

**§ 635.71 Prohibitions.**

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(b) \* \* \*  
 (10) Fish for or catch any Atlantic tunas in a directed fishery with purse seine nets if there is no remaining BFT allocation made under § 635.27 (a)(4).

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(17) As a vessel with a Purse Seine category Atlantic tunas permit, catch, possess, retain, or land BFT in excess of its allocation of the Purse Seine category quota, or fish for BFT under that allocation prior to the commencement date of the directed BFT purse seine fishery, as specified in § 635.27(a)(4).

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 021122284-2323-02; I.D. 121803C]

**Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Transfer**

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

**ACTION:** Commercial quota transfer.

**SUMMARY:** NMFS announces that the State of North Carolina is transferring 357,867 lb (162,326 kg) of commercial summer flounder quota to the Commonwealth of Virginia from its 2003 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

**DATES:** DATES: Effective December 19, 2003, through December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2003 calendar year was set equal to 13,980,028 lb (6,341,235 kg). The percent allocated to vessels landing summer flounder in Virginia is 21.31676 percent, and in North Carolina is 27.44584 percent. This resulted in an initial commercial quota for Virginia of 2,980,089 lb (1,351,746 kg), and for North Carolina of 3,836,936 (1,740,405 kg) (68 FR 60, January 2, 2003). The 2003 allocation for Virginia was further reduced to 2,968,429 lb (1,346,457 kg), and for North Carolina to 3,821,924 lb (1,733,596 kg), due to research set-aside (January 2, 2003). The 2003 allocation for Virginia was also adjusted downward due to an estimated overage of the 2002 quota of 76,024 lb (34,484 kg), as of October 31, 2002, so that the resulting adjusted 2003 commercial quota for Virginia was 2,904,065 lb (1,317,275 kg) as of January 2, 2003 (68 FR 60). However, NMFS later found that the estimate of a 76,024-lb (34,484-kg) overage as of October 31, 2002, was in error, and restored that amount to Virginia's 2003 quota for a revised total of 2,968,429 lb (1,346,457 kg) on March 3, 2003 (68 FR 9905). The North Carolina quota allocation was not affected by overages from 2002. Therefore, their quota allocation remained at 3,821,924 lb (1,733,596 kg) (68 FR 9905).

The final rule implementing Amendment 5 to the FMP that was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 357,867 lb (162,326 kg) of its 2003 commercial quota to Virginia. This transfer is prompted by a problem with shoaling in the Oregon Inlet, caused by the recent Hurricane Isabel, that is preventing some North Carolina fishing vessels from landing at their normal ports. Landing their catch in Virginia represents the next best alternative, but requires a transfer to account for an increase in Virginia landings that would have otherwise accrued against the North Carolina quota. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised quotas for calendar year 2003 are: Virginia, 3,326,296 lb (1,508,783 kg); and North Carolina, 3,464,057 lb (1,571,270 kg).

**Classification**

This action is taken under 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: December 18, 2003.

**Bruce C. Morehead,**

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

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