

the International Commission for the Conservation of Atlantic Tunas (ICCAT) and domestic legislation, including ATCA which requires NMFS to allocate the quota from ICCAT to domestic fisheries. Allocation of BFT quota among the domestic fishing categories, as well as within each category, was formally established by percentage allocation in the HMS FMP based on traditional participation and use of quota. Since implementation of the HMS FMP in 1999, various aspects of the fisheries have changed that warrant a re-examination of the distribution of BFT quota, both among and within categories, to determine if the current percentage allocations best meet the objectives of the HMS FMP and attainment of optimum yield. For example, since implementation of the HMS FMP, fishing activity and catch rates within the General category have shifted and become more prevalent later in the fishing season. Also, NMFS is in receipt of a Petition for Rulemaking from the State of North Carolina to redistribute General category quota and specifically allocate quota for a late season, south Atlantic commercial handgear fishery (67 FR 69502, November 18, 2002). Similarly, the fishing patterns of several other domestic categories have changed, or are evolving, and thus the entire quota allocation scheme could benefit from an updated investigation to determine whether it still meets the needs of the fishery.

HMS Limited Access Permit Program

The HMS FMP established a limited access program for the commercial Atlantic swordfish and Atlantic shark fisheries to begin to rationalize harvesting capacity with the available quota and reduce latent effort while preventing further overcapitalization. To assist with enforcement and management of the program, permit restrictions were also placed on vessels fishing for bigeye, albacore, yellowfin and skipjack (BAYS) tunas in the Longline category. Implementation of the limited access program has proceeded since implementation of the HMS FMP and is executed via issuance of permits to eligible recipients in the commercial shark, swordfish and BAYS longline fisheries. Currently many of the eligible vessels are required to obtain up to three separate permits to legally participate in the limited access program. In addition, since implementation of the HMS FMP, NMFS has benefitted from receiving various recommendations to improve management of the program and better meet the intent to rationalize harvesting

capacity. Some comments on limited access received to date include, but are not limited to, changing the upgrading restrictions, changing to gear-specific permits, consolidating the expiration date for all three permits, changing the incidental catch limits for incidental limited access permits, and re-opening the swordfish handgear permit category.

EFH Five Year Review

Under the Magnuson-Stevens Act, each FMP must describe and identify EFH for the fishery management unit, minimize to the extent practicable adverse effects on EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of EFH. In 1999, NMFS identified EFH for all HMS and is planning to begin to conduct this five year review for all HMS within the EIS described in this action.

Swordfish Quota Allocation Issues

There are currently three categories among which the current north Atlantic swordfish quota is allocated: directed, incidental, and the reserve. The incidental category is allocated 300 metric tons (mt) dressed weight (dw). Recreational landings and landings reported by incidental permit holders are counted against the quota in the Incidental category. The Reserve category was primarily created to allow the United States to transfer quota to Japan as recommended by ICCAT in 2000. The Directed category is allocated the remainder. Commercial landings by directed and handgear permit holders are counted against directed category quota. In recent years, the swordfish quota has not been reached and the recreational fishery has begun to expand, which raises the question of whether a four category should be established for the recreational fishery. Additionally, at the moment, there is not a specified method of adding or removing quota to or from the Reserve category.

Shark Quota Allocation Issues

Currently, there are no quota allocations between user groups in the Atlantic shark fisheries. Once a commercial quota is reached, the commercial fishery is closed. This closure means that permit holders who target sharks or catch sharks incidental to their fishing operations can no longer land sharks incidentally. This situation has also led to confusion regarding accounting for all fishing mortality. Recreational fishermen do not have a quota but are limited by retention limits. To the extent that these issues are not resolved in Amendment 1 to the HMS

FMP, NMFS may reconsider them in the EIS described in this action.

Exempted Fishing and Scientific Research Permits

Under 50 CFR 635.32, and consistent with 50 CFR 600.745, NMFS may authorize for limited testing, public display, and scientific data collection purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited (e.g., possession of prohibited species, possession of fish below the minimum size, possession of fish in a closed area). Exempted fishing may not be conducted unless authorized by an Exempted Fishing Permit (EFP) or a Scientific Research Permit (SRP) issued by NMFS in accordance with criteria and procedures specified in those sections. In Amendment 1 to the HMS FMP, NMFS is considering some changes to better account for issuing EFPs and SRPs and to better account for the fish collected under these permits. To the extent that these issues are not resolved in Amendment 1 to the HMS FMP, NMFS may reconsider them in the EIS described in this action.

Management Options

NMFS requests comments on management options for this action. Specifically, NMFS requests comments on the following issues and possible options: allocation of the BFT quota from ICCAT to domestic fishing categories as well as within each category; changing quota allocations in the swordfish fishery; potentially establishing quota allocations in the shark fishery; management options to improve the limited access permit program; ways to simplify and streamline quota and permitting administrative processes; and further rationalization of harvesting capacity. NMFS also requests comments on EFH identifications and the data that could be used to update and review existing identifications for all HMS. NMFS also requests comments on management options to improve the issuance of EFPs and SRPs and ways to ensure fish taken by permit holders are counted against the appropriate quota category. Comments received on these issues, as well as options offered to address the issues, will assist NMFS in determining the options for rulemaking to improve the management of Atlantic HMS.

NMFS intends to publish an Issues and Options paper summarizing the different options under consideration and will announce the availability of this document at a later date. NMFS will hold at least one scoping meeting to gather public comment on the issues