

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 031028268-3268-01; I.D. 091603F]

RIN 0648-AR12

#### Atlantic Highly Migratory Species; Bluefin Tuna Season and Size Limit Adjustments

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to amend regulations under the framework provisions of the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) governing the Atlantic bluefin tuna (BFT) fishery regarding the opening date of the Purse seine category, closure dates of the Harpoon and General categories, and size tolerances of large medium BFT for the Purse seine and Harpoon categories. The intent of this proposed rule is to further achieve domestic management objectives under the HMS FMP and Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received on or before November 28, 2003. The public hearing dates are:

1. November 24, 2003, 7 p.m.-9 p.m., Atlantic Beach, NC.
2. November 25, 2003, 7 p.m.-9 p.m., Gloucester, MA.

**ADDRESSES:** Written comments on the proposed rule should be sent to Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr. Gloucester, MA 01930. Comments also may be sent via facsimile (fax) to (978) 281-9340. Comments will not be accepted if submitted via e-mail or the Internet.

The public hearing locations are:

1. Sheraton Atlantic Beach Oceanfront Hotel, 2717 W. Fort Macon Road, Atlantic Beach, NC 28512.

2. Sawyer Free Library, 2 Dale Avenue, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Dianne Stephan at (978) 281-9397.

**SUPPLEMENTARY INFORMATION:** Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

#### Background

On May 28, 1999, NMFS published in the FEDERAL REGISTER (64 FR 29090) final regulations, effective July 1, 1999, implementing the HMS FMP that was adopted and made available to the public in April 1999. This action proposes to amend the current HMS regulations regarding quota category opening and closure dates for the Purse seine, Harpoon and General categories and size tolerances for large medium BFT, measuring 73 to less than 81 inches (185 to less than 206 cm), in the Harpoon and Purse seine categories. NMFS issues this proposed rule to solicit public comment on the merits and potential impacts of these changes to the HMS regulations, which are intended to further the objectives of the HMS FMP. After consideration of public comment, NMFS will publish a final rule in the **Federal Register**.

Several additional issues regarding the domestic management of BFT were discussed at length during the most recent HMS Advisory Panel (AP) meeting held in Silver Spring, MD, many of which are beyond the scope of this action and will be addressed through a future HMS FMP amendment. These issues may include, but are not limited to, adjustment of domestic BFT quota allocation percentages, adjustment of General category time-period subquotas, and addressing the BFT quota allocation aspects of the Petition for Rulemaking (Petition) submitted by the North Carolina Department of Marine Fisheries (see Notice of Receipt of Petition, 67 FR 69502, November 18, 2002). Because these issues require further analysis and public input, NMFS has announced its intent to address these additional issues

through an HMS FMP amendment (68 FR 40907, July 9, 2003).

#### Adjustment of the Purse Seine Category Start Date

The Purse seine category start date was originally designed to minimize potential gear conflicts between the purse seine fishery and the handgear fishery for BFT. During the early 1970's, the opening of the purse seine BFT season was determined by the Regional Director and fluctuated between September 1 and the day after Labor Day. Since the late 1970's, August 15 has been the official start date for the Purse seine category BFT fishery (44 FR 36049, June 20, 1979), while June 1 has been the start date of the handgear fisheries (i.e., General and Harpoon categories). August 15 was determined as an appropriate start date for the Purse seine category as the majority of BFT handgear landings took place early in the season (i.e., July through early August). However, over the past several years there has been a shift in the commercial handgear landings to the fall months, which results in a large portion of General category BFT being landed simultaneously with Purse seine category landings. This can potentially re-create the gear conflicts originally intended to be avoided by the August 15 Purse seine start date as well as cause market gluts of BFT being exported from the United States, thus depressing ex-vessel prices and revenues (\$13,948,190 and \$3,066,034, respectively for 2002) in these two categories.

Thus, NMFS proposes to adjust the start date of the Purse seine category BFT fishery to commence on July 15 of each fishing year. This proposed action would be consistent with the original intent behind the creation of the Purse seine category start date to minimize conflicts with other gear types and permit categories, as well as maximize economic yields from General and Purse seine category landings (i.e., avoid market gluts). This proposed action should have a positive economic impact to the BFT fishery as a whole, although the Harpoon category may experience a minor negative economic impact. This proposed action is not expected to have substantial ecological impacts because there would be no changes to the current mortality level of BFT or of any non-target species.

#### Establishment of a Harpoon Category End Date

On June 13, 1980, NMFS established the Harpoon category (45 FR 40118) with the intent to create a quota category in which harpoons were the only permissible gear type in order to