

Dated: May 18, 2000.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries,  
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.*; and 16 U.S.C. 1801 *et seq.*

2. In § 635.23, paragraphs (a)(2) and (a)(4) are revised to read as follows:

**§ 635.23 Retention limits for BFT.**

\* \* \* \* \*

(a) \* \* \*

(2) On an RFD, no person aboard a vessel that has been issued a General category Atlantic Tunas permit may fish for, possess, retain, land, or sell a BFT of any size class, and tag-and-release fishing for BFT under § 635.26 is not authorized from such vessel. On days other than RFDs, and when the General category is open, one large medium or giant BFT may be caught and landed from such vessel per day. NMFS will annually publish a schedule of RFDs in the **Federal Register**.

\* \* \* \* \*

(4) To provide for maximum utilization of the quota for BFT, NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel. Such increase or decrease will be based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors. NMFS will adjust the daily retention limit specified in paragraph (a)(2) of this section by filing with the Office of the Federal Register for publication notification of the adjustment. Such adjustment will not be effective until at least 3 calendar days after notification is filed with the Office of the Federal Register for publication, except that previously designated RFDs may be waived effective upon closure of the General category fishery so that persons aboard vessels permitted in the General category may conduct tag-and-release fishing for BFT under § 635.26.

\* \* \* \* \*

3. In § 635.26, paragraph (a)(1) is revised to read as follows:

**§ 635.26 Catch and release.**

(a) *BFT*. (1) Notwithstanding the other provisions of this part, a person aboard a vessel issued a permit under this part, other than a person aboard a vessel

permitted in the General category on a designated restricted fishing day, may fish with rod and reel or handline gear for BFT under a tag and release program, provided the person tags all BFT so caught, regardless of whether previously tagged, with conventional tags issued or approved by NMFS, returns such fish to the sea immediately after tagging with a minimum of injury, and reports the tagging and, if the BFT was previously tagged, the information on the previous tag. If NMFS-issued or NMFS-approved conventional tags are not on board a vessel, all persons aboard that vessel are ineligible to fish under the tag-and-release program.

\* \* \* \* \*

4. In § 635.27, paragraph (a)(1)(i)(C), the second sentence of (a)(4)(i), the second sentence of (a)(4)(ii), the first sentence of paragraph (a)(4)(iii), and paragraph (a)(9)(i) are revised to read as follows:

**§ 635.27 Quotas.**

(a) \* \* \*

(1) \* \* \*

(i) \* \* \*

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

\* \* \* \* \*

(4) \* \* \*

(i) \* \* \* The directed purse seine fishery for BFT commences on August 15 each year.

(ii) \* \* \* The application must be postmarked no later than April 15 for an allocation of the quota that becomes available on June 1.

(iii) On or about May 1, NMFS will make equal allocations of the available size classes of BFT among purse seine vessel permit holders so requesting, adjusted as necessary to account for underharvest or overharvest by each participating vessel or the vessel it replaces from the previous fishing year, consistent with paragraph (a)(9)(i) of this section. \* \* \*

\* \* \* \* \*

(9) *Annual adjustments*. (i) If NMFS determines, based on landings statistics and other available information, that a BFT quota in any category or, as appropriate, subcategory has been exceeded or has not been reached, with the exception of the Purse Seine category, NMFS shall subtract the overharvest from, or add the underharvest to, that quota category for the following fishing year, provided that the total of the adjusted category quotas and the reserve is consistent with a recommendation of ICCAT regarding country quotas, the take of school BFT, and the allowance for dead discards. For the Purse Seine category, if NMFS

determines, based on landings statistics and other available information, that a purse seine vessel's allocation, as adjusted, has been exceeded or has not been reached, NMFS shall subtract the overharvest from, or add the underharvest to, that vessel's allocation for the following fishing year.

\* \* \* \* \*

5. In § 635.71, paragraph (e)(8) is revised to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(e) \* \* \*

(8) Fish for North Atlantic swordfish from, possess North Atlantic swordfish on board, or land North Atlantic swordfish from a vessel using or having on board gear other than pelagic longline or handgear.

\* \* \* \* \*

[FR Doc. 00-13056 Filed 5-19-00; 4:21 pm]

BILLING CODE 3510-22-F

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric  
Administration**

**50 CFR Part 635**

[Docket No. 000511133-0146-02; I.D.  
051600B]

RIN 0648-AN52

**Atlantic Highly Migratory Species;  
Trade Restrictions for Bluefin Tuna  
and Swordfish**

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

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

**SUMMARY:** NMFS proposes to amend the regulations governing the Atlantic highly migratory species (HMS) fisheries to remove a prohibition on the importation of Atlantic bluefin tuna (BFT) from Panama; to prohibit the importation of BFT and its products from Equatorial Guinea; and to prohibit the importation of Atlantic swordfish and its products from Belize and Honduras. These restrictions would implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The intent of these actions is to improve conservation and management of the Atlantic swordfish and bluefin tuna resources, while allowing harvests consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

**DATES:** NMFS will hold public hearings in June, 2000 to receive comments from fishery participants and other members of the public regarding these proposed regulations. See **SUPPLEMENTARY INFORMATION** for hearing dates and times. For individuals unable to attend a hearing, NMFS also solicits written comments on the proposed rule. To be considered in developing the final rule, written comments on the proposed rule must be received at the appropriate address or fax number (see **ADDRESSES**) by 5 p.m. on July 18, 2000.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for public hearing locations. Comments on the proposed rule should be sent to and copies of the Draft Environmental Assessment/Regulatory Impact Review supporting this action may be obtained from Rebecca Lent, Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. These documents may be viewed on the NMFS website at [www.nmfs.gov/sfa/hmspg.html](http://www.nmfs.gov/sfa/hmspg.html). Comments also may be sent via facsimile (fax) to 301-713-1917. Comments will not be accepted if submitted via e-mail or on the Internet.

**FOR FURTHER INFORMATION CONTACT:** Rachel Husted, 301-713-2347; fax: 301-713-1917 or by email at [rachel.husted@noaa.gov](mailto:rachel.husted@noaa.gov). The NMFS HMS website is [www.nmfs.gov/sfa/hmspg.html](http://www.nmfs.gov/sfa/hmspg.html).

**SUPPLEMENTARY INFORMATION:** The U.S. Atlantic swordfish fishery and the BFT fishery are managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks and regulations at 50 CFR part 635 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; codified at 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; codified at 16 U.S.C. 971 *et seq.*). Regulations issued under the authority of ATCA carry out the recommendations of ICCAT.

### Proposed Import Restrictions

On August 21, 1997 (62 FR 44422), NMFS prohibited the importation of BFT and its products from Panama, Honduras, and Belize, to implement a 1996 ICCAT recommendation. At that time, vessels of those countries had been determined by ICCAT to be fishing in a manner inconsistent with ICCAT conservation and management measures for bluefin tuna. In recognition of Panama's new status as a Contracting Party and the notable steps that country has taken and is taking to control its fleet and address ICCAT's concerns,

ICCAT recommended in 1999 that its members lift the trade ban on bluefin tuna products from Panama. Therefore, consistent with the 1999 ICCAT recommendation, NMFS proposes to lift the import restriction on Panama and allow for the importation of BFT from that country.

In contrast to the efforts of the Government of Panama, information available to ICCAT indicates that Honduras and Belize continue to have vessels fishing in a manner that diminishes the effectiveness of ICCAT's conservation and management measures for both BFT and Atlantic swordfish. (Background on the original BFT determination can be found at 62 FR 44422, August 21, 1997.) In recent years, significant increases in exports of swordfish by Belize and Honduras have been recorded, although no catch data have been reported to ICCAT. This activity is occurring while other countries have reduced their catches of swordfish to comply with ICCAT conservation measures for the overfished north Atlantic swordfish population. ICCAT has repeatedly contacted the governments of Belize and Honduras, but has never received a satisfactory response from either government regarding actions to rectify the situation. Therefore, consistent with the 1999 ICCAT recommendation, NMFS proposes to prohibit the importation of Atlantic swordfish and its products from Honduras and Belize. The prohibition on imports of BFT and its products from these countries would also remain in effect.

In 1999, ICCAT also recommended that its members prohibit the import of BFT from Equatorial Guinea (a Contracting Party to ICCAT). ICCAT took this step as a last resort to address non-compliance with BFT quota limits. Import data from 1997-1999 reveal significant exports of BFT by Equatorial Guinea despite the fact that, for those years, this country received no catch allocation from ICCAT for BFT. The Government of Equatorial Guinea has not responded to repeated correspondence from ICCAT regarding the BFT fishing activities of its vessels and Equatorial Guinea has reported no BFT catch data. Therefore, consistent with the 1999 ICCAT recommendation, NMFS proposes to prohibit the importation of BFT and its products from Equatorial Guinea.

### Public Hearings

NMFS will hold public hearings in June 2000 to receive comments from fishery participants and other members of the public regarding these proposed

amendments at the following times and locations:

*Monday, June 5, 2000*—Houma, LA, 7-9:30 p.m.

Holiday Inn Holidome, Houma, LA.  
*Tuesday, June 6, 2000*—Fairhaven, MA, 7-9:30 p.m.

The Seaport Inn, 110 Middle Street, Fairhaven, MA 02719.

*Thursday, June 8, 2000*—Pompano, FL, 7-9:30 p.m.

Pompano Beach Civic Center, 1801 NE 6<sup>th</sup> Street, Pompano Beach, FL 33060.

*Thursday, June 22, 2000*—Panama City, FL, 7-9:30 p.m.

National Marine Fisheries Service, Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL 32408.

*Thursday, June 22, 2000*—Barnegat Light, NJ, 7-9:30 p.m. Barnegat Light Firehouse, Barnegat, NJ 08006.

### Special Accommodations

These hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rachel Husted at (301) 713-2347 at least 5 days prior to the hearing date.

### Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries, NOAA has preliminarily determined that the regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed regulatory amendment, if implemented, would not have a significant economic impact on a substantial number of small entities as follows:

Implementing trade restrictions on Atlantic BFT and Atlantic swordfish and Atlantic BFT and Atlantic swordfish products from Belize and Honduras, and Atlantic BFT and Atlantic BFT products from Equatorial Guinea would not have a significant economic impact on a substantial number of small entities because these countries currently do not export these fish or fish products to the United States and there are sufficient alternative sources of supply for United States importers and processors. The proposed restrictions would not alter current domestic fishing or marketing practices in any significant way.

Because of this certification, an Initial Regulatory Flexibility Analysis was not prepared.

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

The proposed action would not impose any additional reporting or recordkeeping requirements subject to OMB approval under the Paperwork Reduction Act.

On November 19, 1999, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the Endangered Species Act. A new Biological Opinion will be issued in June 2000. In the interim, no irretrievable commitments of resources are expected from this proposed action.

#### List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Imports, Treaties.

Dated: May 18, 2000.

#### Penelope D. Dalton,

Assistant Administrator for Fisheries,  
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. Section 635.45 is revised to read as follows:

##### § 635.45 Products denied entry.

(a) All shipments of BFT or BFT products, or swordfish or swordfish products, in any form, harvested by a vessel under the jurisdiction of Belize or Honduras will be denied entry into the United States.

(b) All shipments of BFT or BFT products, in any form, harvested by a vessel under the jurisdiction of Equatorial Guinea will be denied entry into the United States.

3. The heading of § 635.46 is revised to read as follows:

##### § 635.46 Import requirements for swordfish.

\* \* \* \* \*

[FR Doc. 00-13057 Filed 5-19-00; 4:21 pm]

BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 000511133-0133-01; I.D. 120999B]

RIN 0648-AN52

#### Atlantic Highly Migratory Species; Atlantic Swordfish Quotas; Northern Albacore Tuna Rebuilding

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

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

**SUMMARY:** NMFS proposes to amend regulations governing the Atlantic swordfish fishery to reduce the annual landings quota for the north Atlantic swordfish stock to 2,219 metric tons (mt) dressed weight (dw) for each of the next three fishing years (2000, 2001, 2002), with 300 mt dw allocated for incidental catch and the remainder allocated equally to each of the two semi-annual directed fishery seasons (June 1 through November 30 and December 1 through May 31). NMFS also proposes to establish an allowance for dead discards of 320 mt whole weight (ww) in 2000, 240 mt ww in 2001, and 160 mt ww in 2002. Finally, NMFS requests comments on alternatives to rebuild the stock of northern albacore tuna.

The intent of these actions is to improve conservation and management of the Atlantic swordfish and northern albacore tuna resources, while allowing harvests consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

**DATES:** NMFS will hold public hearings in June, 2000 to receive comments from fishery participants and other members of the public regarding these proposed regulations. See **SUPPLEMENTARY INFORMATION** for hearing dates and times. For individuals unable to attend a hearing, NMFS also solicits written comments on the proposed rule. To be considered in developing the final rule, written comments on the proposed rule must be received at the appropriate address or fax number (see **ADDRESSES**) by 5 p.m. on July 18, 2000.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for meeting and hearing locations. Comments on the proposed rule and copies of the Draft Environmental Assessment/Regulatory

Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) supporting this action may be obtained from Rebecca Lent, Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. These documents may be viewed on the NMFS website at [www.nmfs.gov/sfa/hmspg.html](http://www.nmfs.gov/sfa/hmspg.html). Comments also may be sent via facsimile (fax) to 301-713-1917. Comments will not be accepted if submitted via e-mail or on the Internet.

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**SUPPLEMENTARY INFORMATION:** The U.S. Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (FMP) and regulations at 50 CFR part 635 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; codified at 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; codified at 16 U.S.C. 971 *et seq.*). Regulations issued under the authority of ATCA carry out the recommendations of ICCAT.

#### Swordfish Rebuilding Program

The total weight of the north Atlantic swordfish stock at the beginning of 1999, according to the 1999 ICCAT stock assessment, was estimated to be at 65 percent of that needed to produce maximum sustainable yield (MSY). The biomass at MSY is the target stock size of the rebuilding program for north Atlantic swordfish. The 1998 fishing mortality rate was estimated to be 1.34 times  $F_{MSY}$ . Because NMFS is committed to rebuilding north Atlantic swordfish, consistent with the recent ICCAT program, reductions in quotas are required in the immediate future to rebuild the stock to levels that would support MSY.

North Atlantic swordfish landings for all nations combined for 1998 were estimated to be 12,175 mt ww. At the November 1999 ICCAT meeting, a recommendation was adopted to establish a rebuilding program for north Atlantic swordfish and to reduce the total allowable catch for all countries fishing on that stock to 10,600 mt ww (7,970 mt dw) for 2000, 10,500 mt ww (7,895 mt dw) for 2001, and 10,400 mt ww (7,820 mt dw) for 2002. Although the ICCAT recommendation specifies the quota in whole weight, this document refers to the quota in dressed