

updated, in a single rulemaking, our existing standards for information and technology (ICT) covered by section 508 of the Rehabilitation Act of 1973 (which includes, among other things, ICT developed, procured, maintained, or used by Federal agencies) (hereafter, "Revised 508 Standards"), and our existing guidelines for telecommunications equipment and customer premises equipment covered by Section 255 of the Communications Act of 1934 (hereafter, "Revised 255 Guidelines."). See Information and Communication Technology Standards and Guidelines, 82 FR 5790 (Jan. 18, 2017) (to be codified at 36 CFR parts 1193 and 1194). The published notice for the ICT final rule provided that the rule would take effect on March 20, 2017.

Subsequently, on January 20, 2017, the Assistant to the President and Chief of Staff, issued a memorandum entitled "Regulatory Freeze Pending Review." This memorandum instructed Federal departments and agencies, among other things, to temporarily postpone for 60 days (dating from the date of the memorandum) the effective dates of their respective regulations that had been published in the **Federal Register** but were not yet effective.

In accordance with the January 20 memorandum, the Access Board is briefly postponing the effective date of the ICT final rule until March 21, 2017, which represents a one-day delay in the effective date of this final rule relative to its originally-scheduled effective date. There is no change to the substance of the Revised 508 Standards or Revised 255 Guidelines. Nor does this brief postponement of the effective date alter the compliance date for certain ICT covered by the Revised 508 Standards, which remains January 18, 2018 (*i.e.*, one year after original publication date of ICT final rule).

Pursuant to the Administrative Procedure Act (APA) (5 U.S.C. 553), the Access Board generally provides interested parties the opportunity to comment on proposed regulations and publishes rules not less than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or delay effective dates when the agency, for good cause, finds that these procedural requirements would be impracticable, unnecessary, or contrary to the public interest. See 5 U.S.C. 553(b)(B) and (d)(3). Here, a one-day postponement of the effective date of the ICT final rule, as called for in the January 20 memorandum, would neither delay the final rule's implementation to any material degree nor alter the

originally-established compliance date for the Revised 508 Standards. Accordingly, because a one-day delay in the effective date of the ICT final rule will have no material impact on its implementation, the Access Board finds that good cause exists to exempt the instant rule from notice-and-comment requirements. See 5 U.S.C. 553(b)(B). Additionally, because a one-day postponement of the ICT final rule's originally-published effective date will have no substantive impact, the instant rule is being made effective upon publication in the **Federal Register** and, in any event, a 30-day delay in its effective date would be impracticable and unnecessary in these circumstances. See 5 U.S.C. 553(d)(3) (exempting substantive rules from requisite 30-day delay in effective date upon finding of good cause).

David M. Capozzi,
Executive Director.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket Nos. 120328229-4949-02 and 150121066-5717-02]

RIN 0648-XF210

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; annual adjustment of Atlantic bluefin tuna Purse Seine and Reserve category quotas; inseason quota transfer from the Reserve category to the Longline category.

SUMMARY: NMFS is adjusting the Atlantic bluefin tuna (BFT) Purse Seine and Reserve category quotas for 2017, as it does annually. NMFS is also transferring inseason 45 metric tons (mt) of BFT quota from the Reserve category to the Longline category. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments. NMFS has decided that the transfer to the Longline category will be distributed to permitted Atlantic Tunas Longline vessels with recent fishing activity, rather than to all qualified Individual Bluefin Quota (IBQ)

shares recipients. As a result of this transfer, the associated IBQ accounts will each receive 1,102 lb (0.5 mt) of IBQ.

DATES: Effective February 28, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Tom Warren, or Brad McHale, 978-281-9260, or Carrie Soltanoff, 301-427-8503.

SUPPLEMENTARY INFORMATION: Regulations implemented 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.*) 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, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

Annual Adjustment of the BFT Purse Seine and Reserve Category Quotas

In 2015, NMFS implemented a final rule that increased the U.S. BFT quota and subquotas consistent with ICCAT Recommendation 14-05 (80 FR 52198, August 28, 2015). As a result, based on the currently codified U.S. quota of 1,058.79 mt (not including the 25 mt allocated by ICCAT to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area), the baseline Purse Seine, Longline, and Reserve category quotas are codified as 184.3 mt, 148.3 mt, and 24.8 mt, respectively. See § 635.27(a).

Pursuant to § 635.27(a)(4), NMFS has determined the amount of quota available to individual Atlantic Tunas Purse Seine category participants in 2017, based on their BFT catch (landings and dead discards) in 2016. In accordance with the regulations, NMFS is making available to each Purse Seine category participant either 100 percent, 75 percent, 50 percent, or 25 percent of the individual baseline quota

allocations based on the previous year's catch, as described in § 635.27(a)(4)(ii), and is reallocating the remainder to the Reserve category for 2017. NMFS has calculated the amounts of quota available to individual Purse Seine fishery participants based on their individual catch levels in 2016 and the codified process adopted in Amendment 7. Total Purse Seine category BFT catches were 0 mt in 2016. NMFS did not open (*i.e.*, announce a start date for) the Purse Seine fishery in 2016 because there were no active vessels permitted to fish for tunas with purse seine gear in 2016. Consistent with § 635.27(a)(4)(v)(C), NMFS will notify Atlantic Tunas Purse Seine fishery participants of the amount of quota available for their use this year through the IBQ electronic system established under § 635.15 and in writing.

Based on the procedures described above and by summing the individual available allocations, NMFS has determined the 2017 Purse Seine category quota available to Purse Seine fishery participants is 46.1 mt. Thus, the amount of Purse Seine category quota to be reallocated to the Reserve category is 138.2 mt (184.3 mt – 46.1 mt). This reallocation results in a 2017 Reserve category quota of 163 mt (24.8 mt + 138.2 mt), before any transfers to other categories.

NMFS anticipates that it will consider additional BFT quota adjustments during 2017. For example, when complete 2016 BFT catch information is available and finalized, NMFS may augment the Reserve category quota further by carrying forward underharvest, if any, from 2016, consistent with ICCAT limits. Subsequent notices 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, for updates.

Quota Transfer

Under § 635.15(b), additional BFT quota may be distributed within the Longline category, after the initial annual allocations if the U.S. baseline quota increases as a result of an ICCAT recommendation or as a result of a transfer of quota from the Reserve category to the Longline category, pursuant to criteria for quota adjustments.

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering the 14 regulatory determination criteria provided under § 635.27(a)(8), which are:

The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds; optimizing fishing opportunity; accounting for dead discards, facilitating quota monitoring, supporting other fishing monitoring programs through quota allocations and/or generation of revenue; and support of research through quota allocations and/or generation of revenue. Since implementing Amendment 7, NMFS has transferred quota inseason from the Reserve category to the Longline category twice, once in 2015 and once in 2016 (80 FR 45098, July 29, 2015; 81 FR 19, January 4, 2016).

NMFS has considered the determination criteria regarding inseason adjustments and their applicability to the Longline category fishery and has determined that a quota transfer is warranted, as explained below. Consistent with the criteria for quota adjustments, this transfer is intended to increase the amount of quota available to individual vessels, and therefore help vessel owners account for BFT landings and dead discards while fostering conditions in which permit holders become more willing to lease IBQ. The revised Longline category quota would support the broader objectives of Amendment 7, which include reducing BFT interactions and dead discards while maintaining an economically viable swordfish and yellowfin tuna directed fishery.

Vessels using pelagic longline gear must have IBQ to account for BFT landings and dead discards. If a vessel has insufficient IBQ to account for such landings and dead discards, it goes into "quota debt." A permitted Atlantic Tunas Longline vessel is not allowed to

fish with pelagic longline gear if it has outstanding quota debt or does not have the minimum amount of quota (*i.e.*, 276 lb (0.125 mt) to depart on a fishing trip in the Atlantic and 551 lb (0.25 mt) to depart on a fishing trip in the Gulf of Mexico). These minimum amounts were specified to allow the landing and accounting of one BFT, based on average fish weight for each area (*e.g.*, 551 lb of quota would allow for the landing and accounting of one BFT in the Gulf of Mexico).

With respect to the effects of the adjustment on BFT rebuilding and overfishing, and accomplishing the objectives of the fishery management plan (§ 635.27(a)(8)(v) and (vi)), this action is consistent with the previously implemented and analyzed quotas and the existing rebuilding plan, and it is not expected to lead to overfishing or negatively impact stock health or otherwise affect the stock in ways not previously analyzed. The transfer of 45 mt of BFT quota from the Reserve category to the Longline category will result in an adjusted Longline category quota of 193.3 mt (148.3 mt + 45 mt), which remains within the ICCAT quota. NMFS also considered the estimated amounts by which quotas for other gear categories of the fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2017 landings and dead discards. Overall, less than 4 percent of the total of the currently available quota for the other commercial quota categories has been harvested as of February 22, 2017. NMFS will need to account for all 2017 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that even with this transfer from the Reserve category. This action is consistent with the rebuilding objectives of the 2006 Consolidated HMS FMP as amended.

Regarding the determination criteria "optimizing fishing opportunity" (§ 635.27(a)(8)(x)), the ability of pelagic longline vessel owners to account for BFT with quota allocations or to lease IBQ at an affordable price is key to the success of the IBQ Program and thus to optimize fishing opportunity by moving quota to where it is needed. An inseason transfer of quota to the Longline category would facilitate accomplishing the objectives of the 2006 Consolidated HMS FMP by optimizing fishing opportunity, contributing to full accounting for landings and dead discards, and reducing uncertainty in the fishery as a whole. Quota transferred from the Reserve category and distributed directly to active vessels (discussed below) should reduce

situations where fishing opportunity for target species is constrained by the unavailability of quota (*e.g.*, because of BFT quota debt or a low IBQ balance) or, in the case of vessels with recent fishing activity that are not associated with IBQ shares, by not finding affordable quota (or sufficient quota) for lease. It will also reduce vessel owner uncertainty about whether a vessel owner will have sufficient quota to account for future BFT catch. Without this inseason quota transfer, permit holders may be unnecessarily conservative at the beginning of the year, in a way that does not optimize fishing opportunities nor encourage the appropriate functioning of the IBQ leasing program. For example, vessel owners may fear that they will not have enough IBQ to depart on as many trips as they have planned and enough IBQ to account for BFT retained or discarded dead, and thus may feel they cannot lease IBQ to other vessels. If they do lease out quota, they may set the lease prices unnecessarily high to offset their perceived risks. An inseason distribution of IBQ to active vessels (discussed below) will reduce the perceived risk associated with leasing a portion of their IBQ to other vessels early in the year and will reduce uncertainty in their business plans for the year.

Regarding the determination criteria about accounting for dead discards (§ 635.27(a)(8)(xi)) and variations in seasonal distribution or abundance, a quota transfer from the Reserve category to the Longline category would contribute to full accounting of BFT catch by vessels that accrue quota debt (*i.e.*, reduce quota debt), enhance the likelihood that share recipients will lease IBQ to others, and reduce uncertainty in the fishery as a whole. Transferring quota in early 2017 helps to address the diversity of the fishery with respect to the timing of fishing activities in different geographic areas. A quota transfer later in the year may disadvantage those fishing early in the year. For example, a vessel that fishes only during the first quarter of the year would not benefit from such a quota transfer if it happened at any time after the first quarter. In contrast, a vessel that fishes only during the fourth quarter would not be disadvantaged by a quota transfer during the first quarter, because they would receive the quota distribution during the first quarter, and could keep the IBQ until they are ready to fish. Additional inseason transfers could occur later in the year and the additional quota at the beginning of the

year helps equalize the distribution among the active vessels.

Based on the considerations above, NMFS is transferring 45 mt of the adjusted Reserve category quota to the Longline category. As a result of this quota transfer, the adjusted 2017 Reserve category quota is 118 mt (163 mt – 45 mt), and the adjusted 2017 Longline category quota is 193.3 mt.

Distribution of Transferred Quota Within the Longline Category

For each of the 34-mt quota transfers in 2015 and 2016, NMFS distributed 551 lb (0.25 mt) of IBQ equally to each of the 136 qualified IBQ share recipients. In a recent final rule (the “IBQ inseason transfer rule”), NMFS modified the HMS regulations regarding the distribution of inseason BFT quota transfers to the Longline category (81 FR 95903, December 29, 2016; 82 FR 8821, January 31, 2017; 82 FR 9530, February 7, 2017). That final rule provided NMFS the ability to distribute quota inseason either to all qualified IBQ share recipients (*i.e.*, share recipients who have associated their permit with a vessel) or only to permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares. The final rule described how, in deciding whether to transfer additional quota to the Longline category inseason from the Reserve category, NMFS would first consider the existing 14 regulatory determination criteria, including the need to “optimize fishing opportunity” (as described above), and then would decide whether to distribute that quota to all qualified IBQ share recipients or only to permitted Atlantic Tunas Longline vessels with recent fishing activity. The final rule indicated that this decision would be based on information for the subject year and previous year, including the number of BFT landings and dead discards, the number of IBQ lease transactions, the average amount of IBQ leased, the average amount of quota debt, the annual amount of IBQ allocation, any previous inseason allocations of IBQ, the amount of BFT quota in the Reserve category, the percentage of BFT quota harvested by the other quota categories, the remaining number of days in the year, the number of active vessels fishing not associated with IBQ share, and the number of vessels that have incurred quota debt or that have low levels of IBQ allocation. The final rule further indicated that NMFS would determine which approach best meets the specific objectives of the IBQ Program, including the objective of providing flexibility in the quota system

to enable pelagic longline vessels to obtain BFT quota from other vessels with available individual quota in order to enable full accounting for BFT landings and dead discards, and minimize constraints on fishing for target species. Discussion of the relevant information and justification for how NMFS is distributing the transferred quota follows.

NMFS has examined the logbook, Vessel Monitoring System (VMS), dealer, and electronic monitoring data for 2016 and for 2017 as of February 22, 2017, and has determined that 90 vessels have recent fishing activity and that, of those, 86 were IBQ share recipients. As described in the final IBQ inseason transfer rule, any vessel activity in the pelagic longline fishery during this date range is sufficient to qualify as “recent fishing activity.” For comparison, there are 136 IBQ share recipients under Amendment 7.

Preliminary data indicate that, in 2016, 55 Atlantic Tunas Longline vessels landed a total of 447 BFT (196,142 lb) and 30 Atlantic Tunas Longline vessels discarded dead 175 BFT (19,575 lb). In 2017 through February 22, 18 Atlantic Tunas Longline vessels landed a total of 35 BFT (16,909 lb) and 5 vessels discarded dead 8 BFT (935 lb). These landings and dead discards (as well as VMS data that document BFT released alive) indicate that pelagic longline vessels have been interacting with BFT in 2016 (and early 2017). The vessels have been accounting for BFT using IBQ, as required by the regulations. It is likely that there will continue to be pelagic longline interactions with BFT and a need for vessels to account for the BFT retained and discarded dead in 2017. Distributing only to active vessels provides a focused, more efficient distribution of quota to those that need it (*i.e.*, the active vessels) will help reduce uncertainty and facilitate better business decisions and a more effective leasing program for the remainder of the year. We note that this is only a small influx of quota to facilitate effective leasing and more certainty in operational decisions at the beginning of the year; the baseline category quota is still distributed to all IBQ share recipients, which includes those that are inactive.

There were 103 IBQ lease transactions (81 in 2016; 22 in 2017 through February 22), with 72 distinct share recipients leasing and a total of 170,507 lb leased (127,666 lb in 2016 and 42,841 lb in 2017 through February 22). Nineteen IBQ lessors did not have recent fishing activity. Overall, the average amount of IBQ leased was 1,481

lb and average lease price was \$2.42 per pound (weighted average). In discussions with vessel operators, some have indicated that the ex-vessel price of BFT was variable, and relatively low, and that they essentially made little or no money from BFT given expenses including the cost to lease BFT. NMFS data indicate that the ex-vessel price of BFT from pelagic longline vessels from January 1, 2016, through February 22, 2017, ranged from zero to \$17/lb, with an average of \$4.90/lb. There were four active vessels that were not associated with IBQ shares that leased quota from share recipients in order to fish with pelagic longline gear. Seventeen distinct vessels had quota debt at any given point in 2016, with an average of 708 lb. No vessels had quota debt going into 2017. This price and leasing information demonstrates that the leasing market is active, vessels are paying out of pocket to obtain additional IBQ as needed, and that BFT landings are generally not profitable. It also indicates that influxes of quota inseason by NMFS were helpful in facilitating the effective functioning of the Program and system. Furthermore, share recipients that are not actively fishing are earning some revenue through leasing to those vessels that are fishing (*i.e.*, from 5 such vessels in 2015 to 19 vessels from January 1, 2016 through February 22, 2017). These trends further support distribution of quota to Atlantic Tunas Longline vessels with recent fishing activity in order to facilitate accounting for BFT catch or reducing the likelihood of accrued quota debt, while helping to lower any additional cost of leasing.

The annual amount of Longline category quota allocated in the IBQ system for 2016 was the baseline Longline category quota of 148.3 mt plus the 34-mt transfer that was effective January 1, 2016, for a total of 182.3 mt. The annual amount of Longline category quota currently allocated in the IBQ system for 2017 is the baseline Longline category quota of 148.3 mt. NMFS has not made any inseason transfers thus far in 2017. As described above, the amount of quota in the Reserve category following this action's reallocation from the Purse Seine category is 163 mt. As described in the Quota Transfer section above, commercial landings for categories other than the Longline category total less than 4 percent of available 2017 quota for those categories. Thus, substantial quota remains available in the Reserve category for future transfers, as appropriate.

NMFS has determined that distribution of quota only to Atlantic Tunas Longline vessels with recent

fishing activity fulfills IBQ Program objectives. Such a distribution would provide transferred quota only to the vessels that have recently fished and are therefore most likely to need quota in order to account for BFT interactions. One of the principal objectives of the IBQ Program is to require increased individual accountability for BFT catch. Vessels that are not fishing (*i.e.*, not active) do not need IBQ to account for BFT catch. Of the 136 IBQ share recipients, only 86 (63 percent) have recent fishing activity, and a majority of IBQ share recipients with no recent activity are not leasing out their quota (*i.e.*, 31 of 50 inactive share recipients did not lease out quota in the period analyzed). In addition, there are four Atlantic Tunas Longline vessels with recent fishing activity that are not associated with IBQ shares. Efficient distribution of quota to those that need it (*i.e.*, the active vessels) supports the objectives of the IBQ Program, *i.e.*, balance the objectives of limiting bluefin landings and dead discards with the objective of optimizing fishing opportunities and maintaining profitability; and provide flexibility in the quota system to enable pelagic longline vessels to obtain BFT quota from other vessels with available individual quota in order to enable full accounting for BFT landings and dead discards, and minimize constraints on fishing for target species. Vessels with IBQ share that have not been active and would not be given any inseason IBQ through this action, may nevertheless become active if they desire, because such vessels were allocated the annual amount of IBQ for 2017, and may lease additional IBQ if necessary. After considering this information, NMFS has decided to distribute the 45 mt of quota transferred from the Reserve to the Atlantic Tunas Longline vessels with recent fishing activity.

As a result of this quota transfer, 1,102 lb (0.5 mt) of quota is being distributed to each of the 90 permitted Atlantic Tunas Longline vessels with recent fishing activity. For comparison, if the 45 mt were distributed to all qualified IBQ share recipients, each would receive 729 lb (0.33 mt). For those vessels with recent fishing activity that are not associated with valid (*i.e.*, unexpired) permits at the time of the quota transfer, the IBQ will be transferred, but will not be usable by the vessel owner (*i.e.*, may not be leased or used to account for BFT) unless and until the vessel is associated with a valid permit. When a qualified IBQ share recipient with recent fishing activity receives inseason quota, the

quota will be designated as either Gulf of Mexico (GOM) IBQ, Atlantic (ATL) IBQ, or both GOM and ATL IBQ, according to the share recipient's regional designations. Those vessels that are participating in the voluntary Deepwater Horizon Oceanic Fish Restoration Project repose period through June 30, 2017, and that have recent fishing activity, would receive a distribution of inseason quota once the repose period ends. For vessels with recent fishing activity that are not qualified IBQ share recipients, NMFS will assign the distributed quota a regional designation based on where the majority of the vessel's "recent fishing activity" occurred for the relevant period analyzed (either GOM or ATL). This action is supported by the Amendment 7 Final Environmental Impact Statement and final rule, which analyzed and anticipated inseason quota transfers from the Reserve to the Longline category, and the final IBQ inseason transfer rule. NMFS anticipates that this action will enhance the ability of vessel owners to account for BFT catch, reduce quota debt, facilitate quota leasing, and reduce uncertainty in the fishery.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries, including the pelagic longline fishery, closely through the mandatory landings and catch reports. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT through the electronic BFT dealer reporting system as well as through the online IBQ system. Pelagic longline vessels are required to enter BFT dead discard information through the IBQ system and confirm the accuracy of dealer-reported data. Pelagic longline vessels are also required to report BFT catch through VMS, as well as through the online IBQ system.

Longline category permit holders are reminded that all BFT discarded dead must be reported through VMS, and accounted for in the online IBQ system, consistent with requirements at § 635.15(a).

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 for updates on quota monitoring and inseason adjustments.

Classification

The Acting 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, the transfer from the Reserve category to the Longline category for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP, as amended, provide for inseason adjustments to quotas and other aspects of BFT fishery management, to respond to the diverse range of factors which may affect BFT fisheries, including ecological (*e.g.*, rebuilding, or the migratory nature of HMS) and commercial (*e.g.*, optimizing fishing opportunity, or reducing bycatch). Specifically, Amendment 7 stated that NMFS may need to consider providing additional quota to the Longline category as a whole in order to increase the amount of quota available to permitted Atlantic Tunas Longline vessels via the IBQ Program, and balance the need to have an operational directed pelagic longline fishery with the need to reduce BFT bycatch.

NMFS has determined that adjustments to the Reserve and Longline category BFT quotas are warranted. Analysis of available data shows that adjustment to the Longline category quota from the initial level would result in minimal risks of exceeding the ICCAT-allocated quota. The regulations implementing the 2006 Consolidated HMS FMP, as amended, provide the flexibility to provide additional quota to the Longline category in order to optimize fishing opportunity, account

for dead discards, and accomplish the objectives of the fishery management plan. A quota transfer effective in early 2017 helps to address the diversity of the fishery with respect to the timing of fishing activities in different geographic areas. A quota transfer later in the year may disadvantage those fishing early in the year.

Affording prior notice and opportunity for public comment to implement the quota transfer is impracticable. The decision on whether to transfer 45 mt of quota from the Reserve category to the Longline category, and whether to distribute that quota to all qualified IBQ share recipients or only to permitted Atlantic Tunas Longline vessels with recent fishing activity, needs to happen at the beginning of the year to facilitate effective leasing and more certainty in operational decisions. NMFS only recently received updated data from the 2016 fishery, as it recently closed, and from the first several weeks of the 2017 fishery. If NMFS were to offer an opportunity for public comment, it would unnecessarily preclude fishing opportunities for some vessel operators, particularly those that fish early in the fishing season. Precluding fishing opportunities is contrary to the public interest because of increased operating costs due to low quota balances. As explained earlier, NMFS conducted notice-and-comment rulemaking on the

underlying regulations that set forth the criteria used for this action.

Delays in adjusting the Reserve and Longline category quotas would adversely affect those permitted Atlantic Tunas Longline vessels that would otherwise have an opportunity to reduce or resolve quota debt, lease quota to other vessels, as well as delay potential beneficial effects on the ability for vessel operators to make business plans for their future. NMFS is trying to balance providing opportunity to the pelagic longline fishery, with the reduction of BFT bycatch, and delaying this action would be contrary to the public interest. 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 all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under §§ 635.15(b) and (f) and 635.27(a)(8) and (9) and (a)(4) and (7), and is exempt from review under Executive Order 12866.

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

Dated: February 28, 2017.

Karen H. Abrams,

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

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