

throwing a harpoon. Alternative six would allow full access to the large medium size class by reducing the minimum size limit for the Harpoon category to 73 inches (185 cm), and would provide the most positive economic impacts. However, it was not chosen because of the potential negative ecological impact of a relatively large increase in mortality on large medium fish. Finally, alternative seven, unlike all other alternatives, would eliminate the tolerance for large medium size class and raise the minimum size of BFT to 81 inches (206 cm) in both the Purse seine and Harpoon categories. This alternative was considered due to the potential positive ecological impacts that would increase support of western Atlantic BFT stock rebuilding, but would likely have negative economic and social impacts and further impede full attainment of quota and optimum yield.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

This proposed rule does not contain any new collection of information, reporting, record keeping, or other compliance requirements. NMFS intends, under existing regulations, to implement a vessel logbook program for five Purse seine category vessels that has previously been approved under OMB collection 0648-0371. As stated earlier, NMFS is considering a vessel logbook program for the Harpoon category in the future but is not proposing to implement a Harpoon vessel logbook program at this time.

NMFS prepared a draft Environmental Assessment (EA) for this proposed rule, and the AA has preliminarily concluded that there would be no significant impact on the human environment if this proposed rule were implemented. The EA presents analyses of the anticipated impacts of these proposed regulations and the alternatives considered. A copy of the EA and other analytical documents prepared for this proposed rule, are available from NMFS (see **ADDRESSES**).

NMFS has also preliminarily determined that these proposed regulations are consistent with the Atlantic Tunas Convention Act as well as with any International Commission for the Conservation of Atlantic Tunas Recommendations.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the Endangered Species Act (ESA). A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. NMFS is currently implementing the reasonable and prudent alternative required by the BiOp. This proposed rule would not have any additional impact on sea turtles as these actions do not affect the use of pelagic longline gear, would not likely increase or decrease pelagic longline effort, nor are they expected to shift effort into other fishing areas. No irreversible or irretrievable commitments of resources are expected from this proposed action that would have the effect of foreclosing the implementation of the requirements of the BiOp.

The area in which this proposed action is planned has been identified as an Essential Fish Habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the HMS Management Division of the Office of Sustainable Fisheries at NMFS. Based on the 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks, which analyzed the impacts of purse seine, harpoon, and rod and reel gear on EFH, this action is not anticipated to have any adverse impacts to EFH and, therefore, no consultation is required.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: November 3, 2003.

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National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.23, paragraphs (d) and (e)(1) are revised to read as follows:

§ 635.23 Retention limits for BFT.

* * * * *

(d) *Harpoon category.* Persons aboard a vessel permitted in the Atlantic Tunas Harpoon category may retain, possess, or land an unlimited number of giant BFT per day. An incidental catch of only two large medium BFT per vessel per day may be retained, possessed, or landed.

(e) * * *

(1) May retain, possess, land, or sell large medium BFT in amounts not exceeding 15 percent, by weight, of the total amount of giant BFT landed during that fishing year.

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3. In § 635.27, paragraphs (a)(1)(i)(C), (a)(4)(i), and (a)(5) are revised to read as follows:

§ 635.27 Quotas.

(a) * * *

(1) * * *

(i) * * *

(C) October 1 through January 31—10 percent.

* * * * *

(a) * * *

(4) * * *

(i) *Purse Seine category quota.* The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels for which Purse Seine category Atlantic Tunas permits have been issued is 18.6 percent of the overall U.S. BFT landings quota. The directed purse seine fishery for BFT commences on July 15 of each year.

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(5) *Harpoon category quota.* The total amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold by vessels for which Harpoon category Atlantic Tunas permits have been issued is 3.9 percent of the overall U.S. BFT quota. The Harpoon category fishery closes on November 15 each year.

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