

A federalism summary impact statement is not required. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the proposed rule does not have substantial direct effects either on the States, or on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government. As noted above, the proposed decision here would remove areas from designation.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Further, in this document, we are proposing only exclusions from the northern spotted owl's critical habitat designation; we are not proposing to designate additional lands as critical habitat for the species.

#### *Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed revising designated critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the December 4, 2012, final rule (77 FR 71876) identifies the elements of physical or biological features essential to the conservation of the species, and we are not proposing any changes to those elements in this document. The areas we are proposing for exclusion from the designated critical habitat are described in this document and the maps and coordinates or plot points or both of the subject areas are included in the administrative record and are available at <http://www.fws.gov/oregonfwo> and at <http://www.regulations.gov> under Docket No. FWS-R1-ES-2020-0050.

#### *Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit (see *Catron City Bd. of Comm'rs, New Mexico v. U.S. Fish & Wildlife Serv.*, 75 F.3d 1429 (10th Cir. 1996)), we do not need to prepare environmental analyses pursuant to NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit in *Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995).

#### *Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems and that Indian land occurs within the areas designated as critical habitat for the northern spotted owl. We will continue to work with Tribal entities during the development of a final rule for the revised designation of critical habitat for the northern spotted owl.

#### References Cited

A complete list of references cited in this rulemaking is available on the internet at <http://www.regulations.gov>

and upon request from the Oregon Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

#### Authors

The primary authors of this proposed rule are the staff members of the Oregon Fish and Wildlife Office.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### Authority

This action is authorized under 16 U.S.C. 1531–1544.

#### Martha Williams,

*Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 210510–0103]

RIN 0648–BI08

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries Management; Extension of Comment Period

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On May 21, 2021, NMFS published the proposed rule for Draft Amendment 13 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) to modify management measures applicable to the incidental and directed bluefin fisheries. In the proposed rule, NMFS announced a 60-day comment period ending on July 20, 2021. During a public webinar, the Blue Water Fishermen's Association requested that NMFS extend the comment period to provide additional opportunities for the public and other interested parties to consider and comment on the proposed measures and related analyses. NMFS is extending the comment period for this action until September 20, 2021. NMFS will consider comments received on the proposed rule in determining whether

and how to implement final management measures.

**DATES:** The comment period for the proposed rule published May 21, 2021, at 86 FR 27686, is extended. Comments should be received on or before September 20, 2021.

**ADDRESSES:** You may submit comments on the proposed rule, as published on May 21, 2021 (86 FR 27686), identified by “NOAA–NMFS–2019–0042,” by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov/docket/NOAA-NMFS-2019-0042>, click the “Comment” icon, complete the required fields, and enter or attach your comments. Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may also be submitted via [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.”

Copies of the supporting documents—including the draft environmental impact statement (DEIS), Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), the Three-Year Review of the IBQ Program, and the 2006 Consolidated HMS FMP and amendments are available from the

HMS website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Tom Warren ([Thomas.Warren@noaa.gov](mailto:Thomas.Warren@noaa.gov)).

**FOR FURTHER INFORMATION CONTACT:** Tom Warren—(978) 281–9260 ([Thomas.Warren@noaa.gov](mailto:Thomas.Warren@noaa.gov)) or Karyl Brewster-Geisz—(301) 427–8503 ([Karyl.Brewster-Geisz@noaa.gov](mailto:Karyl.Brewster-Geisz@noaa.gov)).

**SUPPLEMENTARY INFORMATION:** The Atlantic bluefin tuna fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635. A brief summary of the background of this proposed rule is provided below. Additional information regarding bluefin tuna management can be found in the proposed rule (86 FR 27686; May 21, 2021), the DEIS accompanying the proposed rule, the 2006 Consolidated HMS FMP and its amendments, the annual HMS Stock Assessment and Fishery Evaluation (SAFE) Reports, and online at: <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>.

On May 21, 2021 (86 FR 27686), NMFS published Draft Amendment 13 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), proposing to modify management measures applicable to the incidental and directed bluefin fisheries. As described in the proposed rule, the measures would make several changes to the Individual Bluefin Quota (IBQ) Program in the pelagic longline fishery for Atlantic HMS. Proposed changes included the distribution of IBQ shares only to active vessels, implementation of a cap on IBQ shares that may be held by an entity, and implementation of a cost recovery program. The proposed measures would also make changes to directed bluefin fisheries by discontinuing the Purse Seine category and reallocating that bluefin quota to other directed quota categories; capping Harpoon category

daily bluefin landings; modifying the recreational trophy bluefin areas and subquotas; modifying regulations regarding electronic monitoring of the pelagic longline fishery as well as greenstick use; and modifying the regulation regarding permit category changes.

Blue Water Fishermen’s Association requested the comment period be extended at the July 8, 2021, public webinar. In their request they noted that the HMS Advisory Panel had insufficient time to review the DEIS between its release on May 21, 2021, and the Spring HMS Advisory Panel meeting on May 25 through 27, 2021. They were also concerned that NMFS’ presentation to the HMS Advisory Panel did not include all of the alternatives analyzed in the DEIS and that there was insufficient time during the meeting to fully discuss the proposed measures, the alternatives, and their impacts. After considering the request and in light of similar comments the Spring HMS Advisory Panel meeting, NMFS has determined that it is reasonable to extend the comment period to enable the HMS Advisory Panel to further discuss Amendment 13 at its Fall 2021 meeting in September and to allow additional opportunities for public comment. Therefore, NMFS is extending the comment period until September 20, 2021. This revised comment period allows time for HMS Advisory Panel members, the regulated community, and the general public to further consider the rulemaking documents, and the analyses, data, and conclusions relevant to the proposed management measures in them, and to provide comments to NMFS. NMFS will consider these comments in determining which final management measures to implement.

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

Dated: July 13, 2021.

**Samuel D. Rauch, III,**  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

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