10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism

This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform

This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region I				
New Hampshire: Cornish, Town of, Sullivan County..	330155	August 27, 1975, Emerg; April 18, 1983, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Marlow, Town of, Cheshire County.	330025	November 3, 1975, Emerg; April 2, 1986, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Newport, Town of, Sullivan County.	330161	May 12, 1975, Emerg; April 18, 1983, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Roxbury, Town of, Cheshire County.	330172	November 10, 1980, Emerg; April 1, 1982, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006
Westmoreland, Town of, Cheshire County.	330238	October 12, 1976, Emerg; April 2, 1986, Reg; May 23, 2006, Susp..	05/23/2006	05/23/2006

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: May 11, 2006.

David I. Maurstad,

Mitigation Division Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–8251 Filed 5–26–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 060216041-6137-02; I.D. 020206C]

RIN 0648-AT72

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

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

ACTION: Final rule.

SUMMARY: NMFS announces the final initial 2006 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established domestic fishing categories and to set General and Angling category effort controls. This action is 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 Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The final rule is effective June 29, 2006 except that the General and Angling category retention limits are effective as indicated in Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Supporting documents, including the environmental assessment (EA), final Regulatory Flexibility Act analysis (FRFA), and regulatory impact review(RIR), are available by sending your request to Dianne Stephan, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930; Fax: 978-281-9340. These documents are also available from the HMS Management Division website at *http://www.nmfs.noaa.gov/sfa/hms/* or at the Federal e-Rulemaking Portal: *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Dianne Stephan at (978) 281-9260 or email *Dianne.Stephan@noaa.gov*.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and the ATCA. The 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 the ATCA has been delegated from the

Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Effective Dates for General and Angling Category Retention Limits

The General and Angling category retention limits are effective as indicated in Table 1 below.

TABLE 1. EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS.

Permit Category	Effective Dates	Area	BFT Retention Limit
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially).	June 1 through August 31, inclusive.	All	Three BFT per vessel measuring 73 inches (185 cm) CFL or larger.
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially).	September 1, 2006 through January 31, 2007, inclusive.	All	One BFT per vessel measuring 73 inches (185 cm) CFL or larger.
HMS Angling and HMS Charter/Headboat (while fishing recreationally).	June 1, 2006 through May 31, 2007, inclusive.	All	Two BFT per vessel measuring 47 inches (119 cm) to less than 73 inches (185 cm) CFL.
HMS Angling and HMS Charter/Headboat (while fishing recreationally).	July 1 through 21, 2006, inclusive.	South of 39°18′ North latitude	One BFT per vessel measuring 27 inches (69 cm) to less than 47 inches (119 cm) CFL.
HMS Angling and HMS Charter/Headboat (while fishing recreationally).	August 25 through September 14, 2006, inclusive.	North of 39°18′ North latitude	One BFT per vessel measuring 27 inches (69 cm) to less than 47 inches (119 cm) CFL.

Background

Background information about the need for the final initial BFT quota specifications and General category effort controls was provided in the preamble to the proposed rule (71 FR 9507, February 24, 2006), and is not repeated here. By this rule, NMFS announces the final initial BFT quota specifications and General and Angling category effort controls.

Changes From Proposed Rule

Subsequent to the proposed rule, NMFS finalized a report analyzing methodologies used to measure BFT in the Large Pelagics Survey (LPS) which is an angler survey used to estimate recreational harvest. Based on this report, NMFS determined that an adjustment to Angling category landings in 2002-2004 of −4.88 percent was appropriate. The final rule includes a 40.9-mt increase in overall Angling category quota from the proposed rule, reflecting this adjustment. In addition, this adjustment increases the school size class (27 inches to less than 47 inches, 69 cm to less than 119 cm) subquota by 43.5 mt. The subquota for the trophy size class (73 inches and above, 185 cm and above) was also increased by 4.8 mt due to a mathematical error in the proposed rule, and the large school/small medium (47 inches to less than 73 inches, 119 cm to less than 185 cm) was decreased by 7.4 mt due to a combination of the 4.88 percent adjustment and increase in the school subquota.

The proposed rule included a prohibition on the retention of school size BFT; however, this final rule provides a modest school fishery based on the adjusted quota described above. The school fishery will be open in the southern area, defined as south of 39° 18′ N. lat. (§ 635.27(a)(2)(ii)) or approximately Great Egg Inlet, NJ, from July 1 to 21, 2006, during which time a retention limit of one school size BFT per day/trip will be in effect. In the northern area, defined as north of 39° 18′ N. lat., a retention limit of one school size BFT per day/trip will be in effect from August 25, 2006, to September 14, 2006. The school retention limit is in addition to the retention limit for large school/small medium BFT (below).

This final rule implements an Angling category retention limit of two BFT (47 inches to less than 73 inches, 119 cm to less than 185 cm) per vessel per day per trip, effective in all areas, for the entire fishing year. The proposed rule included a three-fish retention limit in an attempt to offset the impacts of the lack of subquota for the school size category. During the public comment period, several commenters, including recreational fishing groups, expressed concern that the proposed retention limit could potentially lead to an overharvest of the Angling category quota, or a premature closure prior to the end of the season. Because of the variability of recreational landings, effort, and retention limits, it is not possible for NMFS to accurately project the amount and geographic distribution of recreational landings for the 2006 season. As a result, NMFS determined that a two-fish retention limit was an appropriate retention limit for the Angling category for the 2006 season, since it would provide an ample recreational fishery with a lower potential of overharvesting the quota than the originally proposed three-fish retention limit, and since a modest school size BFT fishery is available. NMFS has the authority to adjust Angling category retention limits inseason if warranted (§ 635.23(b)(3)).

Updated landings estimates for the 2005 fishing year are now available for several BFT fishery categories, which affected quota allocations for 2006 in the General and Longline categories, and are incorporated in this final rule. Total additional landings of 19.5 were reported for the General category, reducing the General category quota to 1163.3 mt, and 16.9 mt for the Longline category, reducing the Longline category quota to 268.2 mt. The Longline category landings occurred in the subcategories as follows: 11.5 mt additional landings in the north (outside of the Northeast Distant area (NED)) and 5.4 mt additional in the south. The final quota available for the 2006 fishing year in each of the Longline subcategories is 70.5 mt in the north (outside the NED),

79.9 mt in the NED, and 117.8 mt in the south.

2006 Final Initial Quota Specifications

In accordance with the 2002 ICCAT quota recommendation, the ICCAT recommendation regarding the dead discard allowance, the 1999 HMS fishery management plan (1999 FMP) percentage shares for each of the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(9)(ii), NMFS establishes final initial quota specifications for the 2006 fishing year as follows: General category — 1163.3 mt; Harpoon category — 124.0 mt; Purse Seine category — 624.1 mt; Angling category — 380.1 mt; Longline category — 268.2 mt; and Trap category — 5.3 mt. Additionally, 282.3 mt are allocated to the Reserve category for inseason adjustments, including potentially providing for a late season General category fishery, or for scientific research collection and potential overharvest in any category except the Purse Seine category.

Based on the above initial specifications, the Angling category quota of 380.1 mt is further subdivided as follows: School BFT — 49.2 mt, with 23.2 mt to the northern area (north of 39E18′ N. lat.) and 26.0 mt to the southern area (south of 39E18′ N. lat.); large school/small medium BFT — 318.4 mt, with 150.3 mt to the northern area and 168.1 mt to the southern area; and large medium/giant BFT — 12.5 mt, with 4.2 mt to the northern area and 8.3 mt to the southern area.

The 2002 ICCAT recommendation includes an annual 25 mt set-aside quota to account for bycatch of BFT related to directed longline fisheries in the NED. This set-aside quota is in addition to the overall incidental longline quota to be subdivided in accordance to the North/South allocation percentages mentioned below. Thus, the Longline category quota of 268.2 mt is subdivided as follows: 70.5 mt to pelagic longline vessels landing BFT north of 31E N. lat. and 117.8 mt to pelagic longline vessels landing BFT south of 31E N. lat., and 79.9 mt to account for bycatch of BFT related to directed pelagic longline fisheries in the NED.

General Category Effort Controls

NMFS implements General category time-period subquotas to increase the likelihood that fishing would continue throughout the entire General category season. The subquotas are consistent with the objectives of the 1999 FMP and are designed to address concerns regarding the 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 regulations implementing the 1999 FMP divide 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-January. These percentages would be applied to the adjusted 2006 coastwide quota for the General category of 1163.3 mt, minus 10.0 mt reserved for the New York Bight set-aside fishery. Therefore, of the available 1153.3 mt coastwide quota, 692.0 mt would be available in the period beginning June 1 and ending August 31, 2006; 346.0 mt would be available in the period beginning September 1 and ending September 30, 2006; and 115.3 mt would be available in the period beginning October 1, 2006, and ending January 31, 2007.

In addition to time-period subquotas, NMFS is also implementing General category restricted fishing days (RFDs) to extend the General category fishing season. The RFDs are designed to address the same issues addressed by time-period subquotas and provide additional fine scale inseason flexibility. Although the General category has a relatively large quota for the 2006 fishing year, this permit category has the ability to harvest a great amount of quota in a short period of time, and the RFDs are necessary as a way to manage effort in the last subperiod. NMFS may consider waiving the RFDs if the General category fishery is slow. Therefore, NMFS establishes a series of solid blocks of RFDs for the 2006 fishing year, to extend the General category for as long as possible through the October through January time-period. Persons aboard vessels permitted in the General category are prohibited from fishing, including catch-and-release and tag-and-release, for BFT of all sizes on the following days while the fishery is open: all Saturdays and Sundays from November 18, 2006, through January 31, 2007, and Thursday, November 23, 2006, and Monday, December 25, 2006, inclusive. These RFDs are implemented to improve distribution of fishing opportunities during the late season without increasing BFT mortality.

Because of the large quota available in the General category quota, NMFS has determined that it is appropriate to increase the retention limit for the first subperiod of the General category fishery. Therefore, persons aboard vessels permitted in the General category may retain three large medium or giant BFT per vessel per day/trip from the effective date of this final rule through August 31, 2006. The retention limit may be adjusted with an inseason action to extend through other time periods if warranted under § 635.23(a)(4).

Angling Category Effort Controls

This final rule establishes a two-fish retention limit for large school/small medium size classes for the fishing year. Therefore, persons aboard vessels permitted in the Angling category may retain two large school/small medium BFT per vessel per day/trip from the effective date of this rule through May 31, 2007.

This final rule also implements two regional fisheries for school BFT. NMFS determined that this approach would be effective in providing the limited quota over the distribution of the fishery, particularly to those regions which do not have access to other size classes of BFT. The school fishery will be open in the southern area (south of 39°18′ N lat.) from July 1 to 21, 2006. During this time period, in addition to two large school/small medium BFT, persons aboard vessels permitted in the Angling category and fishing in the southern area may retain one school BFT per vessel per trip. The school fishery will be open in the northern area, (north of 39°18′ N lat.) from August 25 to September 14, 2006. During this time period, in addition to two large school/small medium BFT, persons aboard vessels permitted in the Angling category and fishing in the northern area may retain one school BFT per vessel per trip.

Comments and Responses

Comment 1: Several commenters expressed concern over the accuracy of NMFS' estimates of recreational landings. Several commenters requested an analysis of the effect of measurement procedures in the Large Pelagics Survey (LPS) and a review of the length:weight conversions used by NMFS because they believed that school landings had been overestimated, while some commenters thought that recreational landings had been underestimated. Several commenters stated that the Maryland catch card data should be used in generating recreational estimates, and a commenter noted that Maryland catch card data was consistently lower than LPS estimates for the state of Maryland. Several commenters suggested that catch cards be implemented for all states and a commenter noted that NMFS should invest in improved recreational monitoring because of the numbers of fish that could be landed in the recreational fishery and the potential

impact on the stock. A commenter stated that the current regulations are a disincentive for reporting recreational catches because of the severe restrictions that have been proposed this year.

Response: NMFS collects recreational landings data for HMS through the following three programs: (1) Large Pelagics Survey (LPS), (2) Automated Landing Reporting System (ALRS), and (3) comprehensive tagging of recreationally landed BFT in the states of Maryland and North Carolina. Although none of these programs provide real-time data on a coastwide basis, they provide the best data available for managing the recreational BFT fishery. NMFS considers improving recreational landings data for HMS to be a high priority, and continues to investigate options for improving the reliability and utility of these data. Specifically, NMFS formed an ad hoc committee of NMFS scientists to review the 2002 and 2003 methods and estimates of U.S. recreational fishery landing of BFT, white marlin, and blue marlin reported by NMFS to ICCAT to verify that the reported estimates were the most accurate that NMFS could make with available data. In December 2004, NMFS released a report stating the Committee's findings. NMFS will further review methods of fish measurement and length:weight conversions based on the findings of this report, and consultations with the contractor that performs the LPS.

In a peer-reviewed report released in April 2006, NMFS analyzed the potential impacts of the procedures used to measure BFT lengths in the LPS. This report states that under certain assumptions, the LPS may have overestimated landings from 2002-2004, and an adjustment factor of 4.88 percent could be applied. This final rule implements revised quota specifications for the Angling category as a result of applying this adjustment factor to previous recreational landings estimates. NMFS is conducting a scientific review of length:weight conversions for BFT.

In addition, NMFS is working with the State of Maryland to further refine the use of Maryland catch cards in estimates of coastwide recreational landings. Proposals to implement an Atlantic-wide tail-tag monitoring program remain under limited discussion among coastal states and within NMFS and include issues regarding specifics of logistics, implementation, and establishment of partnerships with coastal states.

Comment 2: NMFS received many comments in response to the proposed recreational minimum size limit of 47 inches (119 cm); a few commenters favored the limit, while most commenters expressed concern or opposed it. Commenters stated the limit would have negative economic impacts for coastal areas such as New Jersey, Long Island, Maryland, Delaware, and the northeast coast including Rhode Island and Massachusetts, and one commenter stated that impacts to New York and New Jersey had been underestimated by NMFS. Commenters stated that fuel prices are expected to be at an unprecedented height this season and that there would be a severe negative impact on an already suffering charter/headboat industry. Commenters stated that there had been an abundance of school-size fish on nearshore fishing grounds in these areas over the last several years which had stimulated the fishery, and that fish above the proposed minimum size limit would be located further offshore and unavailable to fishermen with smaller vessels or would be too expensive to pursue for some individuals, which was unfair. A commenter noted that flyrodders and spinning tackle anglers would not be able to pursue larger fish with their gear. Some commenters stated that fish above the proposed minimum size limit were not available in their region at all. Commenters also stated that catching inshore tuna was thrilling, and that shifting effort to other inshore species was unrealistic because of the need to re-outfit gear and unsatisfying because of the difference in the fishing experience. Several commenters suggested size and/or retention limits other than those that were considered in the proposed rule, ranging from providing some kind of school fishery even if it was for a short period of time to providing a 200-mt quota of school size fish to closing the entire BFT fishery if the school fishery was closed. Many commenters stated that a prohibition on retention of school size fish would increase dead discards and post release mortality because so many school sized fish would be released.

Response: The 2002 ICCAT recommendation that establishes the annual baseline domestic quota for the United States includes a provision designed to limit mortality of school BFT to an average of eight percent of overall quota allocation, calculated on a four-year basis. Estimates of recreational harvest showed that the eight-percent tolerance limit (calculated on an annual basis) had been exceeded by U.S. recreational fisheries in years one and two (2003 and 2004) of the 4-year balance period. In March 2005, NMFS consulted with the HMS Advisory Panel (AP) about the proposed initial BFT specifications for 2005 (70 FR 14630, March 23, 2005) to identify alternatives for the 2005 school BFT fishery. Since NMFS was reviewing methodology for measuring BFT in the Large Pelagics Survey (LPS), which could result in a decrease in previous school BFT harvest estimates, some members of the AP recommended that all of the available school quota be provided for the 2005 fishing year, even though such an approach could severely reduce the amount of quota available for the 2006 fishing year. In February, 2006, estimates of the 2005 school harvest showed that landings were at, or near, the four-year eight percent tolerance limit after only three years.

As indicated in the response to Comment 1 above, NMFS' findings in the report on length measurements will be implemented to provide an increase in the school subquota to 49.2 mt. NMFS analyzed available recreational catch records to identify time periods which would provide some access to all user groups but avoid overharvesting the limited quota available. This final rule provides harvest opportunities for school BFT during the following three-week windows: July 1 to 21, 2006, in the southern area and August 25 to September 14, 2006, in the northern area. The north/south dividing line is at 39°18′ N. lat., located approximately at Great Egg Inlet, NJ. During these windows, the Angling category retention limits for BFT will be one BFT between 27 inches and less than 47 inches (69 cm to less than 119 cm), and two BFT from 47 inches to less than 73 inches (119 cm to less than 185 cm). NMFS is also aware that the nature of BFT recreational fisheries has changed with increased numbers of recreational participants and fishing effort for smaller size BFT. The ICCAT BFT stock assessment is scheduled for June 2006, and negotiations at the annual Fall ICCAT meeting may provide an opportunity to address the changing needs of U.S. recreational fisheries.

Comment 3: Several individuals commented on international aspects of the BFT fishery. Commenters stated that the United States should champion an increase in BFT size limit internationally and make compliance with current recommendations including submission of accurate catch data a higher priority at ICCAT. Commenters stated that fishermen in the western Atlantic were negatively impacted by more liberal regulations in the eastern Atlantic, and that the United States deserves a higher quota since it is a leader in BFT conservation. Another

commenter questioned whether U.S. measures were disadvantaging U.S. fishermen relative to foreign counterparts, which is contrary to ATCA, and stated that over-restricting U.S. fishermen would not benefit international stocks. A commenter asked for an increase in school quota from ICCAT, and several other commenters stated that it would be difficult to request additional BFT quota with the current underharvest in the United States. A commenter stated that additional BFT quota was needed to expand the south Atlantic winter fishery.

Response: This final rule implements the 2002 recommendation from ICCAT regarding the domestic allocation of the United States' internationally provided quota. While NMFS appreciates the comments provided on issues regarding the United States' participation and approach at ICCAT, NMFS recognizes that they recommend changes to the fishery that are beyond the scope of this rulemaking. NMFS recommends that the public provide input on these issues to the ICCAT Advisory Committee, which seeks such input for ICCAT-related activities. The ICCAT Advisory Committee provides public input for ICCAT-related activities.

Comment 4: Several individuals noted concern about the status of BFT stocks and the need for additional conservation. One individual requested a minimum size increase to 74 inches (188 cm) because of the poor status of the BFT stock and another commenter suggested that breeding size fish be excluded from the fishery. A commenter suggested any underharvested allocation of giant size class BFT not be rolled over into the next fishing year as a conservation measure. Another commenter requested an emergency seasonal closure in the Gulf of Mexico to protect spawning BFT and further minimize dead discards. The commenter stated that BFT ''fit the legal definition of endangered under the Endangered Species Act, and are designated critically endangered on the World Conservations Union's Red List.''

Response: NMFS and the U.S. Department of State continue to work through ICCAT to implement an international rebuilding plan, monitor the status of BFT stocks, and adjust the rebuilding plan as necessary. An ICCAT BFT stock assessment is planned for June 2006, and these results will be discussed and rebuilding plan adjustments could be made at the November 2006 ICCAT meeting. In addition, the United States has supported development of an integrated approach to management of eastern and western stocks of BFT, which is actively being discussed at ICCAT.

International management of highly migratory species is complex and difficult, and domestic management including unilateral action by one nation may or may not have the intended results on an international scale. For example, although the United States could adjust the domestic fate of underharvest roll-over for conservation purposes, this approach might not be supported internationally and the underharvest could be re-allocated to another country. In domestic management, NMFS works to balance socio-economic impacts to U.S. fishermen, ecological impacts to BFT stocks and other ecosystem components, and impacts of domestic management on international rebuilding and negotiations.

NMFS prohibits directed fishing for BFT in the Gulf of Mexico to limit mortality on spawning BFT and reduce dead discards. NMFS is considering adjustments to time/area closures for management of HMS under the Draft Consolidated HMS FMP, including an alternative for a BFT spawning area closure in the Gulf of Mexico. The comment period for the proposed rule to implement various FMP measures closed on March 1, 2006, and the final rule is in preparation. The analyses for the time/area closure alternatives can be viewed in the draft Environmental Impact Statement at the following website: *http://www.nmfs.noaa.gov/sfa/hms/hmsdocument_files/FMPs.htm*.

Comment 5: NMFS received several comments regarding the recreational fishery in addition to comments on the school fishery. Many commenters suggested that the proposed limit of three fish per vessel (47 inches to less than 73 inches, 119 cm to less than 185 cm) be reduced in order to extend the fishery throughout the entire year, because fish that size are available off southern New Jersey and Maryland, and that regional fishery could harvest a significant portion of the quota. Many individuals supported the three-fish retention limit, and having the same size and retention limits in effect for both private vessels and charter/headboats. Several commenters stated that many recreational fishermen off Long Island were not familiar with the need for an HMS permit and expressed concern about enforcement, especially with a school prohibition in place. A commenter stated that HMS angling permit holders should be better informed of regulations associated with the permit. A commenter stated that an economic analysis of recreational fisheries is needed.

Response: In the final rule, NMFS reduced the retention limit to two fish (47 inches to less than 73 inches, 119 cm to less than 185 cm) per vessel per day/trip, to ensure that a recreational fishery is available throughout the entire season. NMFS may raise or lower this retention limit during the season, if warranted, based on criteria including the status of landings and availability of BFT on the fishing grounds. An overview of the potential socio-economic impact of the final rule, including a discussion of impacts to the recreational fishery - among all other fishing categories - is included in the EA/RIR/FRFA. A more detailed analysis is included in the 1999 FMP, and the draft EIS for the Draft Consolidated HMS FMP.

The HMS Angling category permit, which applies to fishing vessels pursuing BFT recreationally, has been in effect since 2003 and, prior to that, a recreational tuna permit was required. Recreational permits have been available for purchase on the internet since 1999, along with instructional information regarding permit requirements and other HMS regulations. NMFS also provides outreach mailings to permit holders, press releases, and a FAX information network, among other things, to help keep the public informed about regulatory requirements. NMFS law enforcement works closely with other Federal, state, and local enforcement agencies to educate fishermen and enforce NMFS regulations including prohibitions. However, it is each angler's responsibility to be informed about applicable regulations.

Comment 6: Many commenters characterized differences in the management of recreational and commercial BFT fisheries as unfair. One commenter stated that comparable permitting, reporting, monitoring, and enforcement was needed across all domestic HMS fisheries. Several commenters stated that the recreational fishery has less of an impact on the stocks than the commercial sector because of the amount of quota allocated to the commercial sector, while other commenters said that the recreational fishery has more of an impact because of the greater number of fish that are harvested (per ton) compared to the commercial sector. Another commenter requested that recreational fishermen be allowed to sell their catch.

Response: The Magnuson-Stevens Act, 1999 FMP, and implementing regulations all conserve and manage both commercial and recreational fisheries. This final rule is consistent

with all applicable law including the Magnuson-Stevens Act, the 1999 FMP, and ICCAT's BFT stock rebuilding plan. Through this rule, NMFS manages the commercial and recreational sectors of the BFT fishery under different objectives, as indicated in the 1999 FMP. In addition, NMFS bases different requirements regarding permitting and reporting on the impacts of different fisheries and the objectives under which they are managed. Subject to these objectives, recreational anglers are prohibited from selling BFT. Adjusting the HMS regulations to allow recreational fishermen to sell fish is outside the scope of this rulemaking and contradicts these management objectives. Implementing regulations at § 635.4(d)(2) prohibit the sale of Atlantic HMS caught on board vessels holding an HMS Angling category permit. The General category fishery is an open-access commercial fishery, and permits in this category are available to any fisherman that submits a complete application package.

Comment 7: Many individuals commented on the General category quota and effort controls. Comments on the retention limit ranged from support for the three-fish bag limit to reducing the retention limit to one, and several commenters suggested keeping the three-fish limit for other subperiods except the winter fishery.

Comments on the proposed RFDs ranged from full support to removing them entirely and included increasing NMFS' responsiveness in waiving RFDs during the season and/or waiving RFDs at the beginning of the last subperiod if there is substantial quota left. Several individuals noted that the RFDs could increase economic costs to out-of-town fishermen traveling to the south Atlantic to fish in the winter fishery and the RFDs affect the ability of fishermen to plan in advance, while others noted that the fish landed during the winter fishery brought the best price per pound.

A number of individuals stated that the RFDs contributed to the underharvest in the General category in 2005, and several commenters expressed concern about the amount of underharvest and its potential impacts on negotiations at ICCAT. One commenter stated that underages should be applied to the overall baseline quota rather than rolled into individual quota categories, while another commenter stated that it was appropriate to apply them to specific categories.

An individual asked whether a winter fishery would be guaranteed if catch rates are high in the early season.

Response: This final rule implements the General category effort controls as proposed in the proposed rule, including a three-fish retention limit for the first subperiod. A bag limit of only one BFT, or even two BFT, at the start of the season is determined to be overly restrictive due to the large amount of available quota and the traditional slow catch rate at the opening of the season during the first time subperiod. NMFS may adjust the retention limit for the remaining subperiods if warranted based on the criteria outlined in the HMS regulations at § 635.23(a)(4). This final rule also implements the proposed RFDs on Saturdays and Sundays after November 18, and November 23, and December 25. NMFS modified the RFD schedule based on experience from the 2005 season, and did not include Fridays since it was difficult to waive Fridays on several occasions. NMFS created RFDs to achieve optimum yield, and to extend the late season General category fishery. NMFS recognizes that two-day consecutive RFDs could negatively impact non-resident fishermen. NMFS configured the RFDs is to separate the commercial and recreational fisheries temporally (i.e. General category fishes Monday through Friday, Angling category fishes Saturday and Sunday) to improve conditions on the fishing grounds for both fisheries. NMFS expects market value of BFT to increase as a result of spreading the fishery out over the late season. This could also mitigate any potential extra costs of non-resident fishermen for boat dockage and overnight fees. NMFS recognizes that the weather is unpredictable during this time period of the fishery, and may limit participation without the need for additional RFDs during this part of the season. Should BFT landings and catch rates during the late season fishery merit the waiving of RFDs, under § 635.23(a)(4), NMFS may adjust the daily retention limits with a minimum three day notification to fishermen via a notice in the **Federal Register**. While NMFS created RFDs to provide a reasonable opportunity to harvest the available quota while avoiding overharvesting, the unpredictability of both weather patterns and the availability of fish on the fishing grounds may affect their utility and will be considered during inseason management. NMFS must, under § 635.27(a)(9), roll over- or underharvests into the same quota category for the following year.

NMFS is aware of the interests of Southern area fishermen, particularly off North Carolina, for a fixed General category quota allocation. NMFS is considering several alternatives for restructuring General category subquotas in the Draft Consolidated HMS FMP (70 FR 48804, August 19, 2005) currently under development, to provide a long-term solution to quota allocation for the December to January timeframe.

Comment 8: Several miscellaneous comments were provided on issues that are outside the scope of this rulemaking. Several commenters stated that NMFS should explore ways to harvest unused quota and offered suggestions such as extending the General category fishing year into February, March, or May, increasing the allowable retention limit for the General category from a maximum of three, allowing sale of fish between the sizes of 47 inches and 73 inches (119 cm and 185 cm), and relaxing incidental catch requirements in the longline category. A commenter stated that the trap fishery no longer harvests BFT and that the quota allocation should be shifted to another fishery that has incidental BFT catch such as a midwater trawl fishery. Several commenters suggested adding a division to the recreational fishery in addition to the current north/south line. A commenter requested that NMFS relax the ''tails-on'' requirement.

Several individuals commented on post-release mortality, including dead discards in hand gear and longline fisheries, and suggested alternative approaches to reduce dead discards and eliminate high-grading such as prohibiting recreational catch and release fishing altogether, providing some tolerance to size limits in hand gear fisheries, and increasing incidental catch limits in the pelagic longline fishery. Another commenter supported the ICCAT allocation for incidental catch ''in the vicinity of the management area boundary'' and stated that the availability of this quota has reduced unnecessary dead discards and has resulted in a more accurate depiction of U.S. longline interactions with BFT in the northeast distant area.

Several commenters stated that the purse seine fishery was unfair because such a large quota was restricted to a few individuals. Others commented that this fishery violated the Magnuson-Stevens Act, and that the fishery should carry observers.

Several individuals stated that harvest of forage fish in other fisheries such as the herring midwater trawl fishery was affecting the ability of BFT fishermen to harvest the quota. Several other commenters stated concerns about the switch from a calendar year to a fishing year that is being considered in the consolidated HMS FMP, and how it might affect the winter BFT fishery off the south Atlantic.

Response: This final rule is designed to provide for the fair and efficient harvest of the BFT quota that is allocated to the United States by ICCAT and is consistent with ATCA and the Magnuson-Stevens Act. This action establishes BFT quotas based on a 2002 ICCAT recommendation, which includes a dead discard allowance, subdivided among the U.S. domestic fishing fleet categories according to percentages established by the 1999 FMP and implemented in NMFS regulations at § 635.27(a). The requested actions under this comment are all outside the scope of this action to implement BFT specifications in accordance with the existing 1999 FMP and regulations as the comments propose policy and/or regulatory changes to the 1999 FMP (i.e. category percent quota allocations), implementing regulations, and/or ICCAT recommendations.

The New England Fishery Management Council has the lead for managing the herring fishery, and has recently adopted an amendment to the herring FMP that would implement a seasonal closure to address the potential impacts of herring fishing in certain New England areas on the BFT fishery. This amendment is expected to be implemented in Fall 2006. The comment period for the Draft Consolidated HMS FMP closed on March 1, 2006, and the final regulations to implement various measures in the FMP are being prepared. The comment regarding potential impacts of a shift to calendar year fisheries was received during the comment period for the Draft Consolidated HMS FMP (70 FR 48804, August 19, 2005), and will be addressed in the final rule for that rulemaking.

Classification

These final specifications and effort controls 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, and are consistent with the Magnuson-Stevens Act and National Standards.

The AA finds that pursuant to 5 U.S.C. 553(d)(1), the 30-day delayed effectiveness period is waived for the General category retention limit contained in this action. The 30-day delayed effectiveness period is waived as this action relieves a restriction by increasing the General category retention limit to three large medium or giant BFT per vessel per day per trip. The default retention limit which would become effective when the season opens on June 1, 2006, without this action, is one large medium or giant BFT per vessel per day per trip (§ 635.23(a)(2)). Therefore, this action allows General category permit holders to harvest more BFT than they could under existing regulations.

The AA also finds good cause under U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the Angling category provisions of this action. In order to finalize the Angling category provisions contained in this final rule, NMFS needed to determine the appropriate Angling quota for school size BFT. A peer reviewed NMFS report analyzing methodologies used to estimate the recreational BFT catch information, and thus determine the appropriate school size BFT quota, was not finalized until April 2006. NMFS determined the limited Angling category quota and retention limits for school size BFT between 27 inches to less than 47 inches (69 cm to less than 119 cm) by applying an adjustment factor to the recreational catch information analyzed in this report. As explained below, the Angling category measures contained in this final rule must be effective by the June 1, 2006 opening of the BFT season to ensure that the school size BFT quota, as determined using the data in the April report, is not exceeded.

Without the waiver for the 30-day delayed effectiveness period, the default Angling category retention limit of one school, large school, or small medium BFT from 27 inches to less than 73 inches (69 cm to less than 185 cm) per day per trip (§ 635.27(b)(2)(ii)) goes into effect when the season opens on June 1, 2006. Preliminary calculations show that only a limited amount of quota is available from the school size class (i.e. BFT from 27 inches to less than 47 inches) in accordance with the quota allocations of the 1999 FMP and international recommendation. By allowing the default Angling category retention limit to be implemented, with the limited amount of school size category BFT quota available for 2006, NMFS increases the risk of harvesting the limited amount of quota in full early in the season, thus precluding anglers in other areas from having a reasonable opportunity to harvest a portion of the school size category BFT quota. This risk is substantiated by successful trip and catch information collected in previous years via the LPS, as well as recreational information collection programs such as, the Maryland Recreational BFT Catch Card Program and the ALRS. Furthermore, an analysis of the historical data show that the two best time periods to make this limited school quota available to the broadest possible number of participants exists in early July and again in late August to early September. The data also show that it is possible to maintain a modest school fishery over these two time periods without exceeding the available quota and international recommendation regarding catches of this small size class of fish. However, to maximize the likelihood of achieving a modest school fishery over the two discreet time periods without exceeding the available quota, it is necessary to restrict access to this size class at other time periods including the opening of the fishery on June 1. The increased retention limit for large school/small medium in part offsets any perceived increase in restrictiveness of increasing the minimum size limit from 27 inches (69 cm) to 47 inches (119 cm).

NMFS has prepared this FRFA to analyze the impacts on small entities of the alternatives for establishing 2006 fishing year BFT quotas for all domestic fishing categories and General and Angling category effort controls.

In the analysis for the FRFA, NMFS assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries. All of those vessels are considered small entities under the Office of Management and Budget guidelines. NMFS estimated the average impact that the alternative to establish the 2006 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, which is distributed to the domestic fishing categories based on the allocation percentages established in the 1999 FMP. This quota allocation includes a set-aside quota of 25 mt to account for incidental catch of BFT related to directed longline swordfish and non-BFT tuna fisheries in the NED. Both these quota modifications were established in the 2003, 2004, and 2005 specifications.

In 2005, the annual gross revenue from the commercial BFT fishery was approximately $4.3 million. The BFT fishery comprises approximately 8,511 vessels that are permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels). The commercial categories and their 2005 gross revenues are General ($2.9 million), Harpoon ($0.2 million), Purse seine ($0.9 million), and Longline ($0.2 million). NMFS approximates that each vessel within a category will have similar catch and gross revenues to show the

relative impact of the various selected alternatives on vessels.

For the allocation of BFT quota among domestic fishing categories, NMFS analyzed a no action alternative and alternative two (selected alternative) which would implement the 2002 ICCAT recommendation. NMFS considered a third alternative to address issues regarding the changing nature of the BFT fisheries. The third alternative would have allocated the 2002 ICCAT recommendation by providing specific set-asides and allocations for fishing groups which are not currently considered in the 1999 FMP. However, since the third alternative could have resulted in a defacto sub-period quota reallocation, an FMP amendment would be necessary for its implementation, and NMFS did not further analyze it here. Instead, NMFS has proposed changes to BFT subquota allocations, among other things, in the Draft Consolidated HMS FMP (70 FR 48804, August 19, 2005).

As noted above, alternative two would implement the 2002 ICCAT recommendation in accordance with the 1999 FMP and the ATCA. Under the ATCA, the United States is obligated to implement ICCAT-approved quota recommendations. The selected alternative would apply this quota and have positive impacts for fishermen by providing a slight increase in quota. The no action alternative would keep the quota at pre-2002 ICCAT recommendation levels (i.e., 77.6 mt less) and would not be consistent with the purpose and need for this action and the 1999 FMP. Implementing the no action alternative would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2002 or recent prior years, but would deny fishermen additional fishing opportunities as recommended by the 2002 ICCAT recommendation and as mandated by the ATCA.

The selected alternative would also implement the provision of the 2002 ICCAT recommendation that limits tolerance for school BFT landings to eight percent of the domestic quota, calculated on a 4-year average. Because of high landings in the previous three years, resulting in near full utilization of the 4-year tolerance limit, NMFS is including a 49.2-mt limit on school landings. This limit could have negative economic impacts to fishermen who fish for school BFT, particularly those who rely exclusively on the school size class for BFT harvest. NMFS received several comments during the public comment period expressing this concern. In some regions, access to large school and small medium BFT will mitigate these impacts. In areas where school size BFT are primarily available, NMFS will provide a limited fishery, and fishermen may be able to shift their efforts to other pelagic species (e.g., striped bass or bluefish) to mitigate impacts. NMFS does not know whether shifting effort for either of these user groups will mitigate negative economic impacts.

Two alternatives were considered for effort control using RFDs in the General category. The no action alternative would not implement any RFDs with publication of the initial specifications but rather would use inseason management authority established in the 1999 FMP to implement RFDs during the season, if required. This alternative could be most beneficial during a season of low catch rates and could have positive economic consequences if slow catch rates were to persist during the late season fishery. During a slow season, fishermen could choose when to fish or not based on their own preferences. However, it is impossible to predict in advance whether the season will have low or high catch rates based on availability of BFT, weather, and fisherman behavior, among other things.

The selected alternative would designate RFDs according to a schedule published in the initial BFT specifications. When catch rates were high, NMFS used RFDs (selected alternative) with positive economic consequences by avoiding oversupplying the market and extending the season as late as possible. In addition, NMFS provides better planning opportunities by establishing RFDs at the season onset than implementing RFDs during the season. For example, charter/headboat businesses could book trips and recreational and commercial fishermen could make plans ahead of time rather than waiting until the last minute to see if an RFD is going to be implemented. However, NMFS is aware of public concern that implementing RFDs to extend the late season may have some negative economic impacts to northern area fishermen who choose to travel to the southern area during the late season fishery. Moreover, travel and lodging costs may be greater if the season were extended over a greater period of time under the selected alternative. Those additional costs could be mitigated if the ex-vessel price of BFT stays high. NMFS notes that without RFDs, travel costs may be less because of a shorter season; however, the market could be oversupplied and ex-vessel prices could fall. NMFS believes that extending the season as late as possible and establishing formalized RFDs at the season onset will enhance the likelihood of increasing participation by southern area fishermen, increase access to the fishery over a greater range of the fish migration, provide a reliable mechanism for slowing a fishery that has an ability to generate extremely high catch rates, and provide better than average ex-vessel prices with an overall increase in gross revenues.

A three-fish retention limit (73 inches (185 cm) or above) is the selected alternative for the opening retention limit for the General category, which would be in effect through August 31, 2006. This alternative is expected to result in the most positive socio-economic impacts by providing the best opportunity to harvest the quota while avoiding oversupplying the market, thus maximizing gross revenues. NMFS considered other alternatives including the no action alternative (one BFT 73 inches (185 cm) or above per vessel per day/trip) and an alternative with a retention limit of two BFT (73 inches (185 cm) or above per vessel per day/trip). NMFS expects that both these alternatives are too restrictive given the large amount of quota available for the General category during the 2006 fishing year and could result in the negative economic impact of lower gross revenues. Although early season landings seldom occur at a rate that could oversupply the market, NMFS will monitor landings closely to assure that the increased retention limit does not contribute to an oversupply.

Six alternatives were considered for Angling category retention limits for the 2006 fishing year. The no action alternative was rejected since it would allow substantial landings of school size class BFT. This alternative is contrary to the 1999 FMP, 2002 ICCAT recommendation and the ATCA, given the status of school landings over the first three years of the four-year balance period. The selected alternative is a two BFT (from 47 inches to less than 73 inches (119 cm to less than 185 cm) per vessel per day/trip) retention limit for all sectors of the Angling category for the entire 2006 fishing year. The selected alternative also includes two limited regional fisheries for school BFT, which would allow retention of one school BFT (27 inches to less than 73 inches, 69 cm to less than 185 cm) per vessel per day/trip from July 1 to 21, 2004, in the southern management area and the same limit in the northern areas from August 25 to September 14, 2006. During the public comment period, NMFS received many comments regarding the negative economic impacts of the proposed prohibition on school landings included in the

proposed rule. In response to the comments and results and recommendations of the NMFS Report analyzing length measurement assessment of BFT, NMFS has determined it is possible to provide a modest school fishery based on the adjusted school quota. The selected alternative would reduce negative economic impacts to the recreational fishery by allowing recreational fishermen one school size BFT per day/trip from July 1 to 21, 2006 and again from August 25 to September 14, 2006.

In addition to the selected alternative, two other alternatives were considered that would provide the same retention limits for both private recreational and charter/headboats. One alternative (one BFT from 47 inches to less than 73 inches (119 cm to less than 185 cm) per vessel per day/trip) was not selected because it could unnecessarily restrict the amount of Angling category landings which could result in an underharvest of the BFT quota and a negative economic impact. The other alternative would allow one BFT per person up to a maximum of six BFT per vessel (from 47 inches to less than 73 inches (119 cm to less than 185 cm) and is the alternative most likely to result in an overharvest of the BFT quota with negative economic consequences.

Two other alternatives were considered which provided differential retention limits between the Angling category sectors, all for BFT from 47 inches to less than 73 inches (119 cm to less than 185 cm). The first would provide a private vessel retention limit of two fish per vessel per day/trip and a charter/headboat limit of one fish per person with a maximum of six per vessel per day/trip. The second alternative would provide one fish for each vessel per day/trip for the season, with an increase to three fish per vessel for charter/headboats during June 15, 2006, through July 31, 2006, and the month of September 2006. The second alternative was considered to be unnecessarily restrictive with a greater potential for negative economic impacts associated with not harvesting the entire quota. The first alternative was not selected since it could result in perceived inequities between the two sectors of the Angling category fishery.

This final rule will not result in additional reporting, recordkeeping, compliance, or monitoring requirements for the public. It has also been determined not to duplicate, overlap, or conflict with any other Federal rules.

NMFS prepared an EA for this final rule, and the AA has concluded that there would be no significant impact on the human environment with implementation of this final rule. The EA presents analyses of the anticipated impacts of these regulations and the alternatives considered. A copy of the EA and other analytical documents prepared for this proposed rule, are available from NMFS via the Federal e-Rulemaking Portal (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule contains no new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

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 the continued operation of the purse seine and handgear fisheries may adversely affect, but is not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. The BiOp also 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; however, the most recent BiOp for the longline fishery was prepared in 2004 BiOp (see below). NMFS has implemented the reasonable and prudent alternative (RPA) required by the 2001 BiOp.

Based on the management measures in several proposed rules, a new BiOp on the Atlantic pelagic longline fishery was issued on June 1, 2004. The 2004 BiOp found that the continued operation of the fishery was not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley sea turtles, but was likely to jeopardize the continued existence of leatherback sea turtles. The 2004 BiOp identified RPAs necessary to avoid jeopardizing leatherbacks, and listed the Reasonable and Prudent Measures (RPMs) and terms and conditions necessary to authorize continued take as part of the revised incidental take statement. On July 6, 2004, NMFS published a final rule (69 FR 40734) implementing the RPA and additional sea turtle bycatch and bycatch mortality mitigation measures for all Atlantic vessels with pelagic longline gear onboard. NMFS is implementing the other RPMs and terms and conditions in compliance with the 2004 BiOp. On August 12, 2004, NMFS published an advance notice of proposed rulemaking (69 FR 49858) to request comments on potential regulatory changes to further reduce bycatch and bycatch mortality of sea turtles, as well as comments on the feasibility of framework mechanisms to address unanticipated increases in sea turtle interactions and mortalities, should they occur. NMFS will undertake additional rulemaking and non-regulatory actions, as required, to implement any management measures that are required under the 2004 BiOp. NMFS does not expect the measures in this action to have adverse impacts on protected species. Although the 2002 ICCAT recommendation increased the BFT quota, which may result in a slight increase in effort, NMFS does not expect this slight increase to alter current fishing patterns. Any option to reduce mortality of school BFT are expected to have negligible ecological impacts and not adversely impact protected species. The measures in this action that allocate additional BFT quota to the Longline category would not alter current impacts on threatened or endangered species because the action would not modify fishing behavior or gear type, nor would it expand fishing effort because BFT are only allowed to be retained incidentally. Thus, NMFS does not expect the measures in this action to change previously analyzed endangered species or marine mammal interaction rates or magnitudes, or substantially alter current fishing practices or bycatch mortality rates.

The area in which this action will occur has been identified as Essential Fish Habitat (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 HMS Management Division of the Office of Sustainable Fisheries at NMFS. NMFS does not anticipate that this action will have any adverse impacts to EFH and, therefore, no consultation is required.

NMFS has determined that the actions in this final rule are consistent to the maximum extent practicable with the enforceable policies of the coastal states in the Atlantic, Gulf of Mexico, and Caribbean that have Federally approved coastal zone management programs under the Coastal Zone Management

Act (CZMA). The rule establishing quota specifications and effort controls was submitted to the responsible state agencies for their review under section 307 of the CZMA on March 23, 2005. As of May 11, 2006, NMFS has received responses from the states of Delaware, Florida, New Hampshire, New Jersey, North Carolina, and Rhode Island, all concurring with NMFS' consistency determination. Because no responses were received from other states, their concurrence is presumed.

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

Dated: May 24, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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