

(55) For an individual issued an HMS Caribbean Small Boat Commercial permit to purchase, barter for, or trade for HMS harvested by other vessels with the intent to sell such landings.

\* \* \* \* \*

(e) \* \* \*

(1) First receive or attempt to first receive Atlantic swordfish from the north or south Atlantic swordfish stock without a Federal Atlantic swordfish dealer permit as specified in § 635.4(g) unless the harvesting vessel possesses a valid HMS Caribbean Small Boat Commercial permit issued under § 635.4 of this part and harvested the swordfish in the U.S. Caribbean as defined at § 622.2.

\* \* \* \* \*

(10) Fish for, catch, possess, retain, or land an Atlantic swordfish using, or captured on, “buoy gear” as defined at § 635.2, unless the vessel owner has been issued a swordfish directed limited access permit or a swordfish handgear limited access permit in accordance with § 635.4(f) or a valid HMS Caribbean Small Boat Commercial permit in accordance with § 635.4(o).

(11) As the owner of a vessel permitted, or required to be permitted, in the swordfish directed, swordfish handgear limited access permit category, or issued a valid HMS Caribbean Small Boat Commercial permit and utilizing buoy gear, to possess or deploy more than 35 individual floatation devices, to deploy more than 35 individual buoy gears per vessel, or to deploy buoy gear without affixed monitoring equipment, as specified at § 635.21(e)(4)(iii).

\* \* \* \* \*

(16) Possess any HMS, other than Atlantic swordfish, harvested with buoy gear as specified at § 635.21(e) unless issued a HMS Caribbean Small Boat Commercial permit and operating within the U.S. Caribbean as defined at § 622.2.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 120306154-2152-01]

RIN 0648-XA920

#### Atlantic Highly Migratory Species; 2012 Atlantic Bluefin Tuna Quota Specifications

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes 2012 quota specifications for the Atlantic bluefin tuna (BFT) fishery. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as 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).

**DATES:** Written comments must be received on or before April 16, 2012. Dates and locations for public hearings on this proposed action will be specified in a separate document in the **Federal Register** to be published at a later date.

**ADDRESSES:** You may submit comments, identified by “NOAA-NMFS-2012-0048”, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter “NOAA-NMFS-2012-0048” in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- **Fax:** 978-281-9340, Attn: Sarah McLaughlin

- **Mail:** Sarah McLaughlin, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930

- **Instructions:** Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other

method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Supporting documents, including the 2011 Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis, as well as others, such as the Fishery Management Plans described below may be downloaded from the HMS Web site at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/). These documents also are available by sending your request to Sarah McLaughlin at the mailing address specified above.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Atlantic bluefin tuna, bigeye tuna, albacore tuna, yellowfin tuna, and skipjack tuna (hereafter referred to as “Atlantic tunas”) are managed under the dual authority of the Magnuson-Stevens Act and ATCA. As an active member of ICCAT, the United States implements binding ICCAT recommendations to comply with this international treaty. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NMFS.

#### 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 (1999 FMP). The 1999 FMP included a framework process to promulgate annual specifications for the BFT fishery, in accordance with ATCA and the Magnuson-Stevens Act, and to implement the annual recommendations of ICCAT. Since 1982, ICCAT has

recommended a Total Allowable Catch (TAC) of BFT, and since 1991, ICCAT has recommended specific limits (quotas) for the United States and other Contracting Parties with BFT fisheries.

On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) a final rule, effective November 1, 2006, implementing the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), which consolidated management of all Atlantic HMS (i.e., sharks, swordfish, tunas, and billfish) into one comprehensive FMP. The implementing regulations for Atlantic HMS are at 50 CFR part 635. Among other things, the Consolidated HMS FMP maintained an allocation scheme, established in the 1999 FMP, for dividing the baseline annual U.S. BFT quota among several domestic quota categories based on gear type (i.e., Harpoon, Purse Seine, Angling, General, Longline, and Trap categories).

The 2012 BFT quota specifications are necessary to adjust the annual U.S. baseline BFT quota, recommended for 2011 and for 2012 by ICCAT, to account for any underharvest or overharvest of the adjusted 2011 U.S. BFT quota. Preliminary information indicates an underharvest of the 2011 adjusted BFT quota. Final 2011 landings and dead discard information will be available in May 2012.

#### *2010 ICCAT Recommendation and 2011 Implementing Rule*

At its 2010 annual meeting, ICCAT recommended a TAC of 1,750 mt annually for 2011 and for 2012, inclusive of dead discards (ICCAT Recommendation 10–03—Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program). This amount is expected to allow for continued stock growth under the both the low and high stock recruitment scenarios developed by ICCAT's scientific body at the last BFT stock assessment. The U.S. share of the TAC, adjusted for two specific bycatch allocations, is 54.02 percent, resulting in a baseline quota of 923.7 mt. The annual total U.S. quota, including 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area (NED), is 948.7 mt. Currently, ICCAT limits the amount of underharvest that may be carried forward from one year to the next to no more than 10 percent of a country's quota. This limits the amount of 2011 U.S. underharvest that may be carried forward to 94.9 mt (10 percent of the 948.7-mt total U.S. quota).

Through a final rule implementing the BFT quotas and Atlantic tuna fisheries

management measures (76 FR 39019, July 5, 2011), NMFS modified the baseline quota to 948.7 mt to implement ICCAT Recommendation 10–03 and set the domestic BFT fishing category subquotas per the allocation scheme established in the Consolidated HMS FMP and as permitted in implementing regulations (71 FR 58058, October 2, 2006). The baseline quota and category subquotas are codified and will be effective until changed; for instance, as a result of any new ICCAT BFT TAC recommendation. However, consistent with the Consolidated HMS FMP, NMFS will make underharvest and overharvest adjustments as necessary for the 2012 fishing year. Until the final specifications are effective, the existing BFT base quotas continue to apply as codified. See Table 1, second column.

#### *Accounting for Dead Discards*

The United States must report BFT landings data and BFT dead discard estimates to ICCAT annually. Currently, the best available annual estimate of dead discards for 2011 and that can be expected for 2012 is the 2010 estimate of 122.3 mt. Only pelagic longline dead discard estimates are available at this time. Estimates from other BFT gear types and fishing sectors that are not observed at sufficient levels for estimation and that do not report via a logbook are not included in this calculation. However, bycatch and bycatch mortality of BFT by vessels using handgear and purse seine gear is considered to be relatively low. Using the 2010 estimate as a proxy for the proposed action is appropriate because it is the best available and most complete information NMFS currently has regarding dead discards and is the established protocol in the regulations. When the 2011 BFT dead discard estimate becomes available (late spring 2012), it will be used to prepare the final specifications and will be reported to ICCAT along with total 2011 BFT landings.

#### *2012 Quota Specifications*

The 2012 BFT quota specifications are necessary to adjust the annual U.S. baseline BFT quota, which was recommended by ICCAT for 2011 and for 2012, to account for underharvest or overharvest of the adjusted 2011 U.S. BFT quota. Based on preliminary data available as of January 18, 2012, landings for 2011 totaled 746.3 mt. Adding the 122.3-mt estimate of dead discards results in a preliminary 2011 total catch of 868.6 mt, which is 175 mt less than the amount of quota (inclusive of dead discards) allowed under ICCAT

Recommendation 10–03 (948.7 mt plus 94.9 mt of 2010 underharvest carried forward to 2011, totaling 1,043.6 mt). However, the current ICCAT recommendation limits the amount of underharvest the United States may carry forward to 2012 to 94.9 mt, 10 percent of the total U.S. quota.

NMFS proposes to account up front (i.e., at the beginning of the fishing year) for half of the expected dead discards for 2012, using the best available estimate of dead discards, and deducting that portion directly from the Longline category subquota. This is the same approach that NMFS took for the final 2011 BFT quota specifications. Accounting for dead discards in the Longline category in this way may provide further incentive for pelagic longline fishermen to reduce those interactions that may result in dead discards. NMFS would apply half of the amount of underharvest that is allowed to be carried forward to 2012 to the Longline category and maintain the other half in the Reserve category. Maintaining this portion of the underharvest in the Reserve category until later in the fishing year would provide maximum flexibility in accounting for 2012 landings and dead discards. Consistent with determination criteria at § 635.27(a)(8), NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any other quota category.

Specifically, NMFS would deduct half of the dead discard estimate of 122.3 mt (i.e., 61.2 mt) from the 2012 baseline Longline category subquota of 74.8 mt and apply half of the 94.9 mt allowed to be carried forward to 2012 to the Longline category, i.e.,  $74.8 - 61.2 + 47.5 = 61.1$  mt adjusted Longline subquota (not including the 25-mt allocation set aside by ICCAT for the NED). NMFS would add the remainder of the 2011 underharvest that can be carried forward to 2012 (47.4 mt) to the Reserve category's baseline allocation of 23.1 mt, for an adjusted Reserve category quota of 70.5 mt.

For the directed fishing categories (i.e., the Angling, General, Harpoon, Purse Seine categories) as well as the Trap category, NMFS is not proposing adjustments to the baseline BFT subquotas (i.e., the allocations that result from applying the scheme established in the Consolidated HMS FMP to the baseline U.S. BFT quota).

Thus, in accordance with the ICCAT Recommendation 10–03, the Consolidated HMS FMP allocation scheme for the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(10), NMFS proposes quota specifications for the

2012 fishing year as follows and as shown in Table 1: General category—435.1 mt; Harpoon category—36 mt; Purse Seine category—171.8 mt; Angling category—182 mt; Longline category—61.1 mt; and Trap category—0.9 mt. The amount allocated to the Reserve category for inseason adjustments, scientific research collection, potential overharvest in any category except the Purse Seine category, and potential quota transfers would be 70.3 mt.

NMFS will make any necessary adjustments to the 2012 specifications in the final rule after considering updated 2011 landings information and the final dead discard estimate for 2011. It is important to note that NMFS and ICCAT have separate schedules and approaches for accounting for U.S. landings and dead discards. Through the specifications process used in 2011 (and proposed here), NMFS accounted proactively for half of the best estimate of dead discards at the beginning of the fishing year, and indicated that total 2011 U.S. BFT landings and dead discards would be accounted for and reported to ICCAT, and NMFS would make any ICCAT-required adjustments to future U.S. BFT quotas, if necessary. In contrast, ICCAT assesses quota compliance at its annual meeting in November by comparing the prior year's landings and reported dead discards against the adjusted U.S. quota. At the 2012 ICCAT annual meeting, ICCAT will compare actual 2011 landings and dead discards against the 948.7-mt base quota for 2011, plus the 94.9 mt allowed to be carried forward from 2010 to 2011 (for a total 2011 adjusted U.S. quota of 1,043.6 mt), to determine the United States' compliance with ICCAT.

If the final 2011 landings and dead discards information results in a total of greater than 948.7 mt (e.g., if the final dead discards estimate increases by more than 80.1 mt) but less than 1,043.6 mt, then the amount of 2011 underharvest that the United States may carry forward to 2012 would need to be reduced from 94.9 mt accordingly. In such an event, NMFS could decide to provide half of the available amount carried forward to the Longline category and the other half to the Reserve category (e.g., if the 2011 landings and the final dead discard estimate total

963.6 mt, 80 mt would be available to carry forward and NMFS could provide 40 mt to the Longline category and 40 mt to the Reserve category). NMFS could also decide to provide the entire amount to the Longline or Reserve category, particularly if the amount is small, such as 20 mt, or could allocate the amount carried forward in another manner after considering domestic management needs for 2012. In these examples, the baseline subquotas for the directed fishing categories and Trap category would be maintained (i.e., not changed). NMFS invites public comment on the range of possible allocations of the amount carried forward should that amount be greater than 0 mt and less than 94.9 mt.

Conversely, if the complete 2011 landings information and the final dead discard estimate for 2011 total more than the adjusted 2011 U.S. BFT quota of 1,043.6 mt, NMFS may need to take further action, consistent with the BFT quota adjustment regulations and with ICCAT Recommendation 10–03. Also, the United States may be subject to adjustment of the U.S. BFT quota, consistent with ICCAT recommendations. Given the amount of dead discards the United States has reported to ICCAT in the last few years (ranging from 122 to 204 mt), NMFS considers this potential situation to be unlikely, as the dead discard estimate would need to be approximately 300 mt. However, NMFS requests public comment on the potential adjustment of the final 2012 quota and subquotas to account for potential overharvest of the 2011 adjusted U.S. quota. For example, NMFS may determine that reducing either the Longline and/or the Reserve category quotas is necessary, or that the overall 2012 BFT quota must be reduced, which would affect all category subquotas.

The adjusted Longline category subquota for 2012 would be further subdivided in accordance with the North/South allocation percentages (i.e., no more than 60 percent to the south of 31° N. latitude) in the Consolidated HMS FMP. Thus, the proposed Longline category subquota of 61.1 mt would be subdivided as follows: 24.4 mt to pelagic longline vessels landing BFT north of 31° N. latitude, and 36.7 mt to pelagic longline vessels landing BFT

south of 31° N. latitude. NMFS would account for landings under the 25-mt NED allocation separately from other Longline category landings.

NMFS considers this a transitional approach from the method used for 2007 through 2010. From 2007 through 2010, there were substantial underharvests of some of the commercial BFT subquotas. Consistent with the Consolidated HMS FMP and its implementing regulations, NMFS provided the Longline category a substantial portion of prior year U.S. underharvest that was allowed to be carried forward (limited to 50 percent of the total U.S. quota at that time) during the annual specification process at the beginning of the fishing year. This provided quota sufficient for the pelagic longline fleet to operate for the entire fishing year while also accounting for dead discards “up front” using the best available estimate of anticipated dead discards. NMFS was also able to increase the directed categories' quotas and the Reserve category quota using available underharvest.

This new method is appropriate again for 2012 as NMFS plans to begin an HMS FMP amendment process to determine whether existing management measures need to be adjusted more broadly to meet the multiple goals for the BFT fishery in the future. In the meantime, management of the BFT fishery continues under the current Consolidated HMS FMP, implementing regulations, and ICCAT Recommendations. Through the FMP amendment process, NMFS may begin to expand BFT data collection programs, including collection of dead discard information, for all categories and may revise measures to account for and control dead discards. In contemplating how to account for dead discards within the U.S. BFT quota, NMFS believes that the operational issues facing the pelagic longline fishery and implications regarding BFT dead discards that may occur while the fleet continues directed fishing operations for swordfish and other tunas should be considered. NMFS anticipates that dead discards in the pelagic longline fishery may be reduced due to continued implementation of the weak hook requirement in the Gulf of Mexico in 2011 (76 FR 18653, April 5, 2011).

TABLE 1—PROPOSED 2012 ATLANTIC BLUEFIN TUNA QUOTAS AND QUOTA SPECIFICATIONS  
[in metric tons]

Category (% share of baseline quota)	Baseline allocation for 2011 and 2012 (per 2010 ICCAT recommendation and consolidated HMS FMP allocations)	2011 Quota specifications		
		Dead discard deduction (1/2 of 2011 proxy of 122.3 mt)	2011 Underharvest to carry forward to 2012 (94.9 mt total)	Adjusted 2012 fishing year quota
Total (100)	923.7*			957.4
Angling (19.7)	182.0			182.0
	<b>SUBQUOTAS:</b>			<b>SUBQUOTAS:</b>
	School 94.9			School 94.9
	Reserve 17.6			Reserve 17.6
	North 36.5			North 36.5
	South 40.8			South 40.8
	LS/SM 82.9			LS/SM 82.9
	North 39.1			North 39.1
	South 43.8			South 43.8
	Trophy 4.2			Trophy 4.2
	North 1.4			North 1.4
	South 2.8			South 2.8
General (47.1)	435.1			435.1
	<b>SUBQUOTAS:</b>			<b>SUBQUOTAS:</b>
	Jan 23.1			Jan 23.1
	Jun–Aug 217.6			Jun–Aug 217.6
	Sept 115.3			Sept 115.3
	Oct–Nov 56.6			Oct–Nov 56.6
	Dec 22.6			Dec 22.6
Harpoon (3.9)	36.0			36.0
Purse Seine (18.6)	171.8			171.8
Longline (8.1)	74.8	-61.2	+47.5	61.1
	<b>SUBQUOTAS:</b>			<b>SUBQUOTAS:</b>
	North (-NED) 29.9			North (-NED) 24.4
	NED 25.0*			NED 25.0*
	South 44.9			South 36.7
Trap (0.1)	0.9			0.9
Reserve (2.5)	23.1		+47.4	70.5

\* 25-mt ICCAT set-aside to account for bycatch of BFT in pelagic longline fisheries in the NED. Not included in totals at top of table.

**Request for Comments**

NMFS solicits comments on this proposed rule through April 16, 2012. See instructions in **ADDRESSES** section above.

**Classification**

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the Consolidated HMS FMP, the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

Pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., the Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The reasoning for this certification is as follows:

These annual quota Atlantic bluefin tuna (BFT) specifications (effective January 1 through December 31, 2012) are necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Act. Under ATCA, the United States must promulgate regulations as necessary and appropriate to implement binding recommendations of ICCAT.

The proposed rule would adjust the annual U.S. baseline BFT quota, which was recommended for 2011 and for 2012 by ICCAT, to account for any underharvest or overharvest of the adjusted 2011 U.S. BFT quota. Preliminary information indicates an underharvest of the 2011 adjusted BFT quota. This proposed action was developed in accordance with the framework process set forth in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), and is

supported by the Environmental Impact Statement/Regulatory Impact Review/Final Regulatory Flexibility Analysis prepared for the Consolidated HMS FMP and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (FRFA) prepared for the 2011 final rule implementing BFT quotas and Atlantic tuna fisheries management measures (see **ADDRESSES**).

On July 5, 2011, the National Marine Fisheries Service (NMFS) published a final rule (76 FR 39019) that modified the baseline quota to 948.7 mt to implement ICCAT Recommendation 10–03 (Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program) and set the category subquotas per the allocations established in the Consolidated HMS FMP (71 FR 58058, October 2, 2006). The FRFA prepared for the 2011 BFT quota specifications indicated that there were 8,311 commercial Atlantic tunas or Atlantic HMS permit holders (3,849 in the Atlantic Tunas General category; 29 in the Atlantic Tunas Harpoon category; 5 in the Atlantic Tunas Purse Seine

category; 248 in the Atlantic Tunas Longline category; 6 in the Atlantic Tunas Trap category; and 4,174 in the HMS Charter/Headboat category). This constitutes the best available information regarding the universe of permit holders recently analyzed.

Under the SBA's regulations implementing the RFA, a small fishing entity is one that has less than \$4 million in annual revenue (\$6.5 million for charter/party boats). This action would apply to all participants in the Atlantic BFT fishery, all of which are considered small entities.

The most recent ex-vessel average price per pound information for each commercial quota is used to estimate potential ex-vessel gross revenues under the 2012 baseline subquotas and the 2012 proposed adjusted subquotas, *which would reduce the Longline category subquota in the same manner as implemented for 2011* (i.e., 2011 prices for the General, Harpoon, and Longline/Trap categories, and 2009 for the Purse Seine category, when Purse Seine category landing were last recorded). The 2012 baseline quotas could result in estimated gross revenues for each category, if fully utilized, as follows: General category: \$8.5 million (435.1 mt \* \$8.90/lb); Harpoon category: \$565,000 (36 mt \* \$7.12/lb); Longline category: \$1 million (74.8 mt \* \$6.10/lb); Purse Seine category: \$2.3 million (171.8 mt \* \$5.96/lb); and Trap category: \$12,000 (0.9 mt \* \$6.10/lb). Under the adjusted quota for the Longline category, gross revenues could be

\$822,000 (61.1 mt \* \$6.10/lb). Estimated potential 2012 revenues on a per vessel basis, considering the number of permit holders listed above, could be \$2,200 for the General category; \$19,500 for the Harpoon category; \$3,300 for the Longline category under the proposed adjusted subquota (reduced from \$4,100 under the baseline subquota); \$451,000 for the Purse Seine category; and \$2,000 for the Trap category. Thus, all of the entities affected by this rule are considered to be small entities for the purposes of the RFA.

However, this proposed rule would not change the BFT baseline quota and category subquotas, or implement any new management measures not previously considered. ICCAT Recommendation 10-03 is in effect until changed, for instance, as a result of a new ICCAT BFT quota recommendation. The domestic BFT baseline quotas and subquotas are codified in the regulations. Thus, the affected entities will not experience any negative price impacts as a result of this rule.

*Carryover of underharvest:* ICCAT Recommendation 10-03 limits the amount of underharvest that may be carried forward from one year to the next to no more than 10 percent of a country's quota. This limits the amount of 2011 U.S. underharvest that may be carried forward to 94.9 mt (10 percent of the 948.7-mt total U.S. quota). NMFS proposes to carry 94.9 mt forward to 2012 and distribute that amount in the same manner as specified for 2011. The

adjusted BFT quota and subquotas for the 2012 fishing year would be the same as for the 2011 fishing year based on the best available data regarding 2011 landings and the best available estimate of dead discards, which must be accounted for and reported to ICCAT. The annual specification process that this proposed rule follows, including application of underharvests and overharvests, is described in detail in Chapters 2 and 4 of the Consolidated HMS FMP. Because the economic impacts of the carryover of underharvest, to the extent that there are any, are expected to be generally positive, this rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

Because this rule does not change the catch limits significantly, and will not have an economic impact (except a positive one) on the affected entities, it does not have a significant economic impact on a substantial number of small entities, no initial regulatory flexibility analysis is required, and none has been prepared.

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

Dated: March 13, 2012.

**Alan D. Risenhoover,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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