



# NOAA FISHERIES

## Atlantic Highly Migratory Species

# NMFS Announces the Final Rule for Amendment 7 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan

**December 1, 2014**

The National Marine Fisheries Service (NMFS) announces the final rule to implement Amendment 7 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). This action is necessary to meet domestic management objectives of the Magnuson-Stevens Fishery Conservation and Management Act including preventing overfishing, achieving optimal yield, and minimizing bycatch to the extent practicable, as well as the objectives of the Atlantic Tunas Convention Act (ATCA) and obligations pursuant to binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). NMFS takes these actions to reduce and account for bluefin dead discards in all categories; optimize fishing opportunities in all categories within the United States' quota; enhance reporting and monitoring; and adjust other management measures as necessary.

**Most of the management measures in the final rule will take effect January 1, 2015, while some measures will take effect on either June 1, 2015, or January 1, 2016. Please see Important Dates section below.**

### Who is affected?

The final rule to implement Amendment 7 will affect:

- Any commercial fishermen using pelagic longline gear, handgear, or purse seine gear to catch Atlantic bluefin tuna or northern albacore.
- Any recreational fishermen using handgear to catch Atlantic bluefin tuna or northern albacore.
- Any dealers who trade Atlantic bluefin tuna or northern albacore.

### What will it do?

The final rule, which will publish in the Federal Register on December 2, 2014, and related documents, including the Final Environmental Impact Statement (FEIS) may be found at <http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am7/index.html>.

The management measures implemented by this final rule (which were analyzed in the Amendment 7 FEIS) and the quota categories to which the management measures apply are listed in the table below. The final measures are expected to meet the main objectives of Amendment 7, i.e., they would prevent overfishing and rebuild Atlantic bluefin tuna; continue to achieve optimal yield for HMS fisheries; minimize bluefin bycatch to the extent practicable; reduce and account for bluefin dead discards in all categories; enhance reporting and monitoring; and adjust other management measures as necessary. The table also notes changes between the

proposed and final measures. After considering public comments on the proposed rule, NMFS revised or modified some of the preferred measures in the FEIS as follows:

- The proposed measure that would have allowed pelagic longline vessels to fish under General category rules in the Cape Hatteras Gear Restricted Area (Alternative B 1d in DEIS) is not being implemented;
- The proposed measure that would have allowed limited conditional access to the current pelagic longline closed areas (Alternative B 3b in DEIS) is not being implemented;
- The two proposed pelagic longline gear restricted areas were modified based on public comment and additional analyses (Figure 1 and Figure 2); and
- The proposed Individual Bluefin Quota program (Alternative C 2) was also slightly modified based on public comment and additional analyses.

After considering public comments on the FEIS, NMFS modified the Purse Seine start date from June 1 to a range from June 1 to August 15; NMFS will publish a Federal Register notice with the start date on an annual basis.

	<b>Final Management Measures</b>	<b>Regulated Quota Category</b>
<b>Quota Allocation</b>		
Codified Reallocation	<i>Alternative A 2a - Reallocation to Longline Category Based on Historical 68-mt Dead Discard Allowance</i>	Longline, Purse Seine, General, Harpoon, Angling
Annual Reallocation	<i>Alternative A 3a - Annual Reallocation of Bluefin Quota from Purse Seine Category</i>	Longline, Purse Seine, General, Harpoon, Angling
Reserve Category	<i>Alternative A 4b - Modify Reserve Category</i>	Longline, Purse Seine, General, Harpoon, Angling
<b>Area Based Measures</b>		
Gear Restricted Areas	<i>Alternative B 1d – Modified Cape Hatteras Pelagic Longline Gear Restricted Area with Access based on Performance (Figure 1)</i>  <i>Alternative B 1i – Modified Spring Gulf of Mexico Pelagic Longline Gear Restricted Areas (Figure 2)</i>  <i>Alternative B 1j – Pelagic and Bottom Longline Transiting Closed Areas</i>	Longline
<p><b><i>Reason for Changes:</i></b>            After considering public comment and conducting further analysis (including incorporation of 2012 data, where available), NMFS is implementing a Modified Cape Hatteras Pelagic Longline Gear Restricted Area (Figure 1), which is the same as the area in the proposed rule but excludes a small portion of the southeastern corner. NMFS is also implementing Modified Spring Gulf of Mexico Pelagic Longline Gear Restricted Areas (Figure 2) based on modifications to the Small Gulf of Mexico Gear Restricted Area in the proposed rule. This will slightly extend the proposed Small Gulf of Mexico Gear Restricted Area to the east but reduce it in size on the western and northern borders, and will add a small area adjacent to the southern border of the Desoto Canyon Closed Area’s northwestern “block.” These areas would achieve a greater reduction in bluefin tuna dead discards than the proposed area, and would better achieve a balance between a reduction in bluefin dead discards, protection of the bluefin tuna stock, and continued operation of the pelagic longline fleet in the Gulf of Mexico.</p>		

	<b>Final Management Measures</b>	<b>Regulated Quota Category</b>
Gear Measures	<i>Alternative B 2a - No Action</i>	Longline
<b>Bluefin Tuna Quota Controls</b>		
Individual Bluefin Quotas (IBQ)	<i>Alternative C 2 - Individual Bluefin Quotas Alternative C 2i – Cost Recovery Alternative C 2j - Appeals of Quota Shares Alternative C 2k – Control Date Alternative C 2l - Measures Associated with an IBQ – Elimination of Target Catch Requirements, Mandatory Retention of Legal-Size Bluefin</i>	Longline
<p><b>Reason for Change to Individual Bluefin Quota Eligibility:</b>            NMFS has incorporated 2012 data and clarified on that “valid permits” are those determined to be valid as of the date of the proposed rule (August 21, 2013). After the proposed rule was published, NMFS notified potential IBQ participants who met both criteria of their initial eligibility. As part of this process, NMFS analyzed records and determined that 35 of the vessels were no longer eligible for IBQ shares for various reasons, including, for example, that the vessels had been damaged or destroyed or other situations whereby the permit owners no longer own the vessel that acquired history in the fishery. Permit holders for vessels that did not meet these criteria were also notified by letter. The rationale for this is to select eligibility criteria that accurately and fairly reflect participation in the fishery. Allocating only to “active” vessels would facilitate continued participation in the fishery by vessels that have made past investments in the fishery. Permitted vessels that do not meet the initial eligibility criteria necessary to receive bluefin quota share allocation would still be eligible to obtain quota through a trade of quota allocation.</p>		
NMFS Authority to Close the Pelagic Longline Fishery	<i>Alternative C 4b – NMFS Ability to Close the Pelagic Longline Fishery</i>	Longline
<b>Enhanced Reporting Measures</b>		
VMS Requirements	<i>Alternative D 1b – VMS Requirements for the Purse Seine and Longline Categories</i>	Longline, Purse Seine
Electronic Monitoring of Longline Category	<i>Alternative D 2b – Electronic Monitoring of Longline Category</i>	Longline
Online Catch Reporting	<i>Alternative D 3b - Online Catch Reporting</i>	General, Harpoon Charter/Headboat
Deployment of Observers	<i>Alternative D 4a - No Action</i>	Longline, Purse Seine, General, Harpoon, Angling, Charter/Headboat
Logbook Requirement	<i>Alternative D 5a - No Action</i>	General, Harpoon, Angling
Expand the Scope of the Large Pelagics Survey	<i>Alternative D 6a - No Action</i>	Angling
<b>Other Measures</b>		
Modify General Category Time-Period Subquota Allocations	<i>Alternative E 1c - Provide Additional Flexibility for General Category Quota Adjustment</i>	General

	<b>Final Management Measures</b>	<b>Regulated Quota Category</b>
NMFS Authority to Adjust Harpoon Category Retention Limits Inseason	<i>Alternative E 2b - NMFS Authority to Adjust Harpoon Category Retention Limits Inseason</i>	Harpoon
Angling Category Trophy Subquota Distribution	<i>Alternative E 3b - Allocate a Portion of the Trophy South Sub-Quota to the Gulf of Mexico</i>	Angling Charter/Headboat
Change Start Date of Purse Seine Category to a Range from June 1to August 15	<i>Alternative E 4b – Change Start Date of Purse Seine Category to a Range from June 1to August 15</i>	Purse Seine
Rules Regarding Permit Category Changes	<i>Alternative E 5b - Modify Rules Regarding Permit Category Changes</i>	Longline, Purse Seine, General, Harpoon, Angling, Charter/Headboat, Trap
North Atlantic Albacore Tuna Quota	<i>Alternative E 6b - Implement North Atlantic Albacore Tuna Quota</i>	Longline, Purse Seine, General, Harpoon, Angling, Charter/Headboat, Trap
<p><b><i>Reason for Change to Purse Seine Start Date:</i></b>  Comments received on the FEIS raised concerns beyond those received during the public comment period on the proposed rule about the impacts on Harpoon category revenues if the Purse Seine category start date coincided with the Harpoon category start date of June 1. The comments provided new feedback on the magnitude of the market gluts. In the final rule, the regulatory text has been modified to specify that the Purse Seine start date would fall within a range from June 1 to August 15 and that NMFS would publish a <u>Federal Register</u> notice establishing the start date on an annual basis</p>		

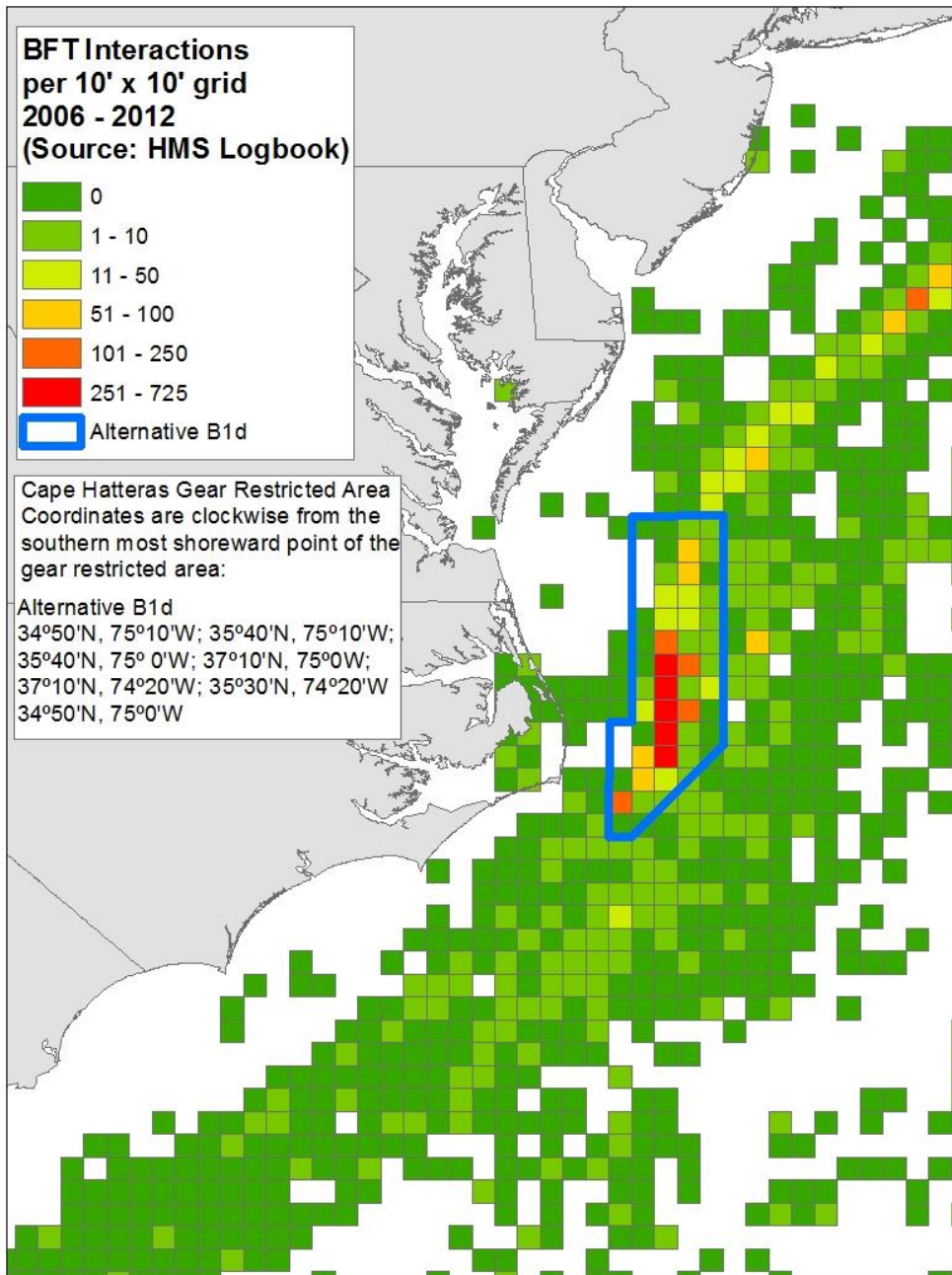


Figure 1 Modified Cape Hatteras Gear Restricted Area (Alternative B 1d)

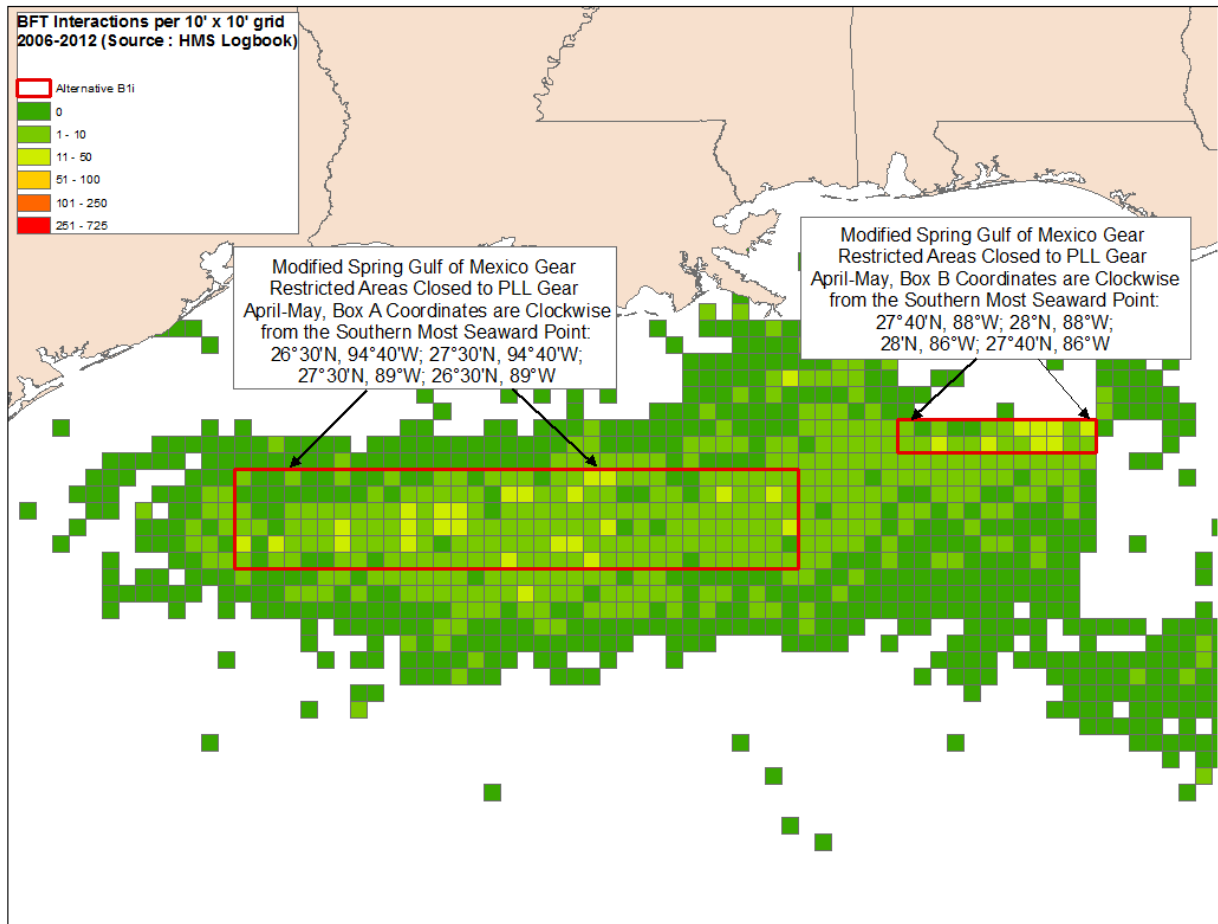


Figure 2 Modified Spring Gulf of Mexico Gear Restricted Areas (Alternative B 1i)

## Important dates

All measures included in the final rule for Amendment 7 will be effective on January 1, 2015, with two exceptions that reflect a change from the approach taken in the proposed rule and FEIS:

- The effective date for the electronic monitoring requirements (alternative D2b) is being delayed for an effective date of **June 1, 2015**, rather than the originally-proposed January 1, 2015. This delay responds to public comment, including HMS Advisory Panel input, requesting more time to implement certain Amendment 7 requirements and is intended to allow fishery participants and NMFS designated staff to coordinate system installations in an efficient manner while mitigating any impacts on regular fishing operations. Additionally, **NMFS has identified funds to pay for the equipment and its installation for all of the currently eligible vessels (135 vessels).** *Funding for future equipment and installations is uncertain.* This change responds to public comment and will ease the regulated community's burden associated with the new monitoring requirements.
- The requirement for a minimum IBQ allocation for a permit holder to depart on a fishing trip using pelagic longline gear (alternative C2) will be effective **January 1, 2016**, rather than the originally-proposed January 1, 2015. This delay responds to public comment, including HMS Advisory Panel input, requesting more time to implement certain Amendment 7 requirements. The later effective date will provide flexibility for IBQ

participants to adapt their fishing practices by allowing some accrual of quota debt beyond the trip level in the initial year, **while still requiring annual accountability for that quota debt**, and provides time for permitted vessel owners or operators to become familiar with the new IBQ, VMS, and electronic monitoring systems and requirements.

**Permit holders will receive letters containing permit category-specific relevant information and specific instructions regarding compliance with the final regulations.**

This notice is a courtesy to Atlantic HMS fishery participants to help keep you informed about the fisheries. Official notice of Federal fishery actions is made through filing such notice with the Office of the Federal Register. For further information on this final rule and FEIS, contact Thomas Warren at (978) 281-9260. Copies of the final rule and supporting documents are available upon request from the HMS Management Division at (978) 281-9260. The information is also available at <http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am7/index.html>.