

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian Tribes and have determined that there are no potential effects. This rule will not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

*Energy Supply, Distribution, or Use (E.O. 13211)*

On May 18, 2001, the President issued E.O. 13211 addressing regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rulemaking is not a significant regulatory action under E.O. 12866, and it will not significantly

affect energy supplies, distribution, or use. This action will not be a significant energy action, and no Statement of Energy Effects is required.

*Compliance With Endangered Species Act Requirements*

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), requires that "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (16 U.S.C. 1536(a)(1)). It further states that the Secretary must "insure that any action authorized, funded, or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat" (16 U.S.C. 1536(a)(2)). We have concluded that this change to the regulations will not affect listed species.

**List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

■ For the reasons discussed in the preamble, we amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

**PART 20—[AMENDED]**

■ 1. The authority citation for part 20 continues to read as follows:

**Authority:** Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Public Law 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

■ 2. Amend § 20.21 by revising paragraph (j) to read as follows:

**§ 20.21 What hunting methods are illegal?**

\* \* \* \* \*

(j)(1) While possessing loose shot for muzzle loading or shotshells containing other than the following approved shot types.

Approved shot type *	Percent composition by weight	Field testing device **
Bismuth-tin .....	97 bismuth, and 3 tin .....	Hot Shot®. ***
Iron (steel) .....	iron and carbon .....	Magnet or Hot Shot®.
Iron-tungsten .....	any proportion of tungsten, and ≥1 iron .....	Magnet or Hot Shot®.
Iron-tungsten-nickel .....	≥1 iron, any proportion of tungsten, and up to 40 nickel .....	Magnet or Hot Shot®.
Tungsten-bronze .....	51.1 tungsten, 44.4 copper, 3.9 tin, and 0.6 iron, or 60 tungsten, 35.1 copper, 3.9 tin, and 1 iron.	Rare Earth Magnet.
Tungsten-iron-copper-nickel ...	40–76 tungsten, 10–37 iron, 9–16 copper, and 5–7 nickel .....	Hot Shot® or Rare Earth Magnet.
Tungsten-matrix .....	95.9 tungsten, 4.1 polymer .....	Hot Shot®.
Tungsten-polymer .....	95.5 tungsten, 4.5 Nylon 6 or 11 .....	Hot Shot®.
Tungsten-tin-iron .....	any proportions of tungsten and tin, and ≥1 iron .....	Magnet or Hot Shot®.
Tungsten-tin-bismuth .....	any proportions of tungsten, tin, and bismuth. ....	Rare Earth Magnet.
Tungsten-tin-iron-nickel .....	65 tungsten, 21.8 tin, 10.4 iron, and 2.8 nickel .....	Magnet.
Tungsten-iron-polymer .....	41.5–95.2 tungsten, 1.5–52.0 iron, and 3.5–8.0 fluoropolymer .....	Magnet or Hot Shot®.

\* Coatings of copper, nickel, tin, zinc, zinc chloride, and zinc chrome on approved nontoxic shot types also are approved.

\*\* The information in the "Field Testing Device" column is strictly informational, not regulatory.

\*\*\* The "HOT\*SHOT" field testing device is from Stream Systems of Concord, CA.

(2) Each approved shot type must contain less than 1 percent residual lead (see § 20.134).

(3) This shot type restriction applies to the taking of ducks, geese (including brant), swans, coots (*Fulica americana*), and any other species that make up aggregate bag limits with these migratory game birds during concurrent seasons in areas described in § 20.108 as nontoxic shot zones.

Dated: October 7, 2009.

**Thomas L. Strickland,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**RIN 0648–XS22**

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

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

**ACTION:** Inseason action; notification of applicable Longline category incidental retention limits.

**SUMMARY:** NMFS has determined that the 25–mt quota available for the

Atlantic bluefin tuna (BFT) Longline category Northeast Distant gear restricted area (NED) fishery has been attained. NMFS announces that the Longline category incidental BFT retention limits will apply in the NED for the remainder of the fishing year. This action applies to Atlantic Tunas Longline category permitted vessels that fish in the NED.

**DATES:** Effective October 20, 2009, through December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, 978–281–9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (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 Consolidated Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP). The latest (2008) ICCAT recommendation for western Atlantic BFT included a U.S. quota of 1,034.9 mt for 2009, including a 25 mt set-aside for bycatch of BFT related to longline fisheries in the vicinity of the ICCAT management area boundary. For management and monitoring purposes, NMFS implements this set-aside for BFT landings made in the Northeast Distant gear restricted area (NED) by Atlantic Longline category permitted vessels. The NED is the Atlantic Ocean area bounded by straight lines connecting the following coordinates in the order stated: 35°00' N. lat., 60°00' W. long.; 55°00' N. lat., 60°00' W. long.; 55°00' N. lat., 20°00' W. long.; 35°00' N. lat., 20°00' W. long.; 35°00' N. lat., 60°00' W. long.

#### **Application of Longline Category Incidental BFT Retention Limits in NED**

The 2009 adjusted BFT quota specifications issued pursuant to § 635.27 set a Longline category quota of 74.3 mt to be harvested incidentally from the regulatory area during the 2009 fishing year. Including the 25 mt for the NED, the total allowable quota for both categories for 2009 is 99.3 mt (74 FR 26110, June 1, 2009).

Under the BFT retention limit regulations at § 635.23(f)(3), once the 25-mt NED quota has been attained, the target catch requirements specified in § 635.23(f)(1) apply. Based on reported

Longline category BFT landings, NMFS has determined that the 25-mt NED quota has been reached. As of October 6, 2009, Longline landings of BFT in the NED total 37.6 mt. Therefore, the following retention limits will apply in the NED for vessels permitted in the Atlantic Tunas Longline category, effective October 20, 2009, through December 31, 2009: One large medium or giant BFT per vessel per trip may be landed, provided that at least 2,000 lb (907 kg) of species other than BFT are legally caught, retained, and offloaded from the same trip and are recorded on the dealer weighout slip as sold. Two large medium or giant BFT per vessel per trip may be landed, provided that at least 6,000 lb (2,727 kg) of species other than BFT are legally caught, retained, and offloaded from the same trip and are recorded on the dealer weighout slip as sold. Three large medium or giant BFT per vessel per trip may be landed, provided that at least 30,000 lb (13,620 kg) of species other than BFT are legally caught, retained, and offloaded from the same trip and are recorded on the dealer weighout slip as sold. Dealers are reminded of the requirement to report all BFT received within 24 hours of landing.

The intent of this action and its timing is to prevent overharvest of the incidental quota established for the Longline category while providing sufficient time for vessels currently fishing to return to port and offload any BFT that may have been legally retained on board before this action takes effect.

NMFS will continue to monitor Longline category landings against the available Longline category quota for the 2009 fishing year and may take further action, if necessary. Any subsequent adjustments to the Longline category fishery for 2009 would be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access the internet at

[www.hmspermits.gov](http://www.hmspermits.gov), for fishery updates.

#### **Classification**

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause, pursuant to 5 U.S.C. 553 (b)(B) to waive prior notice and public comment for this action, as notice and comment would be impracticable and contrary to the public interest. This notice informs fishery participants of the applicable retention limits in the NED now that the 25-mt set aside for that area has been attained. This action is intended to prevent overharvest of the incidental quota established for the Longline category while providing sufficient time for vessels currently fishing to return to port and offload any BFT that may have been legally retained on board before this action takes effect. The fishery is currently underway and any delay in fishery participant notification could cause the fishery to exceed the quota and would be inconsistent with domestic and international requirements and objectives. NMFS provides notification of the applicable retention limits by publishing the notice in the **Federal Register**, transmitting an electronic notice to Atlantic HMS News subscribers, including known fishery representatives and posting the notice on [www.hmspermits.gov](http://www.hmspermits.gov). For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553 (d)(1) and (3).

This action is being taken under 50 CFR 635.23(f)(3) and is exempt from review under Executive Order 12866.

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

Dated: October 15, 2009.

**Alan D. Risenhoover,**

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

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