

that it is the correct permit, and contact the NMFS permit contractor to affect a change. Extending the time period may begin to undermine the original intent of the regulation (i.e., restricting multiple permit category changes) if permit applicants are motivated to actively participate in more than one category per season.

Comment 4: Some comments stated that based on the system NMFS has in place for rapid curtailment of effort in the BFT fisheries, and due to the large amounts of inseason transfers made in the past, a large portion of the Reserve category quota for this season should be earmarked for the late season fishery off the south Atlantic states. The comments also stated this could be accomplished by changing the description of the Reserve category for this season to assure that a portion of the Reserve category quota is transferred to the General category in the late fall-early winter months.

Response: The final action will maintain the Reserve category description as stated in § 635.27 (a)(8). NMFS maintains the authority to transfer quota among categories or, as appropriate, subcategories throughout the fishing year. Prior to making any such transfers, NMFS has established a set of criteria that must be considered before performing an inseason transfer. The criteria are listed at § 635.27 (a)(7)(iii)(A)–(F).

Classification

These final initial BFT quota specifications, General category effort controls, and revisions to the HMS regulations are published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries (AA) has determined that the regulations contained in this final rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule and submitted it to the Chief Counsel for Advocacy of the Small Business Administration. No comments were received on the IRFA concerning the economic impact of this final rule. A summary of the Final Regulatory Flexibility Analysis (FRFA) is provided below.

The analysis for the FRFA 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, NMFS 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 (bigeye, albacore, yellowfin, skipjack) fisheries in the vicinity of the management area boundary. In 2002, the annual gross revenues from the commercial BFT fishery were approximately \$18 million. 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 FRFA 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 final actions on vessels.

For the allocation of BFT quota among domestic fishing categories, two alternatives were considered: The final action that will allocate the ICCAT-recommended quota to domestic categories in accordance with the 2002 ICCAT Recommendation and HMS FMP and the No Action alternative. Under ATCA, the United States is authorized to promulgate regulations as necessary and appropriate to implement ICCAT-approved recommendations, except that no regulations may have the effect of increasing or decreasing any allocation or quota agreed to pursuant to an ICCAT Recommendation. The final action will increase the quota by 77.6 mt and will have positive impacts for fishermen. The No Action alternative was rejected because it was not consistent with the purpose and need for this action and the HMS FMP. The No Action alternative would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2002, but would deny fishermen additional fishing opportunities as recommended by the 2002 ICCAT Recommendation, inconsistent with ATCA. No other alternatives would meet the purpose and need for this action.

For the General category effort controls, three alternatives were considered: The final action to establish RFDs late in the season to provide a late

Fall, southern Atlantic fishery, designate RFDs according to a published schedule, and the No Action (no initial RFDs and publish a schedule during the season). The final action would have positive economic impacts to those south Atlantic fishermen, but could have potentially negative economic impacts to those northern area fishermen who would have otherwise caught and sold fish earlier in the season. These negative impacts will be slightly mitigated if northern area fishermen are willing to travel south late in the season. NMFS has selected this final action because extending the season as late as possible enhances the likelihood of increasing participation by southern area fishermen and increasing overall access to the fishery over a greater range of the fish migration. The impacts of designating RFDs according to a published schedule may vary according to the pace of the fishery. If catch rates are slow as in recent years, as is expected, scheduled RFDs may need to be waived which causes confusion and disrupts fishermen's activities, thus having negative economic impacts. Therefore, this alternative is rejected. The No Action alternative could have positive economic consequences if another season of low catch rates occurs. However, even with low catch rates and no RFDs, it is unlikely that there will be enough quota in the General category to sustain a late season commercial handgear fishery off south Atlantic states, thus negatively impacting south Atlantic fishermen. Therefore, this alternative is rejected.

For the permit revision issue, four alternatives were considered: The final action which allows General category vessels to participate in registered recreational HMS fishing tournaments, a final action which allows 10 calendar days from the date of issuance of the permit to change categories, No Action (General category vessels cannot participate in recreational HMS fisheries and no permit changes are allowed once a permit has been issued), and allow dual permits and require declarations by General category vessels prior to every trip regarding which permit is to be used. The final action, which allows General category vessels to participate in registered recreational HMS tournaments, will have positive economic and social impacts by relieving a restriction on General category vessels. The final action also provides a 10-calendar day time period for permit changes due to errors which would have positive social and economic impacts. The No Action