

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635****[Docket No. 220919–0193; RTID 0648–XE450]****Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; General Category December Quota Transfer**

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS is transferring 59.5 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the General category for the remainder of the 2024 fishing year. With this transfer, the adjusted General category December time period subquota is 76 mt and the Reserve category quota is 2 mt. This action is intended to provide further harvest opportunities for General category fishermen, based on consideration of the regulatory determination criteria regarding inseason adjustments and applies to Atlantic Tunas General category (commercial) permitted vessels and Atlantic Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: The quota transfer is effective December 1, 2024, through December 31, 2024.

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SUPPLEMENTARY INFORMATION: Atlantic BFT fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). ATCA is the implementing statute for binding recommendations of the International Commission for the Conservation of Atlantic Tunas. HMS implementing regulations are at 50 CFR part 635. Section 635.27(a) divides the U.S. BFT quota, established by the International Commission for the Conservation of Atlantic Tunas (ICCAT)

and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act at 16 U.S.C. 1854(g)(1)(D) to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The baseline quotas for the General and Reserve categories are 710.7 mt and 38.2 mt, respectively. The General category baseline quota is suballocated to different time periods. Relevant to this action, the baseline subquota for the December time period is 37.0 mt. To date, NMFS has published one action that adjusted the December time period quota (89 FR 3361, January 18, 2024) and three actions that adjusted the Reserve category quota (89 FR 58074, July 17, 2024; 89 FR 77029, September 20, 2024; 89 FR 81032, October 7, 2024). The current adjusted December time period quota is 16.5 mt and the Reserve category quota is 61.5 mt.

Transfer From the Reserve Category to the December 2024 Subquota

Under § 635.27(a)(8), NMFS has the authority to transfer quota among fishing categories or subcategories after considering the determination criteria provided under § 635.27(a)(7). This section focuses on the calculations involved in transferring quota from the Reserve category to the General category; the consideration of the determination criteria can be found below after this section.

As stated above, the adjusted December time period subquota and adjusted Reserve quota are 16.5 mt and 61.5 mt, respectively. At this time, after considering the relevant determination criteria (see below), NMFS is transferring 59.5 mt from the Reserve category to the General category December time period. This transfer will result in an adjusted December time period subquota of 76 mt (16.5 mt + 59.5 mt = 76 mt) and an adjusted Reserve category quota of 2 mt (61.5 mt – 59.5 mt = 2 mt). The General category quota is available for use by Atlantic Tunas General category (commercial) permitted vessels and HMS Charter/Headboat permitted vessels with a

commercial sale endorsement when fishing commercially for BFT. These quotas will be in effect when the fishery automatically opens on December 1, 2024.

Consideration of the Relevant Determination Criteria

NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer (§ 635.27(a)(7)). These criteria 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)(7)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including during the summer/fall and winter fisheries in the last several years) and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(7)(ii)), as well as daily landing trends and the availability of BFT on fishing grounds (§ 635.27(a)(7)(ix)). The General category is currently closed and the December time period has not yet opened. However, without a quota transfer at this time, based on recent catch rates in comparison to the current available quota (16.5 mt), NMFS would likely need to close the General category fishery shortly after the December time period begins. Once the fishery is closed, participants would have to stop BFT fishing activities while commercial-sized BFT remain available in the areas where General category permitted vessels operate. A quota transfer at this time provides limited additional opportunities to harvest the U.S. BFT quota while avoiding exceeding it.

Regarding the projected ability of the vessels fishing under the General category to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(7)(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 may adjust each time period's subquota based on overharvest or underharvest in the prior time period and may transfer subquota from one time period to another time period. By allowing for the current quota transfer, NMFS anticipates that the General category quota would be used before the end of the fishing year. Thus, this quota transfer would allow General category fishermen to take advantage of the availability of BFT on the fishing grounds and provide a reasonable opportunity to harvest the available U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the fishery might be exceeded (§ 635.27(a)(7)(iv)) and the ability to account for all 2024 landings and dead discards (§ 635.27(a)(7)(xi)). Preliminary landings across all categories are below the available U.S. quota and are similar to landing estimates calculated at this time in recent past years. Additionally, in the last several years, the total U.S. BFT landings have been below the 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 recently took such an action to carry over the allowable 134.1 mt of underharvest from 2023 to 2024 (89 FR 77029, September 20, 2024).

NMFS anticipates having sufficient quota to account for landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations.

NMFS also considered the effects of the adjustment on BFT rebuilding and overfishing, and the effects of the transfer on accomplishing the objectives of the FMP (§ 635.27(a)(7)(v) and (vi)). This quota transfer would be consistent with established quotas and subquotas, which are implemented consistent with ICCAT recommendations (established in Recommendation 22–10), ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, such as rebuilding and avoiding overfishing, and effects on the stock. This quota transfer is in line with the established management measures and stock status determinations. It is also important that NMFS limit landings to the quota both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality

(e.g., fish caught at each age) that was assumed in the latest stock assessment, and this quota transfer is consistent with those objectives. Another principal consideration is the objective of providing opportunities to harvest the available General category quota without exceeding the overall U.S. annual quota. This consideration is based on the objectives of the 2006 Consolidated HMS FMP and its amendments, including achieving optimum yield on a continuing basis and allowing all permit categories a reasonable opportunity to harvest available BFT quota allocations (related to § 635.27(a)(7)(x)).

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Per § 635.5(b)(2)(i)(A), 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 adjustments, 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 per § 635.5(a)(4) to report their own catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing <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 adjustments are necessary to ensure available quota is 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 access <https://hmspermits.noaa.gov>, for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act (16 U.S.C. 1855(d)) and regulations at 50 CFR part 635 and this action is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity to provide comment on this action, as notice and comment would be

impracticable and contrary to the public interest. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason adjustments and 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. Providing prior notice and opportunity for public comment on this quota transfer to the General category for the remainder of 2024 is impracticable and contrary to the public interest as the General category fishery is currently underway. Based on General category catch rates, a delay in this action would likely result in closure of the General category fishery when the baseline quota is met, with attendant administrative costs and costs to the fishery. NMFS could not have proposed this action earlier, as it needed to consider updated landings data in deciding whether to transfer a portion of the Reserve category quota to the General category quota. A delay in implementing this quota transfer would preclude the fishery from harvesting BFT that are currently available on the fishing grounds and that might otherwise become unavailable during a delay. This action does not raise conservation and management concerns and would support effective management of the BFT fishery. Transferring quota from the Reserve category to the General category December time period does not affect the overall ICCAT-allocated U.S. BFT quota, and available data show the adjustment would have a minimal risk of exceeding the overall quota. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

For all of the above reasons, the AA finds that pursuant to 5 U.S.C. 553(d), there is good cause to waive the 30-day delay in effective date.

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

Dated: November 14, 2024.

Karen H. Abrams,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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