

expenses incurred while performing their volunteer assignments, provided these expenses are described in the Memorandum of Understanding negotiated with the volunteer station and there are sufficient funds available to cover these expenses and meet all other requirements identified in the notice of grant award.

Dated: September 14, 2004.

**Tess Scannell,**

*Director, Senior Corps.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[I.D. 091604A]

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

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

**ACTION:** Atlantic bluefin tuna retention limit adjustment.

**SUMMARY:** NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily retention limit should be adjusted to allow for maximum utilization of the U.S. landings quota of BFT, while maintaining a fair distribution of fishing opportunities. Therefore, NMFS increases the daily retention limit to provide increased opportunities to harvest the General category quota.

**DATES:** The effective dates for the daily retention limits specified in this rule are provided in Table 1 under

**SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Brad McHale, 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 (Magnuson-Stevens 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 quota recommended by the International Commission for the

Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, and General category effort controls (including time-period sub-quotas) are specified annually under the procedures identified at 50 CFR 635.23(a) and 635.27(a). NMFS is in the process of establishing the 2004 annual BFT quota specifications and in the meantime, sufficient General category quota is available for 2004 per the 2002 recommendation from ICCAT.

**Adjustment of Daily Retention Limit**

NMFS is increasing the General category daily retention limit effective from September 20, 2004, through October 20, 2004, inclusive, to two large medium or giant BFT per vessel (see Table 1). Under § 635.23(a)(4), NMFS may increase or decrease the General category daily retention limit of large medium and giant BFT over a range from zero to three per vessel to allow for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, available quota, and the availability of BFT on the fishing grounds, NMFS has determined that an increase of the daily retention limit from September 20, 2004, through October 20, 2004, inclusive, is appropriate and necessary.

TABLE 1—DAILY RETENTION LIMITS

Category	Effective Date	Areas	BFT Size Class Limit
General	September 20, 2004–October 20, 2004	All	Two BFT per vessel, measuring 73 inches (185 cm) curved fork length or larger
	October 21, 2004–January 31, 2005	All	One BFT per vessel, measuring 73 inches (185 cm) curved fork length or larger

Current catch rates in the General category amount to approximately 0.5 metric tons (mt) per day. Current catch rates are lower than the low landings rates that occurred at this time last year when it was also determined that the daily retention should be increased. In combination with a quota rollover from the previous sub-period, the current 2004 landing rate would not lead to harvest of the full September sub-quota, and would result in an excessive quota rollover into the next sub-period. Adding an excessive amount of unused quota from one time-period sub-quota to the subsequent time-period sub-quota is undesirable because it effectively changes the time-period sub-quota allocation percentages established in the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP). This issue has been discussed

extensively during public comment periods for annual quota specifications and during HMS Advisory Panel meetings. This adjustment, which will be in effect for approximately 30 days, is scheduled for approximately the same time period when catch rates increased in New England in 2003. Catch rates for the regional New England fishery are expected to increase during the limited time period this adjustment is in effect. BFT are expected to begin the annual southward migration at approximately the time the retention limit is reduced (October 21, 2004) and by reverting to a retention limit of one fish per vessel per day, sub-period quota for subsequent regional fisheries will be maintained. Experience in prior years has shown that similar adjustments to the General category retention limit had

positive impacts on the fishery and favorable public response.

The intent of this adjustment is to allow for maximum utilization of the U.S. landings quota of BFT (specified under 50 CFR 635.27(a)) while maintaining a fair distribution of fishing opportunities, to help achieve optimum yield in the General category fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP.

The default daily General category retention limit of one large medium or giant BFT (specified at 50 CFR 635.23(a)(2)), will apply to all vessels fishing under the General category quota effective October 21, 2004, through the remainder of the General category fishery, which ends January 31, 2005 (see Table 1).

Closures or subsequent adjustments to the daily retention limit, if any, will be published in the **Federal Register**. In addition, owners/operators may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9305 for updates on quota monitoring and retention limit adjustments.

**Classification**

The Assistant Administrator for Fisheries, NOAA (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. Catch rates for the 2004 BFT season have been extremely low to date. NMFS has recently become aware of increased availability of BFT on the New England fishing grounds. This increase in abundance provides the potential to increase landings rates for the New England fishery if participants are authorized to harvest two BFT per

day. In order to provide access to BFT while they are available on the New England fishing grounds, the retention limit adjustment must be performed expeditiously. Delay in increasing the retention limits would adversely affect regional General category vessels since BFT will soon migrate south away from the New England fishing grounds. The regulations implementing the HMS FMP provide for retention limit in-season adjustments in order 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. Immediate adjustment of retention limits is also necessary in order to avoid excessive quota rollovers to subsequent management periods. Impediments to the harvest of available quota will have negative social and economic impacts to U.S. fishermen that depend upon catching the available quota within the

time periods designated in the HMS FMP. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. In addition to the above reasons and because this action relieves a restriction (i.e., allows the retention of more fish), the AA also finds good cause to waive the delay in effectiveness normally required for this action is provided pursuant to 5 U.S.C. 553(d).

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

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

Dated: September 17, 2004.

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