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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 170823804-7999-02]

RIN 0648-BH17

Atlantic Highly Migratory Species; Individual Bluefin Quota Program; Accountability for Bluefin Tuna Catch

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

ACTION: Final rule.

SUMMARY: NMFS modifies the Atlantic highly migratory species (HMS) regulations to require vessels in the pelagic longline fishery to account for bycatch of bluefin tuna (bluefin) using Individual Bluefin Quota (IBQ) on a quarterly basis instead of on a trip-level basis. Previously, vessel owners had to account for quota debt or IBQ balances less than the minimum required before commencing any fishing trip with pelagic longline gear. With this rulemaking, vessels may fish during a given calendar quarter if they have an IBQ balance below the minimum amount required to depart on a fishing trip or with quota debt incurred by exceeding their IBQ balance; however, vessels are required to reconcile quota debt and satisfy the minimum IBQ requirement prior to departing on their first pelagic longline fishing trip in each calendar quarter. The action optimizes fishing opportunity in the directed pelagic longline fishery for target species such as tuna and swordfish and improves the functionality of the IBQ Program and its accounting

provisions, consistent with the objectives of Amendment 7 to the 2006 Consolidated HMS Fishery Management Plan (FMP).

DATES: Effective on January 27, 2018.

ADDRESSES: Supporting documents, including the Regulatory Impact Review and Final Regulatory Flexibility Analysis, may be downloaded from the HMS website at *www.nmfs.noaa.gov/sfa/hms/*.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, 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), and in accordance with implementing regulations. The current baseline U.S. BFT quota and subquotas were established and analyzed in the BFT quota final rule (80 FR 52198, August 28, 2015). 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.

Background

Bluefin tuna fishing is managed domestically through a quota system (on a calendar-year basis), in conjunction with other management measures including permitting, reporting, gear restrictions, minimum fish sizes, closed areas, trip limits, and catch shares. NMFS implements the ICCAT U.S. quota recommendation, and divides the quota among U.S. fishing categories (*i.e.*, the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories) and the Reserve category on an annual basis. Vessels fishing with pelagic longline gear, which catch bluefin incidentally while fishing for target species (primarily swordfish and yellowfin tuna), hold limited access Atlantic Tunas Longline permits and utilize Longline category quota. Through Amendment 7, NMFS established the IBQ Program, a catch share program that identified 136 permit holders as IBQ share recipients based on specified criteria, including historical target species landings and the bluefin catch-to-target species ratios from 2006 through 2012. The objectives of the IBQ Program include limiting the amount of BFT landings and dead discards in the pelagic longline fishery; providing strong incentives for the vessel owner and operator to avoid bluefin interactions and thus reduce bluefin dead discards; and balancing the objective of limiting bluefin landings and dead discards with the objective of optimizing fishing opportunities and maintaining profitability.

IBQ share recipients receive an annual allocation of the Longline category quota based on the percentage share they received through Amendment 7, but only if their permit is associated with a vessel in the subject year (*i.e.,* only "qualified IBQ share recipients" receive annual allocations). Through rulemaking, NMFS later modified the regulations to optimize quota transferred inseason by allowing NMFS to distribute inseason transfers of quota to all permitted Atlantic Tunas Longline vessels with recent fishing activity whether they have IBQ shares or not (81 FR 95903; December 29, 2016). Permit holders that did not receive IBQ shares through shares in Amendment 7 or allocation through inseason distribution of bluefin quota to active vessels under the later regulatory provision may still fish, but they are required to lease IBQ through the IBQ electronic system. Every vessel must individually account for its bluefin bycatch (landings and dead discards) with IBQ allocation through the IBQ electronic system.

Delayed effective dates for some of the regulations implemented through Amendment 7 assisted in the transition to measures adopted in Amendment 7, which substantially increased individual vessel accountability for bluefin bycatchin the Longline fishery. During 2015, the first year of implementation of the IBQ Program, a pelagic longline vessel that had insufficient IBQ to account for its landings and dead discards (*i.e.*, went into "quota debt") was allowed to continue to fish; however, any additional landings and dead discards continued to accrue, and the cumulative quota debt needed to be accounted for no later than December 31, 2015. A vessel that did not resolve its quota debt by December 31 would retain the quota debt into 2016, and its quota debt would be deducted from its annual IBQ allocation (allocated January 1 to shareholders associated with permitted vessels) or the vessel would be required to lease quota to resolve the outstanding quota balance before taking any trips with pelagic longline gear. As of January 1, 2016, a vessel fishing with pelagic longline gear onboard was required to have a minimum IBQ allocation to embark on a trip. A minimum allocation required to fish was 0.25 mt (551 lb) whole weight (ww) for each trip in the Gulf of Mexico and 0.125 mt ww (276 lb ww) for each trip in the Atlantic. Pelagic longline vessels could lease IBQ allocation from other such vessels or from Purse Seine fishery participants in the IBQ Program to obtain sufficient allocation for each trip and to account for quota debt where necessary. Pelagic longline vessel owners have been accounting for bluefin catch using the IBQ Program since its implementation and leasing quota among themselves (and from Purse Seine fishery participants) as needed to fully account for bluefin catch using IBQ. Notably, estimates of 2015 and 2016 dead discards of bluefin (17.1 mt and 22.6 mt, respectively) by the pelagic longline fishery indicate substantial reductions of greater than 85 percent compared to the pre-2015 levels (159.6 mt on average for 2006 through 2014). However, since implementation, pelagic longline fishery participants have consistently requested additional operational flexibility to address the costs and availability of leased IBQ, which they are concerned may affect the profitability of target species catch and causes uncertainty in a vessel owner's short-term and long-term plans. Vessel owners stated that their ability to account for bluefin using allocated IBQ or IBQ leased at an affordable price is key to the success of the IBQ Program. A vessel that has below the minimum amount of IBQ to fish or is in quota debt is uncertain about their ability to depart on a subsequent fishing trip. Specifically, vessels have been concerned that the IBQ Program, including the trip-level accountability requirements, could negatively impact vessel operations and finances given the timing restrictions, lease pricing of IBQ, the distribution of quota among permit holders as implemented by Amendment 7, and the behavior of some permit holders who, for example, do not appear to be actively fishing nor engaged in any leasing activities. They also say that the expense of leasing IBQ allocation when needed can impact other operational costs such as crew pay. If availability of IBQ is limited, or costs are prohibitive, the operational impacts increase. IBQ Program data generally reflect that, for leasing transactions that occurred, sales revenue received per pound approximated the cost per pound of leasing IBQ. However, IBQ Program participants (which include any permit holder or vessel that leases quota to facilitate pelagic longline operations) and potential lessees have communicated that there were instances where the cost at which lessors were willing to lease their IBQ was prohibitive and leasing did not occur, and this information would not be reflected in NMFS data. Furthermore, expanded opportunities to fish with pelagic longline gear within the available swordfish quota are contingent on access to additional quota to account for bluefin bycatch and discards. Longline fishery participants requested that NMFS take further steps to provide more flexibility regarding timing for vessel owners to lease IBQ needed to cover bluefin catchdue to the dynamics and costs associated with leasing IBQ described above, which can affect profitability of target species catch, increase uncertainty, and negatively affect the ability to plan their business. Such effects may be compounded by the impacts of other constraints associated with Amendment 7, including additional gear restricted areas and VMS and electronic monitoring requirements, as well as non-Amendment 7 related constraints (e.g., market demands etc.).

In light of these challenges facing the fishery, as well as the Amendment 7 objectives—which include "minimizing constraints on fishing for target species," as well as "optimizing fishing opportunities and maintaining profitability"—NMFS has utilized its authority to transfer quota inseason to the Longline category (80 FR 45098; July 29, 2015; 81 FR 19; January 4, 2106; 82 FR 12296; March 2, 2017) to foster conditions in which vessel owners become more willing to lease IBQ, optimize fishing opportunity, and reduce uncertainty in the fishery. NMFS modified the IBQ Program in 2017 (81 FR 95903, December 29, 2016) to provide additional flexibility regarding the distribution of inseason Atlantic bluefin tuna (BFT) quota transfers to the Longline category. That rulemaking provided NMFS the flexibility 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 those permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares.

During its May 2017 Advisory Panel Meeting, pelagic longline vessel owners acknowledged the effectiveness of NMFS' actions in support of the IBQ Program objectives, but reiterated the need for additional flexibility and offered suggestions for high priority regulatory changes to achieve such flexibility.

NMFS received requests, among other suggestions about the IBQ Program and management of the pelagic longline fishery, to allow more time for vessel owners to resolve quota debt and achieve a minimum balance of IBQ, rather than require vessels to have a minimum balance of IBQ as a prerequisite of every longline trip. In light of past fishery dynamics under the IBQ Program and public input regarding the need for additional flexibility, NMFS published a proposed rule on October 25, 2017 (82 FR 49303), that proposed modifying the accountability provisions of the IBQ Program to provide some additional flexibility for individual vessel owners, while achieving a balance among the IBQ Program objectives. Public comments on the proposed rule were accepted through November 24, 2017.

The pelagic longline fishery is a diverse fishing fleet, with a variety of vessel sizes and types of operations distributed from the waters off Nova Scotia to the Gulf of

Mexico, Caribbean, and South America. Timing of fishing trips are typically based on the availability of target species, weather, moon phase, markets, crew and bait availability, and other factors. Quarterly accountability may achieve a better balance between minimizing constraints on fishing for target species and ensuring accountability for incidental bluefin catch, due to the fact that it allows a vessel owner to determine the timing of lease transactions or level of quota debt they are comfortable maintaining over a longer period. Alleviation of the timing constraint associated with trip-level accountability would provide additional flexibility. A vessel owner may need flexibility to pay costs associated with fishing (fuel, bait, ice, labor, repairs, etc.), including the cost of leasing IBQ, on a timeline unique to their operation and finances. The opportunity to fish with a low IBQ balance or with quota debt may enable a vessel owner to continue to obtain revenue during the time period when they are looking for quota to lease and accommodate different types of fishing operations and financial obligations. Quarterly accountability requires vessel owners to resolve quota debt and obtain the minimum amount of IBQ prior to fishing for the first time in a subsequent calendar quarter.

Response to Comments

NMFS received nine written comments on the proposed rule during the comment period. Five commenters expressed support for the rule as proposed; one expressed qualified support; two commenters did not support the proposed changes; and one commenter did not address topics included in the proposed rule. All written comments can be found at *http://www.regulations.gov/*. The comments are summarized below by topic together with NMFS' responses.

Comment 1: Two commenters noted the IBQ system was implemented without an established trading system in place and that vessels have had difficulty finding quota to lease in a diverse, widely dispersed fishery. Three commenters stated that under quarterly accountability, lessors and lessees, as well as NMFS, will develop a better understanding of the IBQ market. One commenter stated that participants in the IBQ market would have a better understanding of the market value of available IBQ with quarterly accountability.

Response: NMFS agrees that upon inception of the IBQ program (January 2015), the leasing market for IBQ was not yet established, there was not yet an operative understanding of the dynamics and pricing of IBQ in the Atlantic bluefin tuna fishery, and some vessels reported having a difficult time finding IBQ to lease and/or leasing IBQ at an affordable price. When implementing Amendment 7, NMFS acknowledged that the novelty of the IBQ system (as well as other Amendment 7 requirements) could create uncertainty in the fishery, and therefore delayed implementation of trip-level accountability during the first year of the IBQ Program, instead requiring annual accountability during 2015. During 2016 and 2017, both the pelagic longline fishery and NMFS gained a better understanding of the IBQ market. NMFS anticipates that understanding of the IBQ market will continue to improve with time and agrees with the commenters that such understanding will be augmented by quarterly accountability.

Comment 2: The five commenters that fully supported the proposed measures anticipated improvements to the IBQ leasing market, including aspects of the cost and logistics of leasing. Regarding costs and logistics, five commenters noted the importance of quarterly accountability in providing additional time to lease IBQ and that quarterly accountability would allow more time to obtain IBQ when prices are low. One commenter stated that leasing is highly compromised when a lessee is bidding for IBQ on short notice, even if the lessee knows a vessel owner from whom to lease quota, stating that bids under time pressure favor lessors, in terms of price. Under quarterly accountability, the commenter stated, leasing prices would be more reasonable, and reflect the "ample supply" of IBQ, instead of the lease pricing being "inflated and unreasonable." One commenter stated that lessors tend to have different levels of participation in the fishery, or less of a need for IBQ than lessees, which tends to provide an advantage to the lessor under trip-level accountability (that may be reduced under quarterly accountability). For example, the commenter stated that lessors may not be actively fishing in the pelagic longline fishery or, if fishing, may be fishing in locations and times where they do not expect to catch bluefin. One commenter stated that quarterly accountability would be beneficial because it can be difficult to contact people when searching for available IBQ to lease, and even after negotiation, the lessor may not have access to the online system in a timely manner. The commenter stated that the time constraint of trip-level accountability is particularly difficult for vessel operators who are looking for IBQ to lease in a short window of time between two fishing trips. One commenter stated that quarterly accountability would enhance the ability for vessel owners to plan their businesses.

Response: NMFS agrees that quarterly accountability will improve the IBQ market by providing lessees more time to shop for IBQ and lease at reasonable prices, which more accurately reflect supply. NMFS agrees that the flexibility associated with quarterly accountability will help facilitate successive fishing trips consistent with typical longline vessel practice (i.e., without extended wait time between trips), reduce uncertainty in planning, and provide more time to conduct the logistics associated with IBQ leasing.

Comment 3: Several commenters stated that quarterly accountability would improve the IBQ market at the end of the year because IBQ would be leased as needed rather than on a speculative basis and would increase the availability of IBQ for lease to those that need it during the end of the year time period. One commenter stated that the perceived need to “hoard” IBQ by vessels would be reduced. Furthermore, the commenter stated, under quarterly accountability (and removal of the minimum amount of IBQ to fish), vessels would not lose the value of IBQ during the latter part of the year by maintaining the minimum amount of quota, whether or not they anticipate needing the quota to account for bluefin catch.

Response: NMFS agrees that quarterly accountability may improve the end-of-the year IBQ market. At the end of a year, if a vessel has quota debt remaining at, the quota debt will carry forward to the subsequent year, whereas available IBQ balance does not carry forward. This creates increased incentives to resolve quota debt immediately at a time when there may not be as much quota in the IBQ market. Under trip-level accounatability, a vessel that is fishing during December in the Atlantic may not be willing to lease to another vessel due to the minimum quota requirement (276 lb) and the desire to retain some quota in case the vessel encounters a bluefin tuna. This final rule removes the minimum quota requirement after the first trip of the quarter, thus vessel owners may be willing to lease more at year’s end without concern about interfering with their ability to fish during that quarter.

Comment 4: The five commenters that fully supported the proposed measures anticipated ancillary benefits from quarterly accountability that are less directly related to IBQ leasing per se, but that are related to flexibility in their fishing operations, resulting in benefits to the fishery as a whole. One commenter stated that U.S. pelagic longline operators would have peace of mind as they leave the dock fishing for target species, due to the flexibility associated with quarterly accountability. Another commenter stated that, under quarterly accountability, captains would be able to fish more confidently in search of target species without fear of immediate shutdown because of interactions with BFT that went beyond their available IBQ balance at the time. One commenter stated that trip-level accountability was burdensome to vessels and hurt their ability to get back on the water if they were unfortunate and had an interaction with bluefin and that active vessels will gain additional economic and operational flexibility because they will no longer have to 'stockpile' IBQ. One commenter stated that the flexibility affects operations in multiple ways that have the net effect of more effectively fishing for target species and that quarterly accountability would reduce the chances the pelagic longline vessels would be tied to the dock while attempting to acquire IBQ, especially for those vessels that received little or no IBQ shares under Amendment 7. Several commenters stated the fishery would have a better opportunity to fully utilize U.S. ICCAT quotas for target species such as swordfish. One commenter noted that the proposed measure would add revenue to help the "dwindling" American fleet, as well as reduce the U.S. seafood trade deficit.

Response: NMFS agrees that the additional flexibility for fishing operations resulting from quarterly accountability would result in social benefits for the portion of the fleet that is constrained by quota debt or low IBQ balances. The social benefits include a decrease in some vessel owner/operator stress and uncertainty in addition to economic benefits described below and under Responses to Comments 3 and 4. NMFS agrees that quarterly accountability will reduce the chances that vessels with quota debt or low IBQ balance will not be able to depart on fishing trips and to earn fishing revenue due to a lack of IBQ, will support increased revenue for some of the pelagic longline fleet and contribute towards full utilization of the U.S. ICCAT quotas for target species, and may contribute to the reduction of the U.S. seafood trade deficit.

Comment 5: One commenter supported providing additional flexibility to the pelagic longline fishery through quarterly accountability because they were encouraged by the results of the IBQ program, specifically by the reduction in dead discards by the pelagic longline fishery during 2015 and 2016 (compared to 2014, prior to the implementation of Amendment 7). The commenter stated that the dead discard data suggests the IBQ Program is achieving the goals of limiting dead discards and providing strong incentives to avoid bluefin interactions. The commenter stated that in order to be fully successful, the IBQ Program must also balance those objectives with the objective of optimizing fishing opportunities and maintaining profitability. Another commenter acknowledged the success of the IBQ Program to date, but was concerned that quarterly accountability would undermine its success.

Response: NMFS agrees that based on available information to date, the IBQ Program has reduced the amount of dead discards in the pelagic longline fishery, and appears to be meeting the objectives of the IBQ Program. A full evaluation of the IBQ Program during its first 3 years of operation (2015 through 2017) will occur during the 3-

year review, completion of which is anticipated in 2019. The 3-year review will evaluate all the objectives of the IBQ Program, including limiting bluefin tuna interactions, reducing bluefin dead discards, optimizing fishing opportunities, and maintaining profitability. The response to the commenter's concerns about undermining the success of the IBQ Program is addressed in the response to Comment 6.

Comment 6: One commenter did not support quarterly accountability, stating that it would encourage a "debt mindset" in which vessel operators fish more in the present with only the hope of future leasing to 'pay for' the bluefin catch, that a quarter is too long before requiring full accounting, and that they were concerned about a lack of IBQ to account for the bluefin caught by all pelagic longline fishers. The commenter was concerned about weakening the IBQ restrictions and undermining the past success of the IBQ program in minimizing bluefin bycatch and reducing dead discards, while minimizing reductions in target catch. Specifically the commenter was concerned that quarterly accountability could result in exceeding the overall pelagic longline quota at the end of the calendar year, especially with the occurrence of a 'disaster set'. The commenter also stated that the proposed change to the IBQ regulations is premature, in light of the upcoming formal review of the IBQ Program ("3-year review") by NMFS, as well as the fact that NMFS already made a modification to the IBQ to increase flexibility (81 FR 95903, December 29, 2016). The commenter stated that multiple changes to the IBQ Program prior to the 3-year review will make it difficult to evaluate the IBQ Program, and that any changes to the IBQ Program should only occur after the 3-year review.

Response: NMFS disagrees with the conclusions of the commenters that quarterly accountability will increase the potential for bluefin catch (landings and dead discards) to exceed the pelagic longline quota and the concern that the measures will undermine the success of the IBQ Program to date. Although quarterly accountability will modify the timing of IBQ accountability, full accountability for bluefin tuna catch will be maintained and will not affect the overall limits set on bluefin tuna catch through quotas and other measures. The regulatory change is relatively minor with respect to the full scope of Amendment 7 regulations associated with the IBQ Program, affecting only the timing of full accountability. Quarterly accountability will require vessel owners to resolve quota debt and obtain the minimum amount of IBQ prior to fishing for the first time in a calendar year quarter. NMFS believes that vessel owners will not forget that they must fully account for bluefin tuna retained or discarded dead, even if on a quarterly basis. Quarterly accountability will not result in a generalized “quota debt mindset,” but will provide vessel owners some additional flexibility to carry an amount of quota debt commensurate with their unique business operations. Vessel owners will have more flexibility in their fishing operations, but no less incentive to avoid bluefin, given that all bluefin must be accounted for using IBQ, IBQ is allocated to vessels in limited amounts, and leasing additional IBQ comes at a price. It should be noted the amount of bluefin retained or discarded dead will continue to be tracked on a trip-level basis and the appropriate balance of IBQ (either a positive balance or negative balance/’quota debt’) will be maintained. At the end of a trip on which bluefin tuna are retained or discarded dead, a vessel’s IBQ balance will be reduced by the appropriate amount. If the trip catch exceeds the vessel's available quota, the vessel will incur quota debt.

Current landings and dead discard data do not support the commenter's concern that there will not be enough IBQ to account for all bluefin caught by the pelagic longline fleet. During 2015, the first year of the IBQ Program, there was annual accountability (i.e., vessels could fish in quota debt and there was no minimum amount of IBQ to fish, but quota debt accumulated during the full year). Trip-level accountability was not implemented until 2016. During 2015 and 2016, 35 percent and 50 percent (respectively) of the adjusted Longline Category quota was caught (not including the distinct Northeast Distant Area quota that has different IBQ accountability rules for the first 25 mt). In the unlikely event that the Longline Category quota were approached, NMFS has the authority under § 635.28(a)(3) to close the fishery when the Atlantic Tunas Longline category quota is reached, projected to be reached, or exceeded, or when there is high uncertainty regarding the estimated or documented levels of bluefin tuna catch. Lastly, the extensive vessel reporting and monitoring requirements applicable to vessels fishing with pelagic longline gear will remain in effect, including Vessel Monitoring Systems (satellite tracking) and Electronic Monitoring Systems (video cameras as associated equipment).

Additionally, NMFS has determined that the 3-year review will be able to effectively evaluate the IBQ Program including consideration of two minor regulatory changes to the program since its inception (this final rule, and previous rule regarding the distribution of inseason quota transfers to the Longline category; 81 FR 95903, December 29, 2016). The pelagic longline fishery is a highly diverse and dynamic fishery, and NMFS believes it is important to incorporate operational flexibility into management of the fishery where possible. Analyzing the pelagic longline fishery under varying conditions may in fact enhance NMFS' ability to understand and evaluate the IBQ Program.

Quarterly accountability will achieve a better balance between minimizing some operational constraints on fishing for target species and ensuring accountability for incidental bluefin catch by allowing a vessel owner more flexibility to determine the timing of lease transactions or level of quota debt they are comfortable maintaining over a longer period. Alleviation of the timing constraint associated with trip-level accountability will provide additional flexibility. A vessel owner may need flexibility to pay costs associated with fishing (fuel, bait, ice, labor, repairs, etc.), including the cost of leasing IBQ, on a timeline unique to their operation and finances. The opportunity to fish with a low IBQ balance or with quota debt may enable a vessel owner to continue to obtain revenue during the time period when they are looking for quota to lease and accommodate different types of fishing operations and financial obligations.

Comment 7: One commenter was unsure of the intent of the proposed measures with respect to the balance of impacts on the operation of the fishery and the impacts on bluefin bycatch. Specifically, the commenter supported quarterly accountability, provided the primary intent is to address the economic objectives of the 2006 Consolidated HMS FMP. If the intent of the action is also to further reduce bycatch of bluefin, the commenter did not think quarterly accountability would achieve that objective.

Response: This action, as an adjustment to Amendment 7, is consistent with all of the objectives in Amendment 7 and with all 10 national standards of the Magnuson-Stevens Act. This final rule is not anticipated to impact the overall level of bluefin bycatch by the pelagic longline fishery or the overall level of accountability, which is managed through the IBQ Program consistent with Amendment 7.

Changes from the Proposed Rule

Changes to regulatory text from those in the proposed rule were made to correct cross-references that were incorrect at the proposed rule stage and to improve clarity of the proposed regulations. The proposed regulatory text at § 635.15(b)(3)(i) specified that a vessel owner or operator must have “the relevant required minimum IBQ allocation for the region in which the fishing activity will occur.” This same language was added to § 635.15(b)(3)(ii) and (b)(5)(i) to improve clarity. Incorrect cross-references in § 635.15(b)(5)(i) and (ii) were corrected to refer to § 635.15(b)(9) rather than § 635.15(f).

Classification

The NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NOAA Administrative Order (NAO) 216-6A. This action may appropriately be categorically excluded from the requirement to prepare either an environmental assessment or environmental impact statement in accordance with CE A1 of the Companion Manual for NAO 216-6A for an action that is a technical correction or a change to a fishery management action or regulation, which does not result in a substantial change in any of the following: fishing location, timing, effort, authorized gear types, access to fishery resources or harvest levels. By somewhat altering the timing of the accounting for bluefin tuna by individual pelagic longline vessels, the changes in this action could also be expected to alter some fishing timing, and this is the intent of the additional flexibility offered by this action. NMFS expects this to result in some minor alterations in fishing trip timing by individual vessel owners. Timing would not, however, be altered in a way that would constitute a substantial change. In practice, this action provides some individual vessels flexibility to alter the timing of some of their fishing trips within a three-month period. Given the size of the fleet and the number of fishing trips taken, such minor variations in individual fishing trips will not result in substantial changes to fishing timing overall. Moreover, the level of fishing remains capped by the U.S. bluefin tuna quota; the timing of the fishing is substantively managed by the various subquota categories, inseason actions (e.g., regarding retention limits), and seasons. Minor modifications in individual vessel practice related to the timing of certain trips will not increase or decrease the quota nor the fishing mortality associated with that quota or have any other environmental effects. The annual U.S. bluefin tuna quota and subquota allocations to the Longline category will not be affected by this action.

NMFS has prepared a Regulatory Impact Review (RIR) and a Final Regulatory Flexibility Analysis (FRFA), which present and analyze anticipated social and economic impacts of the alternatives contained in this final rule. The list of alternatives and their analyses are provided in the RIR and are not repeated here in their entirety. A copy of the RIR prepared for this final rule is available from NMFS (see **ADDRESSES**).

A FRFA was prepared, as required by section 604 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 604 *et seq.*), and is included below. The FRFA describes the economic impact this rule will have on small entities. A description of the action, why it is being implemented, and the legal basis for this action are contained in the **SUMMARY** section of the preamble.

The goal of the RFA is to minimize the economic burden of federal regulations on small entities. To that end, the RFA directs federal agencies to assess whether the regulation is likely to result in significant economic impacts to a substantial number of small entities, and identify and analyze any significant alternatives to the rule that accomplish the objectives of applicable statutes and minimizes any significant effects on small entities.

Statement of the Need for and Objectives of this Final Rule

In compliance with section 604(b)(1) of the RFA, this action is needed is to provide some additional flexibility regarding the timing of accounting for bluefin tuna catch with the IBQ Program in a manner that maintains accountability for bluefin tuna bycatch and a strong incentive for pelagic longline vessels to avoid interactions with bluefin tuna, while minimizing constraints on fishing for target species and, to the greatest extent possible, the socioeconomic impacts on affected fisheries.

Current regulations require permitted Atlantic Tunas Longline vessels to possess a minimum amount of IBQ to depart on a fishing trip with pelagic longline gear and account for bluefin tuna catch (fish retained or discarded dead) using IBQ (0.25 mt for a trip in the Gulf of Mexico and 0.125 mt for a trip in the Atlantic). At the end of a trip on which bluefin tuna are caught, a vessel’s IBQ balance is reduced by the amount caught.

If the trip catch exceeds the vessel's available quota, the vessel will incur quota debt (i.e., exceeding its available IBQ balance). In this case, the regulations required the vessel to obtain additional IBQ through leasing to resolve that quota debt and to acquire the minimum IBQ amount before departing on a subsequent trip using pelagic longline gear. Thus, a pelagic longline vessel owner who took consecutive trips had to account for bluefin tuna catch in almost real time, effectively creating a system of “trip-level accountability” for those vessels.

This action modifies these rules to require vessels to resolve quota debt on a quarterly basis (i.e., they must balance the debt and obtain the minimum amount required to depart on a fishing trip before going on a trip in the next quarter). Vessels will be allowed to fish with a low IBQ balance or with quota debt during a calendar quarter. Vessels will still be required to report bluefin tuna catch at the end of each trip (and account for it with IBQ), but this regulatory change would provide the flexibility to fish even if the vessel has less than the minimum amount of IBQ, including quota debt, until the first fishing trip in each calendar quarter. For example, under the new measure, after the initial trip, if a vessel has a low balance or quota debt in January 2018, the vessel will be allowed to fish without first resolving that low balance or quota debt through March 31, 2018. In order to depart on a pelagic longline fishing trip in the following quarter, starting April 1, 2018, that vessel will need to lease additional IBQ resolve the quota debt and acquire the minimum amount of IBQ required to fish.

The rule will provide flexibility for two important operational business decisions made by vessel owners: decisions regarding quota balance and quota debt (subject to full accounting quarterly) and decisions regarding the timing and price at which they lease additional quota. Importantly, this regulatory change will maintain vessel accountability for bluefin tuna catch and the associated incentives for vessel operators to minimize catch of bluefin tuna. By changing the timing of the accountability, however, the proposed rule will provide some additional flexibility in vessel operations and thus provide vessel owners more of a reasonable opportunity to catch available quota for target species (i.e., swordfish and yellowfin tuna).

A Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Rule as a Result of Such Comments

In compliance with section 604(a)(2) of the RFA, NMFS reviewed the public comments in response to the proposed rule and the Initial Regulatory Flexibility Analysis (IRFA). While NFMS received several comments regarding the proposed rule, none of those comments was specific to the IRFA. In addition, no comments were received by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule. The Agency did not make any changes as a result of comments.

Description and Estimate of the Number of Small Entities to Which the Final Rule Will Apply

Section 604(b)(4) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule will apply. The SBA has established size criteria for all major industry sectors in the United States, including fish harvesters. Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with the SBA Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the Federal Register, which NMFS did on December 29, 2015 (80 FR 81194, December 29, 2015).

In this final rule effective on July 1, 2016, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS Atlantic Tunas Longline permit holders (280 as of October 2016) to be small entities because these vessels have reported annual gross receipts of less than $11 million for commercial fishing. The average annual gross revenue per active pelagic longline vessel was estimated to be $187,000 based on the 170 active vessels between 2006 and 2012 that produced an estimated $31.8 million in revenue annually. The maximum annual revenue for any pelagic longline vessel between 2006 and 2015 was $1.9 million, well below the NMFS small business size threshold of $11 million in gross receipts for commercial fishing. Therefore, NMFS considers all Atlantic Tunas Longline permit holders to be small entities.

NMFS has determined that this rule will apply to the small businesses associated with the 136 Atlantic Tunas Longline permits with IBQ shares and the additional permitted Atlantic Tunas Longline vessels that fish with quota leased through the IBQ Program. NMFS has determined that this action will not likely directly affect any small organizations or small government jurisdictions defined under the RFA.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities That Would Be Subject to the Requirements of the Report or Record

Section 604(a)(5) of the RFA requires agencies to describe any new reporting, record-keeping and other compliance requirements. This rule does not contain any new collection of information, reporting, or record-keeping requirements but only modifies existing requirements.

Description of the Steps the Agency has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the States Objectives of Applicable Statues, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and the Reason that Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect Small Entities was Rejected

One of the requirements of a FRFA is to describe any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities. The analysis shall discuss significant alternatives such as:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and

4. Exemptions from coverage of the rule, or any part thereof, for small entities.

These categories of alternatives are described at 5 U.S.C. 603 (c)(1)-(4). NMFS examined each of these categories of alternatives. Regarding the first and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it because all of the businesses impacted by this rule are considered small entities and thus the requirements are already designed for small entities. NMFS examined alternatives that fall under the second category, which requires agencies to consider whether they can clarify, consolidate, or simplify compliance and reporting requirements under the rule for small entities. The quarterly and annual accountability alternatives in the rule would reduce the burden of complying with the existing trip level accountability requirement and thus would fall into this category of alternatives by simplifying compliance and reporting requirements for small entities. The IBQ Program was designed to adhere to performance standards, the third category above; modifications to the regulations implementing the IBQ Program simply make adjustments to the administration of those underlying performance standards. Thus, NMFS has considered the significant alternatives to the rule and focused on simplifying compliance and reporting requirements associated with IBQ accountability in order to minimize any significant economic impact of the rule on small entities.

NMFS analyzed several different alternatives in this rulemaking, and the rationale that NMFS used to determine the alternative for achieving the desired objectives is described below.

The first alternative is the "no action" (status quo) alternative. The second alternative, the preferred alternative, would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on a quarterly basis instead of before embarking on a trip after incurring quota debt. The third alternative would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on an annual basis instead of before embarking on a trip after incurring quota debt. The economic impacts of these three alternatives are detailed below. Under all three alternatives, a vessel's IBQ balance would be reduced to account for bluefin tuna discarded dead or retained immediately after the catch is reported in the IBQ system. The difference among the alternatives is the timing of when quota debt or a low balance of IBQ precludes fishing and must be resolved prior to departing on a subsequent trip using pelagic longline gear (trip level, quarterly, or annually).

Under the "no action" alternative, NMFS would maintain the current regulations regarding accounting for bluefin tuna catch and prerequisites for departing on a fishing trip with pelagic longline gear on board. Current regulations require permitted Atlantic Tunas Longline vessel owners (or vessel operators, where applicable) to possess a minimum amount of IBQ to depart on a fishing trip with pelagic longline gear and account for bluefin tuna caught (retained or discarded dead) using IBQ at the end of the trip. Therefore, at the end of a trip on which bluefin tuna are caught, a vessel owner's balance of IBQ would be reduced, possibly below the minimum amount needed for a subsequent trip, or the vessel owner may incur quota debt by exceeding their IBQ balance. In either of these cases, the vessel owner must obtain additional IBQ through leasing in order to satisfy the minimum requirement (and resolve any quota debt they may have) prior to departing on another trip using pelagic longline gear. The net effect of these rules is that a pelagic longline vessel owner that takes multiple sequential trips must account for bluefin tuna in real-time, which NMFS refers to as “trip-level accountability.”

This approach was implemented by Amendment 7, but effectiveness was delayed until January 1, 2016, in contrast to most of the other Amendment 7 measures that were effective on January 1, 2015. During 2016, there were 1,025 pelagic longline trips by 85 vessels, which deployed 6,885 sets and 5,217,547 hooks. During 2016, there were 81 IBQ lease transactions with a total of 141,183 lb IBQ leased and an average price of $ 2.52 per pound (weighted average). There were a total of 17 vessels that incurred quota debt at some time during the year, with a total amount of 40,237 lb of debt incurred and resolved. Mean revenue per trip during 2016 based on logbook, dealer, and weigh out data was $ 24,707.

During 2016, pelagic longline vessel owners successfully accounted for bluefin tuna catch using the IBQ Program and leasing quota among themselves (and from Purse Seine fishery participants) as needed in order to fully account for bluefin tuna catch using IBQ. However, since implementation, pelagic longline fishery participants have consistently requested some additional flexibility due to the costs associated with leasing IBQ, which can affect profitability of target species catch, as well as the concern that vessel owners appear to be unwilling to lease IBQ at certain times, uncertainties regarding the availability of IBQ to lease, and the impacts of other constraints associated with Amendment 7, including additional gear restricted areas and VMS and electronic monitoring requirements. The ability of vessel owners to account for bluefin tuna using allocated quota or IBQ leased at an affordable price is key to the success of the IBQ Program. A trend that may in part reflect the uncertainties and constraints associated with trip-level accountability is the lower amount of fishing effort in 2016 compared to 2015 (despite the active IBQ leasing market in 2016). For example, the number of trips, active vessels, longline sets and hooks fished were all lower in 2016 than they were in 2015. The No Action alternative would not, however, provide the timing flexibility benefits that could facilitate better operational and economic decisions and options for individual vessel owners who need to lease IBQ, and NMFS therefore does not prefer the no action alternative.

Under the second alternative (preferred), NMFS would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on a quarterly basis instead of before commencing any fishing trip while in quota debt or with less than the minimum required IBQ balance. The preferred alternative would provide flexibility for two important operational business decisions made by vessel owners. First, decisions regarding quota balance and quota debt (subject to full accounting quarterly); and second, decisions regarding the timing and price at which they lease additional quota. It is likely that the vessels would take advantage of increased operational flexibility as a result of removal of the constraints associated with the trip-level accountability. Specifically, operational flexibility associated with the preferred alternative may enable vessels to fish at more optimal times and avoid delay in the timing of a trip due to a low IBQ balance and issues related to availability of quota to lease; lease IBQ at a lower price by providing the flexibility for a vessel owner to ‘shop around'; reduce uncertainty in the IBQ market such that vessels are willing to plan and undertake fishing trips they previously may not have; and improve their cash flow by allowing fishing while in quota debt (i.e., accrual of revenue with which to lease additional IBQ). In 2016, each additional trip earned vessels on average $24,707 in revenue.

NMFS used the available data on the IBQ lease markets to estimate the potential reduction in transaction costs (mainly labor costs) associated with moving from trip-level accountability to quarterly accountability. There were 33 vessels that leased quota in 2016 and they were involved in 81 transactions. On average, that is almost 2.5 transactions per vessel that entered the IBQ lease market. Under the quarterly accountability requirement of Alternative 2, these vessels might be able to reduce their number of lease transactions to one lease per quarter, which would reduce business costs and have economic and operational benefits. Based on data from 2016 and the first-half of 2017, quarterly accountability could lead to 51 fewer lease transactions if vessel owners reduced their number of lease transaction to one per quarter under this alternative. Each lease transaction costs vessel owners additional labor time to search for available IBQ, contact potential lessors, negotiate prices, and complete the transactions. NMFS estimates that could involve approximately four hours per transaction. Using the Bureau of Labor Statistics mean hourly wage rate for first-line supervisors of farming, fishing and forestry workers of $23 per hour in 2016 (*https://www.bls.gov/oes/current/oes451011.htm*), NMFS estimates the value of the time involved in these additional 51 leases to be approximately worth $4,692 (51 transactions X 4 hours X $23/hr). Since this amount is based on six quarters, the annual estimated savings in the time associated with these leases is approximately $3,128 per year ($4,692 / 1.5 years). Given that 33 vessels were involved in leasing in 2016, the per vessel savings per year would be approximately $95 per vessel.

Although it is not possible to precisely quantify the economic impacts of the preferred alternative, the no action alternative with trip-level accountability (i.e., the regulations implemented in 2016) and the third alternative with annual accountability (i.e., the regulations implemented in 2015) may be informative about the likely impacts of the alternatives. The amount of flexibility to account for bluefin tuna catch afforded by the preferred alternative is likely somewhere in between the two other alternatives: trip-level accountability (no action alternative) and annual accountability (third alternative).

Under the third alternative, there would be no minimum amount of IBQ required to fish and vessels would only be required to account for their catch at the end of the year. The third alternative is the same as the IBQ accounting regulations that were in effect during 2015. During 2015, there were 1,124 pelagic longline trips, by 104 vessels, which deployed 7,769 sets and 5,549,451 hooks. During 2015, there were 49 IBQ lease transactions from 24 distinct vessels with a total of 126,407 lb IBQ leased, and an average price of $3.46 per pound (weighted average). There were a total of 16 vessels that incurred quota debt, with a total amount of 42,746 lb. The mean revenue per trip during 2015 based on dealer data was $17,603 (not including bluefin tuna or dolphin revenue). Although it is possible to glean some insights from data from 2015 as the basis for evaluating potential economic impacts of the third alternative, the fishing behavior of the pelagic longline fleet during 2015, the first year of Amendment 7 regulations, was likely heavily influenced by the newness of the regulations and the relatively high amount of uncertainty in 2015.

There were approximately 2.0 lease transactions per vessel in 2015 versus 2.5 leases per vessel in 2016. Assuming the 33 vessels that leased in 2016 only leased 2 times per year under annual accountability, the number of leases would be reduced from 81 to 66, a reduction of 15 transactions. This reduction in 15 transactions taking approximately 4 hours of an owner's time would be worth $1,380 in labor costs per year (15 X 4 hours X $23/hr). Given the 33 vessels that leased in 2016, the per vessel cost savings would be approximately $42 per vessel per year. Alternatively, if vessel owners could reduce the number of leases to one per year, the number of lease transactions could be reduced down to 33 transactions based on 2016 lease activity. This would result in 48 fewer transactions, and would result in a savings of up to $4,416 per year for the whole fleet or $134 per vessel that leased. However, based on the 2015 IBQ lease data under annual accountability that year, it is unlikely that the number of lease transactions would be reduced by this much. It is likely that there would be more leasing activity associated with this alternative than occurred during 2015, since 2015 was the initial implementation of the IBQ Program and participants were just learning how the IBQ lease market worked and which IBQ Program participants were interested in leasing IBQ, as well as a lower average price per pound for leased IBQ.

There is uncertainty as to the full impact of moving from trip-level accountability to annual accountability. Annual accountability might cause vessel owners to wait until December to try to lease quota. Quota available for lease in December might become scarcer and this holiday period might cause fewer IBQ shareholders to participate in the market. This increased scarcity of IBQ available for lease and the tight end of the year timeframe might result in spikes in the price for IBQ, thus driving up costs and potentially leaving some vessel owners unable to resolve their quota debt at the last minute as the year ends. NMFS prefers to incrementally move to quarterly accountability under Alternative 2 to avoid some of the risks associated with Alternative 3.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: December 22, 2017.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635–ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.15, revise paragraphs (b)(3), (b)(4)(i) and (ii), (b)(5)(i) and (ii), and (b)(8)(i) to read as follows:

§ 635.15 Individual bluefin tuna quotas.

* * * * *

(b) * * *

(3) *Minimum IBQ allocation.* For purposes of this paragraph (b), calendar year quarters start on January 1, April 1, July 1, and October 1.

(i) *First fishing trip in a calendar year quarter*. Before departing on the first fishing trip in a calendar year quarter, a vessel with an eligible Atlantic Tunas Longline category permit that fishes with or has pelagic longline gear onboard must have the minimum IBQ allocation for either the Gulf of Mexico or Atlantic, depending on fishing location. The minimum IBQ allocation for a vessel fishing in the Gulf of Mexico, or departing for a fishing trip in the Gulf of Mexico, is 0.25 mt ww (551 lb ww). The minimum IBQ allocation for a vessel fishing in the Atlantic or departing for a fishing trip in the Atlantic is 0.125 mt ww (276 lb ww). A vessel owner or operator may not declare into or depart on the first fishing trip in a calendar year quarter with pelagic longline gear onboard unless it has the relevant required minimum IBQ allocation for the region in which the fishing activity will occur.

(ii) *Subsequent fishing trips in a calendar year quarter*. Subsequent to the first fishing trip in a calendar year quarter, a vessel owner or operator may declare into or depart on other fishing trips with pelagic longline gear onboard with less than the relevant minimum IBQ allocation for the region in which the fishing activity will occur, but only within that same calendar year quarter.

(4) *Accounting for bluefin tuna caught.* (i) With the exception of vessels fishing in the NED, in compliance with the requirements of paragraph (b)(8) of this section, all

bluefin tuna catch (dead discards and landings) must be deducted from the vessel's IBQ allocation at the end of each pelagic longline trip.

(ii) If the amount of bluefin tuna catch on a particular trip exceeds the amount of the vessel's IBQ allocation or results in an IBQ balance less than the minimum amount described in paragraph (b)(3) of this section, the vessel may continue to fish, complete the trip, and depart on subsequent trips within the same calendar year quarter. The vessel must resolve any quota debt (see paragraph (b)(5) of this section) before declaring into or departing on a fishing trip with pelagic longline gear onboard in a subsequent calendar year quarter by acquiring adequate IBQ allocation to resolve the debt and acquire the needed minimum allocation through leasing, as described in paragraph (c) of this section.

* * * * *

(5) * * *

(i) *Quarter level quota debt.* A vessel with quota debt incurred in a given calendar year quarter cannot depart on a trip with pelagic longline gear onboard in a subsequent calendar year quarter until the vessel leases allocation or receives additional allocation (see paragraphs (c) and (b)(9) of this section), and applies allocation for the appropriate region to settle the quota debt such that the vessel has the relevant minimum quota allocation required to fish for the region in which the fishing activity will occur (see paragraph (b)(3) of this section). For example, a vessel with quota debt incurred during January through March may not depart on a trip with pelagic longline gear onboard during April through June (or subsequent quarters) until the quota debt has been resolved such that the vessel has the relevant minimum quota allocation required to fish for the region in which the fishing activity will occur.

(ii) *Annual level quota debt.* If, by the end of the fishing year, a permit holder does not have adequate allocation to settle its vessel's quota debt through leasing or additional allocation (see paragraphs (c) and (b)(9) of this section), the vessel's allocation will be reduced in the amount equal to the quota debt in the subsequent year or years until the quota debt is fully accounted for. A vessel may not depart on any pelagic longline trips if it has outstanding quota debt from a previous fishing year.

* * * * *

(8) * * *

(i) *When NED bluefin quota is available*. Permitted vessels fishing with pelagic longline gear may fish in the NED, and any bluefin catch will count toward the ICCAT-allocated separate NED quota until the NED quota has been filled. Permitted vessels fishing in the NED must still fish in accordance with the relevant minimum IBQ allocation requirements specified under paragraph (b)(3) of this section to depart on a trip using pelagic longline gear.

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3. In § 635.71, revise paragraphs (b)(48) and (56) to read as follows:

§ 635.71   Prohibitions.

* * * * *

(b) * * *

(48) Depart on a fishing trip or deploy or fish with any fishing gear from a vessel with a pelagic longline on board without accounting for bluefin caught as specified in § 635.15(b)(4).

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(56) Fish with or have pelagic longline gear on board if any quota debt associated with the permit from a preceding calendar year quarter has not been settled as specified in § 635.15(b)(5)(i).

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