

(C) Eighteen swordfish per vessel per trip for the Northwest Atlantic region; and

(D) Eighteen swordfish per vessel per trip for the Gulf of Mexico region.

(5) NMFS will file with the Office of the Federal Register for publication notification of any inseason adjustments to the default swordfish retention limits specified at paragraphs (b)(3) and (b)(4)(iii) of this section. Before making any inseason adjustments to swordfish retention limits, NMFS will consider the following criteria and other relevant factors:

(i) The usefulness of information obtained from biological sampling and monitoring of the North Atlantic swordfish stock;

(ii) The estimated ability of vessels participating in the fishery to land the amount of swordfish quota available before the end of the fishing year;

(iii) The estimated amounts by which quotas for other categories of the fishery might be exceeded;

(iv) Effects of the adjustment on accomplishing the objectives of the fishery management plan and its amendments;

(v) Variations in seasonal distribution, abundance, or migration patterns of swordfish;

(vi) Effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota; and

(vii) Review of dealer reports, landing trends, and the availability of swordfish on the fishing grounds.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 180117042-8884-02; RTID 0648-XB018]

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

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

**ACTION:** Temporary rule; inseason Angling category retention limit adjustment.

**SUMMARY:** NMFS has determined that the Atlantic bluefin tuna (BFT) daily

retention limit that applies to Highly Migratory Species (HMS) Angling category permitted vessels and HMS Charter/Headboat vessels (when fishing recreationally for BFT) should be adjusted for the remainder of 2021, based on consideration of the regulatory determination criteria regarding inseason adjustments. NMFS is adjusting the Angling category BFT daily retention limit from the default of one school, large school, or small medium BFT to: Two school BFT and one large school/small medium BFT per vessel per day/trip for private vessels with HMS Angling category permits; three school BFT and one large school/small medium BFT per vessel per day/trip for charter boat vessels with HMS Charter/Headboat permits when fishing recreationally; and six school BFT and two large school/small medium BFT per vessel per day/trip for headboat vessels with HMS Charter/Headboat permits when fishing recreationally. These retention limits are effective in all areas, except for the Gulf of Mexico, where targeted fishing for BFT is prohibited.

**DATES:** Effective May 2, 2021 through December 31, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Larry Redd, Jr., [larry.redd@noaa.gov](mailto:larry.redd@noaa.gov), 301-427-8503, Nicholas Velseboer, [nicholas.velseboer@noaa.gov](mailto:nicholas.velseboer@noaa.gov), 978-675-2168, or Lauren Latchford, [lauren.latchford@noaa.gov](mailto:lauren.latchford@noaa.gov), 301-427-8503.

**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries, including BFT fisheries, are managed 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.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic HMS FMP and its amendments. NMFS is required under the MSA to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

As a method for limiting fishing mortality on juvenile BFT, ICCAT

recommendations have adopted a tolerance limit on the annual harvest of BFT measuring less than 115 centimeters (cm) (45.3 inches) (straight fork length) to no more than 10 percent by weight of a Contracting Party's total BFT quota. Any overharvest of such tolerance limit from one year must be subtracted from the tolerance limit applicable in the next year or the year after that. NMFS implements this provision by limiting the harvest of school BFT (measuring 27 to less than 47 inches curved fork length) to 127.3 metric tons (mt)) annually (10 percent of the U.S. quota)

In 2018, NMFS implemented a final rule that established the U.S. BFT quota and subquotas consistent with ICCAT Recommendation 17-06 (83 FR 53191, October 11, 2018). In 2020, following a stock assessment update, ICCAT adopted Recommendation 20-06, which maintained the overall total allowable catch of 2,350 mt and the associated U.S. quota. As such, as described in § 635.27(a), the current baseline U.S. quota continues to be 1,247.86 mt (not including the 25-mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The Angling category quota continues to be 232.4 mt (127.3 mt for school BFT, 99.8 mt for large school/small medium BFT, and 5.3 mt for large medium/giant BFT).

The Angling category season opened on January 1, 2021, and continues through December 31, 2021. The size classes of BFT are summarized in Table 1. Large school and small medium BFT traditionally have been managed as one size class, *i.e.*, a limit of one large school/small medium BFT (measuring 47 to less than 73 inches). Similarly, large medium and giant BFT traditionally have been managed as one size class that is also known as the "trophy" class. Currently, the default Angling category daily retention limit of one school, large school, or small medium BFT is in effect and applies to HMS Angling category and HMS Charter/Headboat permitted vessels (when fishing recreationally for BFT) (§ 635.23(b)(2)).

As defined at § 600.10, "charter boat" means a vessel less than 100 gross tons (90.8 mt) that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire (*i.e.*, uninspected) and "headboat" means a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire (*i.e.*, greater than six).

TABLE 1—BFT SIZE CLASSES

Size class	Curved fork length
School .....	27 to less than 47 inches (68.5 to less than 119 cm).
Large school .....	47 to less than 59 inches (119 to less than 150 cm).
Small medium .....	59 to less than 73 inches (150 to less than 185 cm).
Large medium .....	73 to less than 81 inches (185 to less than 206 cm).
Giant .....	81 inches or greater (206 cm or greater).

Table 2 summarizes the recreational quota, subquotas, landings, and retention limit information for 2019 and 2020, by size class.

TABLE 2—ANGLING CATEGORY QUOTAS (mt), ESTIMATED LANDINGS (mt), AND DAILY RETENTION LIMITS, 2019–2020

Size class	2019			2020		
	Subquotas and total quota (mt)	Landings (mt)	Amount of subquotas and total quota used (percent)	Subquotas and total quota (mt)	Landings (mt)	Amount of subquotas and total quota used (percent)
School .....	127.3	71	56	127.3	81.7	64
Large School/Small Medium .....	99.8	95	95	99.8	112.3	113
Trophy: Large Medium/Giant .....	5.3	15.8	298	5.3	8.9	168
Total .....	232.4	181.8	78	232.4	202.9	87
Daily Retention Limits (per Vessel) .....	<i>January 1 through May 10:</i> 1 school, large school, or small medium (default) <i>May 11 through December 31:</i> (84 FR 20296, May 9, 2019) <i>Private boats:</i> 2 school and 1 large school/small medium <i>Charter boats:</i> 3 school and 1 large school/small medium <i>Headboats:</i> 6 school and 2 large school/small medium			<i>January 1 through May 1:</i> 1 school, large school, or small medium (default). <i>May 2 through December 31:</i> (85 FR 26365, May 4, 2020). <i>Private boats:</i> 2 school and 1 large school/small medium. <i>Charter boats:</i> 3 school and 1 large school/small medium. <i>Headboats:</i> 6 school and 2 large school/small medium.		

**Adjustment of Angling Category Daily Retention Limit**

Under § 635.23(b)(3), NMFS may increase or decrease the Angling category retention limit for any size class of BFT after considering regulatory determination criteria under § 635.27(a)(8). Also under § 635.23(b)(3), recreational retention limits may be adjusted separately for specific vessel type, such as private vessels, headboats, or charter boats.

NMFS has considered all of the relevant determination criteria and their applicability to the change in the Angling category retention limit. The criteria and their application are discussed below.

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by recreational fishermen continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional

opportunity to land BFT would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the Angling category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii)). Additionally, NMFS considered Angling category landings in 2019 and 2020, which were approximately 78 percent and 87 percent of the 232.4-mt annual Angling category quota, respectively, including landings of 56 percent and 64 percent of the available school BFT quota, respectively, under the same daily retention limits as implemented in this action. Thus, absent retention limit adjustment, NMFS anticipates that the full 2021 Angling category quota would not be harvested under the default retention limit.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(a)(8)(v) and (vi)). These retention limits would be consistent

with established quotas and subquotas, which are implemented consistent with ICCAT recommendations, (established in Recommendation 17–06 and maintained in Recommendation 20–06), ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. These retention limits are in keeping with those established quotas and management measures. It is also important that NMFS limit landings to the subquotas both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.*, fish caught at each age) that was assumed in the latest stock assessment, and these retention limits are consistent with those objectives.

Another principal consideration in setting the retention limit is the objective of providing opportunities to harvest the available Angling category

quota without exceeding the annual quota, based on the objectives of the 2006 Consolidated HMS FMP and amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest available BFT quota allocations (related to § 635.27(a)(8)(x)).

NMFS considered input on recreational limits from the HMS Advisory Panel at its May and September 2020 meetings and that ICCAT recommendations and HMS implementing regulations limit the allowance for landings of school bluefin tuna to ten percent of the U.S. baseline quota (*i.e.*, 127.3 mt). The 2020 school BFT landings represented approximately 6 percent of the total U.S. quota for 2020, well under the ICCAT recommended 10-percent limit. NMFS is not setting higher school BFT limits than the adjustments listed in Table 1 due to the potential risk of exceeding the ICCAT tolerance limit on school BFT and other considerations, such as potential effort shifts to BFT fishing as a result of current recreational retention limits for New England groundfish and striped bass as well as high variability in bluefin tuna availability.

Given that the Angling category landings fell short of the available quota in 2019 and 2020, even with the retention limit adjustments, and considering the regulatory criteria above, NMFS has determined that the Angling category retention limits applicable to participants in the HMS Angling category and HMS Charter/Headboat permitted vessels should be adjusted upwards from the default levels.

NMFS has also concluded that implementation of separate limits for private, charter boat, and headboat vessels is appropriate, recognizing the different nature, socio-economic needs, and recent landings results of the two components of the recreational BFT fishery. For example, charter operators historically have indicated that a retention limit greater than the default limit of one fish is vital to their ability to attract customers. In addition, Large Pelagics Survey estimates indicate that charter/headboat BFT landings averaged 24 percent of recent recreational landings for 2019 through 2020, with the remaining 76 percent landed by private vessels. NMFS has further concluded that a higher limit for headboats (than charter boats) is appropriate, given the limited number of headboats participating in the bluefin tuna fishery.

Given these considerations, for private vessels with HMS Angling

category permits, this action adjusts the limit upwards to two school BFT and one large school/small medium BFT per vessel per day/trip (*i.e.*, two BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). For charter boat vessels with HMS Charter/Headboat permits, this action adjusts the limit upwards to three school BFT and one large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (*i.e.*, three BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). For headboat vessels with HMS Charter/Headboat permits, this action adjusts the limit upwards to six school BFT and two large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (*i.e.*, three BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example, whether a private vessel (fishing under the Angling category retention limit) takes a two-day trip or makes two trips in one day, the day/trip limit of two school BFT and one large school/small medium BFT applies and may not be exceeded upon landing. This action does not change the retention limit for trophy size BFT.

NMFS anticipates that the BFT daily retention limits in this action will result in landings during 2021 that would not exceed the available subquotas. Lower retention limits could result in substantial underharvest of the codified Angling category subquota, and increasing the daily limits further may risk exceeding the available quota, contrary to the objectives of the 2006 Consolidated HMS FMP and amendments.

### Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely through the mandatory landings and catch reports. HMS Angling category and HMS Charter/Headboat permitted vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing [hmspermits.noaa.gov](https://hmspermits.noaa.gov), using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.). Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments or closures are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all

geographic areas. 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](https://hmspermits.noaa.gov), for updates on quota monitoring and inseason adjustments.

HMS Angling category and HMS Charter/Headboat permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the "Careful Catch and Release" brochure available at <https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure>.

### Classification

The 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, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments 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. Affording prior notice and opportunity for public comment to implement the daily retention limit for the remainder of 2021 at this time is impracticable. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, immediate adjustment to the Angling category BFT daily retention limit from the default levels is warranted to allow fishermen to take advantage of the availability of fish and of quota. NMFS could not have proposed these actions earlier, as it needed to consider and respond to updated data and information from the 2020 Angling category. If NMFS was to offer a public comment period now, after having appropriately considered that data, it could preclude fishermen from harvesting BFT that are legally available consistent with all of the regulatory criteria, and/or could result in selection of a retention limit inappropriately high or low for the amount of quota available for the period.

Fisheries under the Angling category daily retention limit are currently underway and thus prior notice would be contrary to the public interest. Delays in increasing daily recreational BFT retention limit would adversely affect those HMS Angling category and HMS Charter/Headboat vessels that would otherwise have an opportunity to harvest more than the default retention limit of one school, large school, or small medium BFT per day/trip and may exacerbate the problem of low catch rates and quota rollovers. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. NMFS provides notification of retention limit adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on [hmspermits.noaa.gov](https://hmspermits.noaa.gov). 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 § 635.23(b)(3), and is exempt from review under Executive Order 12866.

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

Dated: April 27, 2021.

**Jennifer M. Wallace,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 210426-0089]

RIN 0648-BK26

#### **Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Approval of 2021 and 2022 Sector Operations Plans and Allocation of 2021 Northeast Multispecies Annual Catch Entitlements**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule approves sector operations plans and contracts, grants 19 regulatory exemptions for fishing years 2021 and 2022, allocates Northeast multispecies annual catch entitlements to approved sectors for fishing year 2021 including default specifications for seven stocks, and makes regulatory amendments necessary to administer electronic monitoring. This action is intended to allow limited access permit holders to continue to operate or form sectors and to exempt sectors from certain effort control regulations to improve the efficiency and economics of sector vessels. Approval of sector operations plans and contracts is necessary to allocate annual catch entitlements to the sectors in order for sectors to operate.

**DATES:** Sector operations plans and regulatory exemptions are effective May 1, 2021, through April 30, 2023. Northeast multispecies annual catch entitlements for sectors are effective May 1, 2021, through April 30, 2022.

**ADDRESSES:** Copies of each sector's operations plan and contract are available from the NMFS Greater Atlantic Regional Fisheries Office: Contact Claire Fitz-Gerald at [Claire.Fitz-Gerald@noaa.gov](mailto:Claire.Fitz-Gerald@noaa.gov) and Kyle Molton at [Kyle.Molton@noaa.gov](mailto:Kyle.Molton@noaa.gov). These documents are also accessible via the GARFO website. To view these documents and the **Federal Register** documents referenced in this rule, you can visit: <https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>.

**FOR FURTHER INFORMATION CONTACT:** Claire Fitz-Gerald, Fishery Policy Analyst, (978) 281-9255.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Northeast Multispecies Fishery Management Plan (FMP) defines a sector as a group of persons holding limited access Northeast multispecies permits that have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a portion of the total allowable catch (TAC) in order to achieve objectives consistent with applicable FMP goals and objectives. A sector must be comprised of at least three Northeast multispecies permits issued to at least three different persons, none of whom have any common ownership interest in the permits, vessels, or businesses associated with the permits issued to the other two or more persons in that

sector. Sectors are self-selecting, meaning each sector can choose its members.

The Northeast multispecies sector management system allocates a portion of the Northeast multispecies stocks to each sector. These annual sector allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector's members. Sectors may receive allocations of large-mesh Northeast multispecies stocks with the exception of Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout, which are non-allocated species managed under separate effort controls. ACEs are portions of a stock's annual catch limit (ACL) available to commercial Northeast multispecies vessels. A sector determines how to harvest its ACE.

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several "universal" exemptions from the FMP's effort controls. These universal exemptions apply to: Trip limits on allocated stocks; Northeast multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-centimeters (cm)) mesh codend when fishing with selective gear on Georges Bank (GB); and portions of the Gulf of Maine (GOM) Cod Protection Closures. The FMP prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the approved sectors, there are several state-operated permit banks, which receive allocations based on the history of the permits owned by the states. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with the administrative and procedural requirements for sectors (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of participating permits to us, as specified in the permit bank's Memorandum of Agreement, to determine the ACE allocated to the permit bank. These allocations may be leased to fishermen enrolled in sectors. State-operated permit banks are no longer approved through the sector approval process, but current state-operated permit banks contribute to the total allocation under the sector system.

We received operations plans and preliminary contracts for fishing years 2021 and 2022 from 16 sectors. The operations plans included 19 exemptions previously requested by sectors, and approved by NMFS, in