

regulations have become effective, NMFS has received comment from vessel owners/operators and tournament directors that many vessels that had historically participated in tournaments would no longer be able to do so. In order to provide some flexibility and allow General category fishermen access to recreational HMS fisheries, NMFS proposes to allow General category vessels to participate in recreational HMS fisheries provided they register and participate in a recreational HMS fishing tournament that is registered according to HMS tournament registration and participation regulations at § 635.5(d), and according to the regulations of the tournament. It is incumbent upon the General category fishermen to verify that a tournament is registered.

When General category vessels participate in registered tournaments, HMS Angling category regulations, as well as any specific tournament rules, would apply to General category vessels when fishing for tuna (other than BFT), sharks, swordfish, and billfish. For BFT, General category vessels participating in tournaments must comply with all General category regulations. Thus, they would still not be allowed to fish for BFT less than 73" and would be subject to restricted fishing days. As HMS tournaments must be registered, NMFS would also be able to collect data on catch and effort for management purposes and make further revisions should they be necessary.

Time Period for Permit Category Changes

NMFS also proposes to allow permit applicants to make permit category changes within 10 days of the date of issuance of the permit (e.g., if a permit is issued on July 1, then corrections to the permit category must be made by July 10). Partly as a result of the establishment on HMS Angling permit and of the potential confusion during the permit application process, applicants have found themselves with a permit other than the one intended. As permit holders cannot make more than one change a year or change categories after they have renewed a permit, permit holders are finding they are unable to obtain the correct category and may be unable to engage in their intended fishing activity for the current year if they do not meet a particular permit requirement (e.g., cannot sell fish in the Angling category, or do not hold a Captain or Master's license with a Charter/Headboat permit, etc). NMFS proposes to authorize a permit holder to make a permit category change within 10 days of the date of issuance of the

permit. Ten days should provide enough time for a permit applicant to obtain his or her permit, check that it is the correct permit, and contact the NMFS permit contractor to correct an error.

Definition of Management Boundary Area

NMFS proposes to define "vicinity of the management boundary area" as the Northeast Distant (NED) area to facilitate management, monitoring, and enforcement of the 25 mt allocated to the longline north category, per the ICCAT recommendation. This definition matches exactly the definition of NED closed area in which the experimental fishery is occurring. NMFS is in the third year of the 3-year sea turtle bycatch reduction experiment in the NED area, and pelagic longline vessels are prohibited from fishing in that area unless they are actively participating in, and complying with, the terms and conditions of the NED experiment. Such vessels participate in the NED experiment pursuant to an Endangered Species Act Section 10 permit and exempted fishing permits with 100 percent observer coverage. As the NED area straddles the management boundary area from 60° to 20° W. Longitude and 35° to 55° N. Latitude and given the strict controls of the terms of the experimental fishery, NMFS should be able to monitor, manage, and enforce the 25 mt incidental BFT allocation to the longline north category. NMFS further proposes to allow retention of 25 mt of BFT caught incidentally to fishing under the NED experimental fishery with no target catch requirements because the strict controls of the experiment may prevent fishermen from meeting the target catch requirements such that all BFT would be discarded. Once the 25 mt limit is reached, retention limits and target catch requirements would apply to all incidentally caught BFT in the NED area.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries (AA) has preliminarily determined that the regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries.

NMFS has prepared a regulatory impact review and an Initial Regulatory Flexibility Analysis (IRFA) that examine the impacts of the selected alternatives discussed previously in this rulemaking.

The purpose of this proposed action is to implement the 2002 ICCAT Recommendation regarding the BFT quota, propose 2003 specifications for the BFT fishery that allocates the quota among domestic fishing categories, including 25 mt of BFT quota to the Longline category, implement General category effort controls, and revise permit regulations.

The analysis for the IRFA assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries, all of which are considered small entities. In order to do this NOAA Fisheries has estimated the average impact that the alternative to establish the 2003 BFT quota for all domestic fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2002 ICCAT Recommendation increased the BFT quota allocation to 1,489.6 mt. This increase includes 77.6 mt to be redistributed to the domestic fishing categories based on the allocation percentages established in the HMS FMP as well as a set-aside quota of 25 mt to account for incidental catch of BFT related to directed longline swordfish and BAYS fisheries in the vicinity of the management area boundary. In 2002, the annual gross revenues from the commercial BFT fishery were approximately \$18 million (Table 9). There are approximately 11,091 vessels that are permitted to land and sell BFT under four BFT quota categories. The four quota categories and their 2002 gross revenues are General (\$13,948,190), Harpoon (\$588,884), Purse Seine (\$3,066,034), and Incidental Longline (\$588,352). The analysis for the IRFA assumes that all category vessels have similar catch and gross revenues. While this may not be true, the analyses are sufficient to show the relative impact of the various preferred alternatives on vessels.

For the allocation of BFT quota among domestic fishing categories, two alternatives were considered: no action and a preferred alternative that would allocate the ICCAT-recommended quota to domestic categories in accordance with the 2002 ICCAT recommendation and HMS FMP. The 2002 ICCAT recommendation specified a 1489.6 mt total quota for the United States. Under ATCA, the United States is obligated to implement ICCAT-approved recommendations. The preferred alternative would increase the quota by 77.6 mt and would have positive impacts for fishermen. The no action alternative would not be consistent with the purpose and need for this action and the HMS FMP. It would maintain