(x)). Specific to the General category, this includes providing opportunities equitably across all time-periods.

Given these considerations, NMFS is transferring 9.5 mt of the available 11.5 mt of Reserve category quota, and 20.2 mt from the Harpoon category quota to the General category. Therefore, NMFS adjusts the General category December 2021 subquota to 39.1 mt, adjusts the Reserve category quota to 2 mt to account for any BFT mortalities associated with research, and adjusts the Harpoon category quota to 0 mt. The General category fishery will remain open until December 31, 2021, or until the adjusted General category quota is reached, whichever comes first.

#### Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General category and HMS Charter/Headboat vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or the end of each trip, by accessing [hmspermits.noaa.gov](https://hmspermits.noaa.gov) or by using the HMS Catch Reporting app or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments (e.g., quota adjustment, daily retention limit adjustment, or closure) are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all

geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access [hmspermits.noaa.gov](https://hmspermits.noaa.gov), for updates on quota monitoring and inseason adjustments.

#### Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

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 regulations implementing the 2006 Consolidated HMS FMP and its amendments 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. Affording prior notice and opportunity for public comment to implement the quota transfer for the December 2021 time-period is contrary to the public interest as such a delay would likely fail to prevent the closure of the General category fishery when the baseline subquota for the December time-period is met and the need to re-open the fishery, with attendant costs to the fishery, including administrative costs and lost fishing opportunities. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. This action does not raise conservation and management concerns. Transferring quota from the Reserve and Harpoon categories to the General category does not affect the overall U.S. BFT quota, and the adjustment would have a minimal risk of exceeding the ICCAT-allocated quota. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria. 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 these reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effective date.

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

Dated: November 18, 2021.

**Ngagne Jafnar Gueye,**

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

[FR Doc. 2021-25557 Filed 11-23-21; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 211118-0239]

RIN 0648-BK64

#### Fisheries of the Northeastern United States; Amendment 7 to the Atlantic Bluefish Fishery Management Plan

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

**ACTION:** Final rule.

**SUMMARY:** NMFS approves and implements measures included in Amendment 7 to the Atlantic Bluefish Fishery Management Plan, as submitted by the Mid-Atlantic Fishery Management Council. This amendment revises the goals and objectives of the fishery management plan, reallocates quota between the commercial and recreational fisheries, reallocates commercial quota among the states, implements a rebuilding plan, revises the sector quota transfer process, and revises how management uncertainty is applied during the specifications process. Amendment 7 is intended to use the best scientific information available and respond to changes in stock health and distribution, while recognizing economic need and reliance throughout the management area.

**DATES:** Effective January 1, 2022.

**ADDRESSES:** The Mid-Atlantic Fishery Management Council prepared an environmental assessment (EA) for Amendment 7 to the Atlantic Bluefish Fishery Management Plan that describes the action and other considered alternatives. The EA provides a thorough analysis of the biological, economic, and social impacts of the measures implemented by this rule and the other alternatives considered, a Regulatory Impact Review, and economic analysis. Copies of Amendment 7, including the EA, the Regulatory Flexibility Act analyses, and other supporting documents for this action, are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery

Management Council, Suite 201, 800 N State Street, Dover, DE 19901. These documents are also accessible via the internet at <https://www.mafmc.org/supporting-documents>.

**FOR FURTHER INFORMATION CONTACT:**

Cynthia Ferrio, Fishery Policy Analyst, (978) 281-9180.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage bluefish from Maine to Florida under the Atlantic Bluefish Fishery Management Plan (FMP). This joint Bluefish FMP was adopted in 1990. Since that time, the only substantial changes to management measures were made through Amendment 1 to the FMP in 2000, which established most measures and regulations currently managing the fishery, based on fishery data from 1981-1989. The Council and Commission initiated Amendment 7 to the FMP as a joint action in December 2017 to respond to changes in the bluefish fishery that have occurred over the past several decades while the FMP has remained largely unaltered. When first initiated, Amendment 7 was intended to address a comprehensive range of management issues, from updating the goals and objectives of the FMP to the allocation and transfer of quota between the commercial and recreational sectors.

Following the 2019 operational stock assessment's determination of the bluefish stock as overfished, the Council and the Commission's Bluefish Management Board (Board) added a rebuilding plan to the list of measures in Amendment 7. On June 8, 2021, the Council and Board took final action to adopt Amendment 7 in its entirety, with the intent that the measures would be effective and be used to set specifications for the 2022 fishing year, beginning on January 1, 2022.

NMFS published a Notification of Availability (NOA) for Amendment 7 in the **Federal Register** on September 1, 2021 (86 FR 48968), with a comment period ending on November 1, 2021. NMFS published a proposed rule for this action in the **Federal Register** on September 13, 2021 (86 FR 50866), with a comment period ending on October 13, 2021. See the Comments and Responses section for additional detail. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) allows NMFS as the implementing agency to approve,

partially approve, or disapprove measures recommended by the Council in a regulatory amendment based on whether the measures are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. After considering public comment on both the NOA and proposed rule, NMFS approved Amendment 7 in its entirety on November 12, 2021. This rule implements the management measures of Amendment 7.

#### Approved Measures

The purpose of this action is to implement a rebuilding plan for bluefish, as required by the Magnuson-Stevens Act, and to update the FMP using the best scientific information available to respond to changes in the fishery over time. NMFS approved all measures proposed in Amendment 7, as approved by the Council and Commission. This action implements Amendment 7 to the Bluefish FMP, as described below. For a more detailed description of each measure, see the **Federal Register** notice on the proposed rule prepared for this action.

#### FMP Goals and Objectives

Amendment 7 revises the bluefish goals and objectives that were adopted in 1991 to better reflect the current fishery. The following revisions were developed with extensive input from the public to better guide management of the bluefish fishery.

- *Goal 1:* Conserve the bluefish resource through stakeholder engagement to maintain sustainable recreational fishing and commercial harvest.
  - *Objective 1.1:* Achieve and maintain a sustainable spawning stock biomass and rate of fishing mortality.
  - *Objective 1.2:* Promote practices that reduce release mortality within the recreational and commercial fishery.
  - *Objective 1.3:* Maintain effective coordination between the National Marine Fisheries Service, Council, Commission, and member states by promoting compliance and to support the development and implementation of management measures.
  - *Objective 1.4:* Promote compliance and effective enforcement of regulations.
  - *Objective 1.5:* Promote science, monitoring, and data collection that support and enhance effective ecosystem-based management of the bluefish resource.
- *Goal 2:* Provide fair and equitable access to the fishery across all user groups throughout the management unit.