

TABLE 2 TO SUBPART HHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART HHHH—Continued

As stated in § 63.3001, you must comply with the applicable General Provisions requirements according to the following table:

Citation	Requirement	Applies to subpart HHHH	Explanation
§ 63.10(e)(1)	Additional CMS Reports—General	No	Subpart HHHH does not require CEMS.
§ 63.10(e)(2)	Reporting results of CMS performance evaluations..	Yes.	
§ 63.10(e)(3)	Excess Emission/CMS Performance Reports..	Yes.	Subpart HHHH does not specify opacity or visible emission standards.
§ 63.10(e)(4)	COMS Data Reports	No	
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes	EPA retains approval authority.
§ 63.11	Control Device Requirements—Applicability..	No	Facilities subject to subpart HHHH do not use flares as control devices.
§ 63.12	State Authority and Delegations	Yes.	See § 63.14(b)(2) and (3) for applicability requirements.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes	
§ 63.15	Availability of Information/Confidentiality.	Yes.	

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket Nos. 120328229-4949-02 and 180117042-8884-02]

RIN 0648-XG839

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

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

**ACTION:** Temporary rule; annual adjustment of Atlantic bluefin tuna Purse Seine and Reserve category quotas; inseason quota transfer from the Reserve category to the General category.

**SUMMARY:** NMFS is adjusting the Atlantic bluefin tuna (BFT) Purse Seine and Reserve category quotas for 2019, as it has done annually since 2015. NMFS also is transferring 25 metric tons (mt) of BFT quota from the Reserve category to the General category January 2019 period (from January 1 through March 31, 2019, or until the available subquota for this period is reached, whichever comes first). The transfer to the General category is based on consideration of the regulatory determination criteria regarding inseason adjustments and applies to Atlantic tunas General

category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

**DATES:** Effective February 25, 2019, through December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, 978-281-9260, Uriah Forrest-Bulley, 978-675-2154, or Larry Redd, 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). 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.

**Annual Adjustment of the BFT Purse Seine and Reserve Category Quotas**

In 2018, NMFS implemented a final rule that established the U.S. BFT quota and subquotas consistent with ICCAT Recommendation 17-06 (83 FR 53191, October 11, 2018). As a result, based on the currently codified U.S. quota of 1,247.86 mt (not including the 25 mt allocated by ICCAT to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area), the baseline Purse Seine, General, and Reserve category quotas are codified as 219.5 mt, 555.7 mt, and 29.5 mt, respectively. See § 635.27(a). For 2019 to date, NMFS has made the following inseason quota transfers: 19.5 mt from the General category December 2019 subquota period to the January 2019 subquota period (83 FR 67140, December 28, 2018) and 26 mt from the Reserve category to the General category (84 FR 3724, February 13, 2019), resulting in an adjusted 2019 Reserve category quota of 3.5 mt.

Pursuant to § 635.27(a)(4), NMFS has determined the amount of quota available to the Atlantic Tunas Purse Seine category participants in 2019, based on their BFT catch (landings and dead discards) in 2018. In accordance with the regulations, NMFS makes available to each Purse Seine category participant either 100 percent, 75 percent, 50 percent, or 25 percent of the individual baseline quota allocations based on the previous year's catch, as described in § 635.27(a)(4)(ii), and reallocates the remainder to the Reserve category. NMFS has calculated the

amounts of quota available to the Purse Seine category participants for 2019 based on their individual catch levels in 2018 and the codified process adopted in Amendment 7. NMFS did not open the Purse Seine fishery in 2018 because there were no purse seine vessels permitted to fish for BFT and thus no catch in 2018. As a result, each Purse Seine category participant will receive 25 percent of the individual baseline quota amount, which is the required distribution even with no fishing activity under the current regulations. The individual baseline amount is 43.9 mt (219.5 mt divided by five Purse Seine category participants), 25 percent of which is 11 mt. Consistent with § 635.27(a)(4)(v)(C), NMFS notifies Atlantic Tunas Purse Seine category participants of the amount of quota available for their use this year through the IBQ electronic system established under § 635.15 and in writing.

By summing the individual available allocations, NMFS has determined that 55 mt are available to the Purse Seine category for 2019. Thus, the amount of Purse Seine category quota to be reallocated to the Reserve category is 164.5 mt (219.5 mt – 55 mt). This reallocation results in an adjusted 2019 Reserve category quota of 168 mt (3.5 mt + 164.5 mt), before any further transfers to other categories.

#### **Transfer of 25 mt From the Reserve Category to the General Category**

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories after considering regulatory determination criteria at § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to the General category fishery. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT over the longest time-period allowable would support the collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS considered the catches of the General category quota to date (including during the winter fishery in the last several years), and the likelihood of closure of that segment of

the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). On February 20, 2019, the General category had landed 74 mt of its adjusted January 2019 subquota of 75 mt. At that time, NMFS considered that without a quota transfer, the January 2019 General category fishery would face closure, while unused quota remained in the Reserve category and commercial-sized bluefin tuna remain available in the areas where General category permitted vessels operate at this time of year.

Regarding the projected ability of the vessels fishing under the particular category quota (here, the General category) to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors. NMFS anticipates that all 25 mt of transferred quota will be used by March 31. In the unlikely event that any of this quota is unused by March 31, the unused quota will roll forward to the next subperiod within the calendar year (*i.e.*, the June through August time period), and NMFS anticipates that it would be used by the subquota category before the end of the fishing year.

NMFS also considered the estimated amounts by which quotas for other gear categories of the fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2019 landings and dead discards. In the last several years, total U.S. BFT landings have been below the total available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. NMFS will need to account for 2019 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and NMFS anticipates having sufficient quota to do that, even with this 25-mt transfer to the General category.

This transfer would be consistent with the current U.S. quota, which was established and analyzed in the 2018 BFT quota final rule, and with objectives of the 2006 Consolidated HMS FMP and amendments, which include measures to meet obligations related to ending overfishing and rebuilding stocks (§ 635.27(a)(8)(v) and (vi)). Another principal consideration is the objective of providing opportunities to harvest the full annual U.S. BFT quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and amendments, including to

achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations (related to § 635.27(a)(8)(x)).

NMFS also anticipates that some underharvest of the 2018 adjusted U.S. BFT quota will be carried forward to 2019 and placed in the Reserve category, in accordance with the regulations, later this year. This, in addition to the fact that any unused General category quota will roll forward to the next subperiod within the calendar year and NMFS' plan to actively manage the subquotas to avoid any exceedances, makes it likely that General category quota will remain available through the end of 2019 for December fishery participants. NMFS also may transfer unused quota from the Reserve or other categories, inseason, based on consideration of the determination criteria, as it did in 2018 (*i.e.*, transferred 60 mt from the Reserve category effective September 18, 2018 (83 FR 47843, September 21, 2018); 40 mt from the Harpoon category and 15 mt from the Reserve category effective October 4, 2018 (83 FR 50857, October 10, 2018); and 9.9 mt from the Harpoon category and 129.2 mt from the General category effective November 29, 2018 (83 FR 62512, December 4, 2018)). NMFS anticipates that General category participants in all areas and time periods will have opportunities to harvest the General category quota in 2019, through active inseason management measures, such as retention limit adjustments and/or the timing of quota transfers, as practicable (§ 635.27(a)(8)(viii)). Thus, this quota transfer would allow fishermen to take advantage of the availability of fish on the fishing grounds considering the expected increases in available 2019 quota later in the year, and provide a reasonable opportunity to harvest the full U.S. bluefin tuna quota, without precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota. As the agency decision-making process for this inseason action progressed, additional catches in the General category brought landings to date up to 76.6 mt as of February 22, 2019. Given that this inseason action adjusting the quota was then pending, we determined that filing a closure notice, immediately followed by re-opening the General category, would create unnecessary administrative burden for NMFS and potentially confuse the regulated community.

Based on the considerations above, NMFS is transferring 25 mt from the adjusted Reserve category to the General

category for the January 2019 fishery, resulting in a subquota of 100 mt for the January 2019 fishery (75 mt + 25 mt) and 143 mt in the Reserve category (168 mt – 25 mt).

### Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category 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) or by using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional action (e.g., quota adjustment or closure) is necessary to ensure available subquotas are not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281-9260, or access [hmspermits.noaa.gov](https://hmspermits.noaa.gov), for updates on quota monitoring and inseason adjustments.

### Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of and an opportunity for public comment on, the transfer from the Reserve category to the General category for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason quota transfers 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. These fisheries are currently underway and the fishery would be closed absent the additional quota. Affording prior notice and opportunity for public comment to implement the quota transfer is impracticable and contrary to the public interest as such a delay would result in further exceedance of the General

category January fishery subquota or earlier closure of the fishery while fish are available on the fishing grounds. 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 these reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under §§ 635.15(b) and 635.27(a)(4), (7), (8), and (9), and is exempt from review under Executive Order 12866.

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

Dated: February 25, 2019.

**Karen H. Abrams,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 180209147-8509-02]

RIN 0648-XG696

### Fisheries of the Northeastern United States; Small-Mesh Multispecies Fishery; Inseason Adjustment to the Northern Red Hake Possession Limit

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

**ACTION:** Temporary rule; inseason adjustment.

**SUMMARY:** This action reduces that the commercial per-trip possession limit for northern red hake for the remainder of the 2018 fishing year. Regulations governing the small-mesh multispecies fishery require this action because the northern red hake fishery is projected to reach 37.9 percent of its total allowable landing limit for the year. This action is intended to prevent this limit from being exceeded. This announcement also informs the public of the reduced northern red hake possession limit.

**DATES:** Effective February 27, 2019, through April 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Ferrio, Fishery Management Specialist, (978) 281-9180.

**SUPPLEMENTARY INFORMATION:** Regulations governing the red hake fishery are found at 50 CFR part 648. The small-mesh multispecies fishery is managed primarily through a series of

exemptions from the Northeast Multispecies Fisheries Management Plan. The regulations describing the process to adjust inseason commercial possession limits of northern red hake are described in §§ 648.86(d)(4) and 648.90(b)(5). These regulations require the NMFS Regional Administrator, Greater Atlantic Region, to reduce the northern red hake possession limit from 3,000 lb (1,361 kg) to the incidental limit of 400 lb (181 kg) when landings have been projected to reach or exceed 37.9 percent of the total allowable landings (TAL), unless such a reduction would be expected to prevent the TAL from being reached. The final rule implementing the small-mesh multispecies specifications for 2018–2020 (83 FR 27713; June 14, 2018) set the northern red hake inseason adjustment threshold for the 2018 fishing year as 228,941 lb (103,846 kg); 37.9 percent of the northern red hake TAL for the year.

Based on commercial landings data reported through February 13, 2019, the northern red hake fishery is projected to reach 37.9 percent of the TAL on February 22, 2019. Using this projection, NMFS is required to reduce the commercial northern red hake possession limit to prevent the TAL from being exceeded. Therefore, effective February 27, 2019, no person may possess on board or land more than 400 lb (181 kg) of northern red hake per trip for the remainder of the fishing year (i.e., through April 30, 2019).

### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action reduces the per-trip possession limit for northern red hake to the incidental limit of 400 lb (181 kg) until April 30, 2019, under current small-mesh multispecies fishery regulations. The regulations at § 648.86(d) require such action to ensure that commercial small-mesh multispecies vessels do not exceed the TAL set for the northern red hake stock. If implementation of this reduction was delayed, the northern red hake TAL for this fishing year may be exceeded, thereby undermining the conservation objectives of the Northeast Multispecies Fishery Management Plan. Therefore, pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator further finds good cause to waive the 30-day delayed