

planes on landings rates could be considered as part of the deliberations to delay the opening from July 15 to a more appropriate date but no later than August 15.

Comment 4 - Several comments were received regarding quota allocation to the Purse seine category, the impact of purse seine landings on the market, and timing of BFT market forces on ex-vessel prices in general. Several commenters stated that the purse seine fishery interfered with both the General and Harpoon category fisheries, that the Purse seine category should be eliminated altogether, and the quota redistributed among the other commercial categories with higher ex-vessel value landings. These comments noted that there has been ample opportunity for purse seine vessels to catch available quota, i.e., if they had chosen to fish off southern states later in the season, and that purse seine fishing operations this year tended to disrupt the biology and behavior of the fish as well as other traditional fishing patterns and agreements. A commenter stated that shifting the start date to avoid market gluts was not going to help as the volume of fish landed by purse seiners would flood the market regardless of when they were landed. Several commenters noted that adjustment of start and opening dates among the categories would not necessarily assist prices of ex-vessel landings as the markets in Japan were dominated by imports from other countries. In addition, they noted that Japan had business interests in farm raised BFT in pens around the world and could control the flow of tuna from these pens depending on the Japanese domestic market need. A few commenters also mentioned that there was now a strong U.S. domestic market for BFT and that controlling or even banning imports of BFT into the United States could provide stronger prices for U.S. domestic fishermen for BFT destined for internal domestic markets.

Response - One of the purposes of this action is to provide modest changes to the current timing of several commercial categories to assist in increasing economic yield in the fishery overall. To achieve this objective, NMFS analyzed means of decreasing the overlap of the General category and Purse seine category fisheries to improve market conditions and reduce conflicts as these two fishing categories are responsible for the greatest amount of landings in the BFT fishery. This action was intended to provide modest adjustments, pending development of an FMP amendment, to address allocation issues that have arisen. The

final rule provides flexibility for fine tuning of the commencement of the Purse seine category between July 15 and August 15 to further assist in achieving the objective of reducing gear conflicts and overlap between fishing categories based on, among others, data from landings and market conditions. NMFS recently published a Notice of Intent to prepare an FMP amendment (68 FR 40907; July 9, 2003) which will address BFT allocation as well as other issues. Elimination of the Purse seine category would require an FMP amendment as well. Information from ICCAT's Bluefin Statistical Document Program indicates that Japan imports BFT from many countries and that the U.S. domestic market for BFT has grown over the past several years. Controlling this international flow of product to improve United States domestic prices is beyond the purview of this rulemaking and would involve international trade negotiations with careful consideration of consequences to existing trade treaties and agreements. While this action will not be able to address BFT imports, it will provide modest adjustments to alleviate overlap in sectors of the U.S. Atlantic BFT fisheries, which could contribute to improved ex-vessel prices and reduce gear conflicts on the water.

Comment 5 - Comments were generally in favor of the November 15 end date for the Harpoon category. Commenters supported implementation of the end date as a means of preserving the Harpoon category quota for the traditional fishery. A few comments were opposed to establishing an end date. One comment stated it was creating two different standards for categories within the fishery especially when NMFS was considering extending the General category season. A few commenters requested that the end date be established on November 1.

Response - The final action includes a November 15 end date for the Harpoon category. This action is intended to maintain the Harpoon category quota for the traditional Gulf of Maine fishery, which upholds the purpose of the 1980 action that established the Harpoon category (45 FR 40118; June 13, 1980). Unlike other categories, the original intent of this fishery and quota allocation was for a particular geographic sector of traditional harpoon fishermen. November 15 is the approximate date by which most or all BFT have migrated out of the Gulf of Maine area. By closing the fishery on November 15, fishermen in other areas will not be able to land BFT against the Harpoon category quota. However, use of a harpoon to harvest BFT will

continue to be available to all fishermen under the General category when the General category season is open. NMFS did not consider a November 1 end date because BFT landings in New England have occurred in mid-November, and November 15 attempts to provide the traditional fishery with all available opportunities to harvest the quota while still avoiding investment in a fishery outside the New England area.

Comment 6 - NMFS received several comments in favor of extending the General category end date. Many commenters supported the temporal extension of the General category fishery to include a winter fishery off south Atlantic states, and noted the important economic contribution this fishery makes to the local economy. Several commenters noted that they had invested in this fishery by purchasing equipment and needed more certain annual access to the fishery as opposed to depending upon potential remaining late season quota. One commenter stated that the 2003 quota increase from ICCAT would provide for this action with minimal impact on the summer and fall New England General category fishery. Other commenters noted that this would address some of the concerns raised by the North Carolina Division of Marine Fisheries petition, such as providing more fair and equitable access to BFT when they are available off the south Atlantic coast. A number of commenters requested that the January 31 season end date be applicable for the 2003 fishing year, i.e., for January 2004.

Response - The final action includes a January 31 end date for the General category season. The intent of this action is to more broadly distribute General category fishing opportunities both temporally and geographically. Although there may be a small negative impact on General category fishermen in the northern areas of the fishery, NMFS agrees that the recent increase in the ICCAT quota as well as NMFS' continuing management of the fishery with annual specifications and inseason actions will minimize these impacts. In addition, northern area General category vessels could mitigate impacts by traveling south to participate in the winter fishery. This action addresses, in part, a petition for rulemaking submitted by the North Carolina Division of Marine Fisheries to provide a reasonable opportunity for southern fishermen to harvest BFT when they are available in the southern area. NMFS published a **Federal Register** notice requesting public comment on the petition (67 FR 69502; November 18, 2002), and received 28 comments which ranged from support to opposition.