

contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one vessel to conduct fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for an exemption to the black sea bass, *Centropristes striata*, closure requirements of the FMP. The experiment, coordinated by the Virginia Institute of Marine Sciences (VIMS), proposes to conduct fishing activities to compare black sea bass retention and discard rates using two different black sea bass pot escape vent configurations. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before 5 p.m. EST July 12, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on BSB Escape Vent EFP Proposal." Comments may also be sent via facsimile (fax) to (978) 281-9135.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978-281-9279.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted to NMFS by VIMS on April 23, 2002. The EFP is being requested to facilitate a research project that would compare black sea bass retention and discard rates using two different escape vent configurations in black sea bass pots. Approximately 15 fishing trips would be conducted off the coasts of Maryland and Virginia during the autumn of 2002. To provide the greatest potential for fishing success, it would be necessary to allow the vessel to fish for, and possess, black sea bass during closures that may be implemented due to the attainment of the commercial quota. Black sea bass harvested during closure periods would

not be landed, and would be returned to the water as soon as practicable.

The project will compare differences in the escapement of undersized black sea bass (less than 11 inches (27.94 cm)) between currently mandated single, 2-inch (5.08-cm) square escape vents and an experimental design in which the entire parlor section of the trap is constructed of 2-inch (5.08-cm) square mesh. The objective of the research is to investigate the effectiveness of the experimental trap design at reducing the retention and discard of sublegal black sea bass, without affecting the retention rate of legal-sized black sea bass.

Traps with a single, 2-inch (5.08-cm) square escape vent would serve as controls. The experiment would use a randomized survey whereby three traps (one control and two experimental) are connected by rope at regular intervals and deployed. One rope, or "string," of traps would be deployed at 10 different fishing sites per trip. These sites will be in close enough proximity to allow the traps to be hauled twice per day. Sixty traps per day are proposed to be hauled (3/traps/string, 1 string/site, and 10 sites hauled twice daily). Approximately 15 day-long research fishing trips are proposed for the project during the autumn months of 2002. The fishing activity will occur primarily between Wachapreague, VA, and Ocean City, MD.

To facilitate the collection of data during periods with the greatest potential for fishing success, the EFP would exempt one commercial vessel from the closure regulations specified at 50 CFR part 648, subpart I, and allow the vessel to fish for and possess black sea bass during periods when the commercial fishery is closed due to attainment of the quarterly quota. VIMS researchers will be onboard the participating vessel during all research trips. Any black sea bass harvested during a closure period would not be allowed to be landed, and would be returned to the water as soon as practicable after measurement of the fish. The commercial vessel that would participate in the research project has two live tanks onboard, which should reduce any discard mortality to black sea bass that could occur during a closure. Therefore, the catch levels during closed seasons are not expected to have a detrimental impact on the black sea bass resource. Any landings that would occur during an open season would be reported in the Vessel Trip Report, as required, because the participating vessel possesses a commercial black sea bass moratorium permit.

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

Dated: June 21, 2002.

Virginia M. Fay,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 020612146-2146-01; I.D. 042602F]

RIN 0648-AP90

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications and General Category Effort Controls

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed initial 2002 quota specifications and General category effort controls; public hearings; request for comments.

SUMMARY: NMFS proposes initial specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quota and General category effort controls for the fishing year beginning June 1, 2002. The proposed initial quota specifications and effort controls are necessary to implement the 1998 recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) establishing a rebuilding program for Western Atlantic BFT, which is required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS will hold public hearings to receive comments from fishery participants and other members of the public regarding the proposed initial quota specifications and effort controls.

DATES: Written comments must be received on or before July 24, 2002.

The public hearings dates are:

1. July 8, 2002, 7 p.m.—9 p.m., Gloucester, MA.

2. July 9, 2002, 2 p.m.—4 p.m., Silver Spring, MD.

3. July 10, 2002, 7 p.m.—9 p.m., Atlantic Beach, NC.

ADDRESSES: Written comments on the proposed initial quota specifications and General category effort controls

should be sent to Christopher Rogers, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282. Comments also may be sent via facsimile (fax) to (301) 713-1917. Comments will not be accepted if submitted via e-mail or the Internet.

The public hearing locations are:

1. Fuller Elementary School, 4 School House Road, Gloucester, MA 01930.

2. Silver Spring NOAA Science Center, 1301 East-West Highway, Silver Spring, MD 20910.

3. Atlantic Beach Sheraton Atlantic Beach Oceanfront Hotel, 2717 W. Fort Macon Road, Atlantic Beach, NC 28512.

FOR FURTHER INFORMATION CONTACT: Brad McHale (978) 281-9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of ICCAT. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background

On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) that was adopted and made available to the public in April 1999. The proposed initial specifications are necessary to implement the 1998 ICCAT recommendation, establishing a rebuilding program for Western Atlantic BFT, which is required by ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act. The proposed initial quota specifications would allocate the total ICCAT-recommended quota among the several established fishing categories, would carryover any unharvested 2001 fishing year quota, and would be consistent with the BFT rebuilding program as set forth in the HMS FMP.

NMFS proposes the 2002 fishing year (June 1, 2002—May 31, 2003) BFT initial quota specifications under the annual and inseason adjustment procedures of the HMS FMP. Also, in accordance with the HMS FMP, NMFS proposes the General category effort control schedule, including time-period subquotas and restricted fishing days (RFDs), for the upcoming fishing season. After consideration of public comment,

NMFS will issue final initial specifications and publish them in the **Federal Register**. The final initial quota specifications may subsequently be adjusted during the course of the fishing year, consistent with the provisions of the HMS FMP. Notice of any such adjustments will be published in the **Federal Register**.

Domestic Quota Allocation

The HMS FMP and the implementing regulations established baseline percentage quota shares of the ICCAT-recommended U.S. BFT quota for each of 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 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 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 quota and is consistent with all applicable ICCAT recommendations, including restrictions on landings of school BFT. Therefore, NMFS proposes to adjust the 2002 fishing year quota specifications for the BFT fishery to account for underharvest and overharvest in the 2001 fishing year.

The General and Purse Seine category fisheries for BFT have been closed for the remainder of the 2001 fishing year (June 1, 2001 - May 31, 2002). The landings figures are still preliminary, however, and may be updated before the 2002 specifications are finalized. For the 2001 fishing year, NMFS has preliminarily determined that General category landings were higher than the adjusted General category quota by 13.0 mt and Purse Seine category landings were fewer than the adjusted Purse Seine category quota by 59.7 mt. 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 6.9 mt of Reserve remains unharvested from the 2001 fishing year. This remaining Reserve quota will be used to partially cover the General category overharvest in 2001.

Given estimated catch rates and available quota, the Angling Longline, Trap, and Harpoon category fisheries will remain open through May 31, 2002. As NMFS anticipates publication of final BFT quota specifications for the 2002 fishing year prior to the availability of final 2001 landings figures for these three categories, best estimates will be used to determine carryover amounts, if any. To date, Harpoon category landings are less than the adjusted Harpoon category quota by 22.0 mt and the Angling category has the following underharvests for the 2001 fishing year: School BFT—84.6 mt; large school/small medium BFT—70.3 mt; and large medium/giant BFT—1.0 mt. In addition, 20.1 mt remains in the school reserve. To date, 56.6 mt remain in the Longline category. The final initial 2002 BFT quota specifications will be issued based on updated 2001 landings. Should adjustments to the final initial 2002 BFT quota specifications be required based on the final 2001 BFT landings figures, NMFS will publish a **Federal Register** notice adjusting the final initial 2002 fishing year quota specifications.

In accordance with the regulations regarding annual adjustments at § 635.27(a)(9)(ii), NMFS proposes specifications for the 2002 fishing year that include carryover adjustments. The proposed quotas are: General category—647.2 mt; Harpoon category—76.1 mt; Purse Seine category—317.7 mt; Angling category—429.1 mt; Longline category—148.9 mt; and Trap category—2.3 mt. Additionally, 75.3 mt would be reserved for inseason allocations or to cover scientific research collection and potential overharvest in any category except the Purse Seine category. Regulations at 50 CFR 635.27(a)(9)(i) require Purse Seine category under or overharvests be subtracted from or added to each individual vessel's quota allocation, as appropriate. These proposed quotas include provisions for each category to carry forward any underharvest from 2001 to the 2002 fishing year. The exception to this is that the unused school reserve (approximately 20.1 mt) from 2001, along with an additional 20.0 mt of unused Longline South subcategory quota would be placed into the Reserve. This additional reserve quota would be allocated among the domestic fishing categories, as appropriate during the 2002 fishing year, in accordance with the inseason transfer criteria in the HMS regulations.

As part of the BFT rebuilding program, ICCAT recommended an allowance for dead discards. The U.S. dead discard allowance is 68 mt. The

2000 preliminary estimate of U.S. dead discards, as reported in pelagic longline vessel logbooks, totaled 67.0 mt (U.S. National Report to ICCAT 2001). As estimates of BFT dead discards for the 2001 fishing year will not be available for some time, the estimate for the 2000 calendar year was used to calculate the amount to be added to, or subtracted from, the U.S. BFT landings quota for 2002 as a result of dead discards.

Estimates of dead discards from other gear types and fishing sectors that do not use the pelagic longline vessel logbook are unavailable at this time and thus are not included in this calculation. As U.S. fishing activity is estimated to have resulted in less dead discards than its allowance, the ICCAT recommendation and U.S. regulations state that the U.S. may add one half of the difference between the amount of dead discards and the allowance (i.e., $68.0 \text{ mt} - 67.0 \text{ mt} = 1.0 \text{ mt}$, $1.0 \text{ mt}/2 = 0.5 \text{ mt}$) to its total allowed landings for the following year, or to individual fishing categories or to the Reserve. NMFS proposes to allocate the 0.5 mt to the Reserve quota, which could then be allocated to individual fishing categories as necessary during the fishing year.

Based on the proposed initial specifications, the Angling category quota of 429.1 mt would be divided as follows: School BFT—175.1 mt, with 98.1 mt to the northern area (north of $39^{\circ} 18'$ N. latitude), 77.0 mt to the southern area (south of $39^{\circ} 18'$ N. latitude), plus 20.5 mt held in reserve; large school/small medium BFT—226.2 mt, with 120.5 mt to the northern area and 105.7 mt to the southern area; and large medium/giant BFT—7.3 mt, with 3.1 mt to the northern area and 4.2 mt to the southern area. These subquotas reflect the adjusted north-south dividing line ($39^{\circ} 18'$ N. latitude) and percentage quota allocations in the northern and southern areas for the Angling category, as implemented by NMFS through a final rule on August 15, 2001 (66 FR 42801).

The Longline category quota of 148.9 mt would be subdivided as follows: 30.9 mt to longline vessels landing BFT north of 34° N. latitude and 118.0 mt to longline vessels landing BFT south of 34° N. latitude.

General Category Effort Controls

For the last several years, NMFS has implemented General category time-period subquotas to increase the likelihood that fishing would continue throughout the late summer and early fall fishing seasons. The subquotas are consistent with the objectives of the HMS FMP and are designed to address concerns regarding allocation of fishing

opportunities, to assist with distribution and achievement of optimum yield, to allow for a late season fishery, and to improve market conditions and scientific monitoring.

The HMS FMP divides the annual General category quota into three time-period subquotas as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-December. These percentages would be applied to the adjusted 2002 coastwide quota for the General category of 637.2 mt, with the remaining 10.0 mt being reserved for the New York Bight fishery. Therefore, coastwide, 382.3 mt would be available in the period beginning June 1 and ending August 31; 191.2 mt would be available in the period beginning September 1 and ending September 30; and 63.7 mt would be available in the period beginning October 1 and ending December 31, 2001.

In addition to time period subquotas, NMFS also has implemented General category RFDs to extend the fishing season throughout the summer and fall. The RFDs are consistent with the objectives of the HMS FMP and are designed to address the same issues addressed by time-period subquotas. For the 2002 fishing year, NMFS proposes a schedule of RFDs that is similar to that implemented in 2001, adjusted as necessary to coordinate with Japanese market holidays.

As proposed, persons aboard vessels permitted in the General category would be prohibited from fishing, including tag-and-release, for BFT of all sizes on the following days: August 10, 11, and 12; September 1, 2, 4, 8, 9, 11, 15, 16, 18, 22, 23, 25, 29, and 30; October 2, 6, 7, and 9. These proposed RFDs would improve distribution of fishing opportunities without increasing BFT mortality.

Public Hearings and Special Accommodations

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a NMFS representative will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to

respect the ground rules, and, if they do not, they will be asked to leave the hearing.

The public hearing sites are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Brad McHale (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the hearing.

Classification

These proposed specifications and effort controls are published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq.* Preliminarily, the AA has determined that the proposed specifications and the effort controls are consistent with the HMS FMP, the Magnuson-Stevens Act, and the 1998 ICCAT BFT catch recommendation.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed specifications and effort controls would not have a significant economic impact on a substantial number of small entities as follows:

The current level of participation in the Atlantic BFT fisheries has remained relatively consistent over the last couple of years since the HMS FMP was finalized. For instance, in 2001 there were 22,289 vessels that possessed either an Atlantic tunas permit or a HMS CHB permit. In 2000 and in 1999 there were 24,845 and 23,005 vessel permits respectively. The number of Atlantic tunas permit holders in each quota category has also remained relatively consistent since the HMS FMP was finalized. For example, in 2000 there were 9,468 vessels that possessed either a General category Atlantic tunas permit or a HMS Charter/Headboat permit, in 2001 there were 9,332 vessels permitted in either the General category Atlantic tunas permit or the HMS Charter/Headboat permit category. The similarity in number of vessels participating in a particular quota category from year to year holds true for the remaining category types (Angling, Longline, Harpoon, Purse Seine, and Trap) as well. In addition, according to the 2002 SAFE report, the value of the BFT fishery has increased from \$17,488,624 in 1996 to \$18,810,704 in 2000.

Due to the fact that the value of the BFT fishery is increasing, the overall U.S. Atlantic baseline BFT quota has not changed, the domestic breakdown of the U.S. Atlantic baseline BFT quota has not changed, and the level of participation in the U.S. Atlantic BFT fishery has remained relatively consistent since the original economic analyses were conducted in the HMS FMP, as reflected more recently in the 2002 SAFE report, NMFS has determined the Proposed Initial 2002 Quota Specifications and General Category Effort Controls, if implemented, would not have a significant economic

impact on a substantial number of small entities.

As mentioned above, NMFS has certified to the Small Business Administration that the proposed rule is not significant. As a result of this certification, an Initial Regulatory Flexibility Analysis was not prepared for this action.

Because of this certification, an Initial Regulatory Flexibility Analysis was not prepared.

These proposed quota specifications and General category effort controls have been determined to be not significant for purposes of Executive Order 12866.

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the Endangered Species Act. A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued

operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. NMFS is currently implementing the reasonable and prudent alternative required by the BiOp. These proposed quota specifications and effort controls would not have any additional impact on sea turtles as these actions would not likely increase or decrease pelagic longline effort, nor are they expected to shift effort into other fishing areas. No irreversible or irretrievable commitments of resources are expected from this proposed action that would have the effect of foreclosing the implementation of the requirements of the BiOp.

The area in which this proposed action is planned has been identified as EFH for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the Highly Migratory Species Division of the Office of Sustainable Fisheries at NMFS. It is not anticipated that this action will have any adverse impacts to EFH and, therefore, no consultation is required.

Dated: June 24, 2002.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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