

category BFT fishery in the southern Atlantic region was extensively discussed by the HMS AP and the public. However, the HMS AP did not reach consensus on how the HMS FMP should address the scope of a southern area General category BFT fishery. Over the last couple of years, NMFS has performed a number of inseason quota transfers of BFT, consistent with the transfer criteria established in the HMS FMP, which has allowed the General category BFT fishery to extend into the winter months (i.e., late November - December) and provided fishing opportunities for southern Atlantic General category fishermen. In 2002, NMFS received a Petition for Rulemaking submitted by the North Carolina Department of Marine Fisheries to formalize this winter fishery and extend fishing opportunities into January. NMFS published a Notice of Receipt of Petition on November 18, 2002 (67 FR 69502).

In part to address some of the concerns raised in the Petition, as well as to increase fishing opportunities and optimum yield for the fishery overall, NMFS recently extended the General category end date from December 31 to January 31 (68 FR 74504, December, 24, 2003). This effectively alters the third General category time-period from October through December to October through January.

Quota Adjustments

The 2003 BFT quota specifications issued pursuant to § 635.27 set a General category quota of 684.4 mt of large medium and giant BFT to be harvested from the regulatory area during the 2003 fishing year, and divided the General category quota into time-period subquotas to provide for broad temporal and geographic distribution of fishing opportunities. On November 18, 2003, NMFS transferred 150 mt to the Reserve category, establishing an adjusted coastwide

General category quota of 534.4 mt for the 2003 fishing year (68 FR 64990, November 18, 2003). Based on reported landings, NMFS closed the coastwide General category at 11:30 p.m. local time December 10, 2003. The intent of this closure was to prevent overharvest of the adjusted quota established for the General category. As of the December 10, 2003 closure, approximately 552.8 mt has been harvested by the coastwide General category, an overharvest of approximately 18.4 mt.

After considering the criteria established for making transfers between categories, NMFS has determined that 15 mt of the remaining Longline North subcategory quota of approximately 27.9 mt (not including the 25 mt set aside for BFT caught in the vicinity of the management boundary area) should be transferred to the coastwide General category quota. NMFS has also determined that 12 mt of the remaining Longline South subcategory quota of approximately 74.0 mt and 3 mt of the Trap category quota of approximately 3.8 should be transferred to the coastwide General category. These transfers provide a combined 30 mt to the coastwide General category fishery for an adjusted quota of 564.4 mt. This action addresses the cumulative overharvest of 18.4 mt to date and also provides a limited amount of additional quota (11.6 mt) to extend fishing opportunities in the southern Atlantic region.

Due to the expected General category catch rates late in the season and the amount of quota available, NMFS is limiting the coastwide General category reopening period for large medium and giant BFT to two days. Therefore, the coastwide General category is scheduled to reopen on 12:30 a.m. January 2, 2004, and close at 11:30 p.m. January 3, 2004. Fishing for, retaining, possessing, or landing large medium or giant BFT intended for sale by persons aboard vessels in the General or HMS Charter/

Headboat categories must cease at 11:30 p.m. local time January 3, 2004.

Classification

The Assistant Administrator for fisheries, NOAA (AA), finds good cause that providing prior notice and public comment for this action, as required under 5 U.S.C. 553 (b) (B), is impracticable and contrary to the public interest. This transfer and reopening is intended to provide increased fishing opportunities in all areas without risking overharvest of the adjusted BFT quota established for the coastwide General category. The fishery is currently closed and any delay in reopening would not allow for maximum utilization of available quota and would be inconsistent with domestic requirements and objectives. NMFS provides prior notification of the reopening, and subsequent closure, by publishing a notice in the **Federal Register**, faxing notification to individuals on the HMS FAX Network and to known fishery representatives, announcing the notice on the Atlantic Tunas Information Line, and announcing the notice over NOAA Weather and Coast Guard radio channels. For all of the above reasons, and because this action relieves a restriction (i.e., allows the utilization of quota and extends fishing opportunities), there is also good cause under 5 U.S.C. 553(d) to waive the delay in effectiveness of this action. This action is required under 50 CFR 635.28(a) (1) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 24, 2003.

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Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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