

notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under § 216.106 of this chapter and § 218.7 for the activity identified in § 218.1(a) may be modified by NMFS under the following circumstances:

(1) NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a LOA:

(A) Results from Navy's monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies;

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs; and

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in a LOA issued pursuant to § 216.106 of this chapter and § 218.7, a LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

#### § 218.9 [Reserved]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 180117042-8884-02; RTID 0648-XB001]

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

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule, closure.

**SUMMARY:** NMFS closes the Angling category Gulf of Mexico area incidental trophy fishery for large medium and giant ("trophy" (*i.e.*, measuring 73 inches (185 cm) curved fork length or greater)) Atlantic bluefin tuna (BFT). This action is being taken to prevent further overharvest of the Angling category Gulf of Mexico incidental trophy BFT subquota.

**DATES:** Effective 11:30 p.m., local time, May 4, 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 highly migratory species (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.

Under § 635.28(a)(1), NMFS publishes a closure notice with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under that quota category is prohibited on or after the effective date and time of a closure notice for that category, for the remainder of the fishing year, until the opening of the relevant subsequent quota period or until such date as specified.

#### Angling Category Large Medium and Giant Gulf of Mexico "Trophy" Fishery Closure

The 2021 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2021. The Angling category season opened January 1, 2021, and continues through December 31, 2021. The current Angling category quota is 232.4 metric tons (mt), of which 5.3 mt is allocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 1.8 mt allocated for each of the following areas: North of 39°18' N. lat. (off Great Egg Inlet, NJ); south of 39°18' N. lat. and outside the Gulf of Mexico (the "southern area"); and in the Gulf of Mexico. Per § 635.27(a)(2)(iii), the Gulf of Mexico region includes all waters of the U.S. exclusive economic zone (EEZ) west and north of the boundary stipulated at § 600.105(c). Trophy BFT measure 73 inches (185 cm) curved fork length or greater.

Based on reported landings from the NMFS Automated Catch Reporting System, NMFS has determined that the codified Angling category Gulf of Mexico trophy BFT subquota of 1.8 mt has been reached and exceeded and that a closure of the Gulf of Mexico incidental trophy BFT fishery is warranted. Therefore, retaining, possessing, or landing large medium or giant BFT in the Gulf of Mexico by persons aboard HMS Angling category and the HMS Charter/Headboat permitted vessels (when fishing recreationally) must cease at 11:30 p.m. local time on May 4, 2021. This closure will remain effective through December 31, 2021. This action is intended to prevent further overharvest of the Angling category Gulf of Mexico incidental trophy BFT subquota, and is taken consistent with the regulations at § 635.28(a)(1). NMFS previously closed the 2021 trophy BFT fishery in the southern area on March 1, 2021 (86 FR 12548, March 4, 2021).

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches and any further Angling category adjustments, is available at [hmspermits.noaa.gov](https://hmspermits.noaa.gov) or by calling (978) 281-9260. 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. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize 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>.

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.).

#### Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is consistent with regulations at 50 CFR part 635, which were issued pursuant to section 304(c) of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act, and is exempt from review under Executive Order 12866.

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 and fishery closures 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. The closure of the Angling category Gulf of Mexico incidental trophy fishery is necessary to prevent any further overharvest of the Gulf of Mexico incidental trophy subquota. NMFS provides notification of closures 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).

These fisheries are currently underway, and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the

magnitude of a potential Angling category overharvest. NMFS must close the Gulf of Mexico incidental trophy BFT fishery before additional landings of these sizes of BFT occur. 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.

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

Dated: May 3, 2021.

**Kelly Denit,**

*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. 210503-0094]

RIN 0648-BK32

#### Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder Fishery; Fishing Year 2021

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

**ACTION:** Final rule.

**SUMMARY:** NMFS announces management measures for the 2021 summer flounder recreational fishery. The implementing regulations for this fishery require NMFS to publish recreational measures for the fishing year. The intent of this action is to achieve, but not exceed, the 2021 summer flounder recreational harvest limit and thereby prevent overfishing on the summer flounder stock.

**DATES:** This rule is effective May 5, 2021.

**FOR FURTHER INFORMATION CONTACT:** Emily Keiley, Fishery Policy Analyst, (978) 281-9116.

**SUPPLEMENTARY INFORMATION:** The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission jointly manage summer flounder. The Council and Commission's Summer Flounder Management Board meet jointly each year to recommend recreational management measures for summer flounder.

In this final rule, NMFS is implementing conservation equivalency to manage the 2021 summer flounder recreational fishery, as proposed on April 6, 2021 (86 FR 17764). The approval of conservation equivalency means that we are waiving Federal summer flounder recreational measures in Federal waters for all federally permitted summer flounder party/charter vessels, regardless of where they fish. States, through the Commission, are collectively implementing measures designed to constrain landings to the 2021 recreational harvest limit. Vessels fishing in Federal waters and Federal party/charter vessels are subject to the regulations in the state they land. These measures are consistent with the recommendations of the Council and the Commission. Additional information on the development of these measures is provided in the proposed rule and not repeated here.

Conservation equivalency, as established by Framework Adjustment 2 (66 FR 36208; July 11, 2001), allows each state to establish its own recreational management measures (possession limits, fish size, and fishing seasons) to achieve its state harvest limit established by the Commission from the coastwide recreational harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as Federal coastwide measures. Framework Adjustment 6 (71 FR 42315; July 26, 2006) allows states to form regions for conservation equivalency in order to minimize differences in regulations for anglers fishing in adjacent waters.

Similar to the 2016–2020 program, the 2021 management program adopted by the Commission divides the recreational fishery into six management regions: (1) Massachusetts; (2) Rhode Island; (3) Connecticut-New York; (4) New Jersey; (5) Delaware-Virginia; and (6) North Carolina. Each state within a region must implement identical or equivalent measures (fish size, bag limit, and fishing season length), and the combination of those measures must be sufficient to achieve, but not exceed, the recreational harvest limit.

Based on the Commission's recommendation, we find that the 2021 recreational fishing measures required to be implemented in state waters are, collectively, the conservation equivalent of the season, fish size, and possession limit prescribed in 50 CFR 648.104(b), 648.105, and 648.106(a). According to § 648.107(a)(1), vessels subject to the recreational fishing measures are not subject to Federal measures, and instead are subject to the recreational fishing measures implemented by the state in