

category, human error in selecting the permit due to unfamiliarity with the automated permitting system, or to possible administrative error. Currently, the existing regulations do not provide any mechanism for addressing such errors made by permittees or NOAA Fisheries' permit contractor. Persons issued permits in the Atlantic Tunas General and Harpoon and Atlantic HMS Angling and Charter/Headboat categories have also contacted NOAA Fisheries to seek relief for permits issued in incorrect categories. Due to the circumstances of the new HMS Angling permit requirements and to the numerous errors in permit category issuance, NMFS issued a second temporary rule, effective June 23, 2003, through December 31, 2003, to provide a 10-day period for all Atlantic Tunas General, Harpoon, and Trap categories and Atlantic HMS Angling and Charter/Headboat category permit holders to correct permit category errors (68 FR 38233).

A number of issues regarding the domestic management of BFT were discussed at length during the most recent HMS Advisory Panel (AP) meeting held in Silver Spring, MD, many of which are beyond the scope of this action and will be addressed in future regulatory or FMP amendments. These issues may include, but are not limited to, adjustment of domestic quota allocation percentages, adjustment of General category time-period subquotas, addressing the Petition for Rulemaking submitted by the North Carolina Department of Marine Fisheries (*see* Notice of Receipt of Petition, 67 FR 69502, November 18, 2002), adjustment of quota category opening and closure dates, and adjustment of large medium BFT size tolerances in the Harpoon and Purse seine categories. Because many of these issues require further analysis and public input and because these initial specifications need to be issued as soon as possible given that the 2003 fishing year started on June 1, NMFS intends to address these issues as separate rulemaking activities and publish a Notice of Intent in the **Federal Register** to begin the process of addressing those issues requiring an HMS FMP amendment.

After consideration of public comment, NMFS will issue final initial specifications and effort controls and publish them in the **Federal Register**. The final initial quota specifications and effort controls may subsequently be adjusted during the course of the fishing year, consistent with the provisions of the HMS FMP. Such adjustments will be published in the **Federal Register**.

Domestic Quota Allocation

The HMS FMP and its implementing regulations established baseline percentage quota shares for the domestic fishing categories. These percentage shares were based on allocation procedures that had been developed by NMFS over several years. The baseline percentage quota shares established in the HMS FMP for fishing years beginning June 1, 1999, to the present are as follows: General category - 47.1 percent; Harpoon category -- 3.9 percent; Purse Seine category -- 18.6 percent; Angling category -- 19.7 percent; Longline category -- 8.1 percent; Trap category -- 0.1 percent; and Reserve -- 2.5 percent. The 2002 ICCAT-recommended U.S. BFT quota of 1,464.6 mt, not including the 25 mt set aside for pelagic longline vessels, would be allocated in accordance to these percentages. However, in addition to the 2002 ICCAT quota Recommendation, quota allocations are adjusted based on overharvest or underharvest from prior fishing year's activity and results of U.S. data on dead discards and on the use of the ICCAT dead discard allowance. Each of these adjustments is discussed below and then applied to the results of the above percentage shares to determine the 2003 fishing year proposed initial specifications.

2002 Underharvest/Overharvest

The current ICCAT BFT quota recommendation allows, and U.S. regulations require, the addition or subtraction, as appropriate, of any underharvest or overharvest in a fishing year to the following fishing year, provided that such carryover does not result in overharvest of the total annual BFT quota and is consistent with all applicable ICCAT Recommendations, including restrictions on landings of school BFT. Therefore, NMFS proposes to adjust the 2003 fishing year quota specifications for the BFT fishery to account for underharvest and/or overharvest in the 2002 fishing year.

The General category fishery for BFT was closed, as of December 15, 2002, for the remainder of the 2002 fishing year (June 1, 2002 - May 31, 2003; 67 FR 77433, December 18, 2002). Overall U.S. landings figures for the fishing year are still preliminary, since other categories were open and final data from these categories have not yet been analyzed. Thus, the landings figures may be updated before the 2003 specifications are finalized. For the 2002 fishing year, NMFS has preliminarily determined that General category landings were higher than the adjusted General category quota by 16.3 mt. Purse Seine

category landings were fewer than the adjusted Purse Seine category quota by 110.0 mt. Regulations at 50 CFR 635.27(a)(9)(i) require that Purse Seine category underharvests or overharvests be subtracted from or added to each individual vessel's quota allocation, as appropriate. Based on the estimated amount of Reserve that NMFS is maintaining for the landing of BFT taken during ongoing scientific research projects, NMFS estimates that 10.3 metric tons of Reserve remains unharvested from the 2002 fishing year. This remaining Reserve quota will be used to partially address the General category overharvest in 2002.

The Angling, Longline, Trap, and Harpoon category fisheries remained open through May 31, 2003. As NMFS anticipates publication of final BFT quota specifications for the 2003 fishing year prior to the availability of final 2002 fishing year landings figures for these four categories, best estimates based on current landings patterns will be used to determine carryover amounts, if any. Harpoon category landings are less than the adjusted Harpoon category quota by approximately 20.7 mt. Angling category under/over harvests vary by size class for the 2002 fishing year: School BFT -- 136.0 mt underharvest, large school/small medium BFT -- 76.1 mt underharvest, large medium/giant BFT -- 1.5 mt overharvest, and school reserve -- 20.5 mt underharvest. Overharvest in the large medium/giant size class will be addressed by transfer from the large school/small medium category. Longline category landings are less than the adjusted quota by 233 mt. In 2002, no landings were recorded in the Trap category leaving 2.3 mt. For the above four categories that remain open, the final initial 2003 BFT quota specifications will be issued based on updated 2002 landings.

For all categories with underharvests from the 2002 fishing year, these initial specifications include provisions to carry forward remaining quota to the same category for the 2003 fishing year. However, the unused school reserve (approximately 20.5 mt) is proposed to be allocated to the Reserve category.

Dead Discards

As part of the BFT rebuilding program, ICCAT recommends an allowance for dead discards. The U.S. dead discard allowance is 68 mt. The 2001 preliminary estimate of U.S. dead discards, as reported in pelagic longline vessel logbooks, totaled 25.0 mt (U.S. National Report to ICCAT 2002). As estimates of BFT dead discards for the 2002 fishing year will not be available