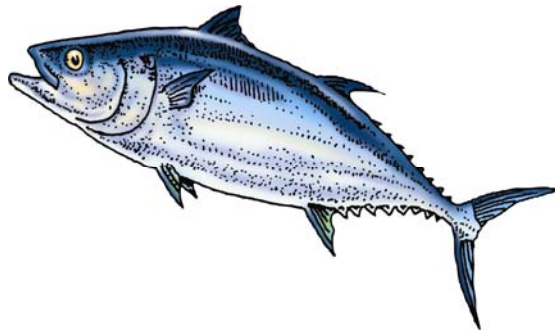


*Environmental Assessment,  
Regulatory Impact Review,  
and  
Initial Regulatory Flexibility Analysis  
for the*

# **Atlantic Bluefin Tuna Quota Rule**



**United States Department of Commerce  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Office of Sustainable Fisheries  
Highly Migratory Species Management Division**

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## **ABSTRACT**

**Action:** Modify the baseline annual U.S. quota and subquotas for Atlantic bluefin tuna.

**Type of statement:** Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA)

**Lead Agency:** National Marine Fisheries Service (NMFS): Office of Sustainable Fisheries

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**Abstract:** In October 2006, NMFS finalized the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) and issued implementing regulations, including regulations for the Atlantic bluefin tuna (BFT) fishery, to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Effective January 2015, NMFS amended the FMP with conservation and management measures, including alterations to the BFT allocation process in the recently published Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7; 79 FR 71510, December 2, 2014). This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) pursuant to the Atlantic Tunas Convention Act (ATCA) and to achieve domestic management objectives under the Magnuson-Stevens Act. This action would increase the baseline annual U.S. BFT quota from the 923.7-mt level established via a 2011 quota rule (76 FR 39019, July 5, 2011) to the ICCAT-recommended level of 1,058.79 mt for each of 2015 and 2016. The baseline annual subquotas for the domestic fishing categories would be adjusted consistent with the process established in Amendment 7, and these amounts would be codified. The rule would also clarify regulations regarding the prohibition of transfer-at-sea in the purse seine fishery, but this clarification would have no environmental impacts or other effects, is administrative in nature, and reflects current practice and thus is not analyzed in this document.

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## Section 1: Purpose and Need for Action

Through this action, the National Marine Fisheries Service (NMFS) is adjusting the baseline annual U.S. Atlantic bluefin tuna (BFT) quota from the level established via a 2011 quota rule (76 FR 39019, July 5, 2011) to the level recommended for 2015 and 2016 by the International Commission for the Conservation of Atlantic Tunas (ICCAT) at its 2014 annual meeting. The baseline annual subquotas would be adjusted consistent with the process established in Amendment 7 (79 FR 71510, December 2, 2014), and these amounts would be codified. NMFS is analyzing alternatives regarding implementation of the ICCAT-recommended BFT quota in order to ensure consistency with the objectives of the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP), as amended, and its implementing regulations, applicable law, and ICCAT Recommendation 14-05 (Recommendation by ICCAT Amending the Supplemental Recommendation by ICCAT Concerning the Western Atlantic BFT Rebuilding Program).

This action is necessary to implement the 2014 ICCAT Recommendation regarding western Atlantic BFT, as necessary and appropriate pursuant to the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), including rebuilding stocks and ending overfishing. The objective of this action is to implement the 2014 ICCAT recommendation and distribute the U.S. BFT quota among domestic fishing categories as established and analyzed in Amendment 7. NMFS is preparing this Environmental Assessment (EA), consistent with the National Environmental Policy Act (NEPA, 42 U.S.C. *et seq.*).

Because BFT quotas, allocations, and resulting subquotas are codified in the HMS regulations at 50 CFR § 635.27, rulemaking is necessary to modify the baseline annual U.S. BFT quota (from 923.7 mt to 1,058.79 mt) and subquotas (in mt) for the General, Angling, Harpoon, Purse Seine, Longline, Trap, and Reserve categories per the process established in Amendment 7.

### *Management History*

A thorough description of HMS management history is provided in Section 1.1 of the Amendment 7 Final Environmental Impact Statement (FEIS; available at <http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am7/index.html>). The information below is specific to recent BFT quota management history.

Atlantic BFT, 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, which authorizes the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary and appropriate to implement recommendations of ICCAT. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Since 1982, ICCAT has recommended a Total Allowable Catch (TAC) of western BFT, and since 1991, ICCAT has recommended specific limits (quotas) for the United States and other western BFT Contracting Parties. ICCAT currently manages western BFT in accordance with a 20-year rebuilding program adopted in 1998 (i.e., beginning in 1999 and continuing through 2018). ICCAT sets

the TAC following consideration of the latest stock assessment information and management advice provided by ICCAT's scientific body, the Standing Committee on Research and Statistics (SCRS).

NMFS implemented the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP) in July 1999 (64 FR 29090, May 28, 1999). The 1999 FMP included framework provisions 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.

Effective November 1, 2006, NMFS implemented final regulations for the 2006 Consolidated HMS FMP, which included slightly modified framework provisions (71 FR 58058, October 2, 2006). Among other things, the 2006 Consolidated HMS FMP maintained the allocation percentages established in the 1999 FMP for dividing the baseline annual U.S. BFT quota among several domestic quota categories. The FEIS for the 2006 Consolidated HMS FMP evaluated the management program structure for BFT quota management under the BFT Rebuilding Program and analyzed the range of impacts of the annual BFT quota specification process in the 2006 Consolidated HMS FMP (as opposed to a separate annual NEPA analysis). NMFS indicated that analytical documents would accompany the annual BFT quota specifications only if the analyses associated with the 2006 Consolidated HMS FMP no longer applied (i.e., if ICCAT were to amend its recommendation regarding the total U.S. BFT quota).

Prior to 2014, ICCAT last substantively amended the BFT TAC within the western Atlantic BFT conservation and management recommendation, including the U.S. quota, in 2010. That TAC was effective annually for 2011 and 2012 (Recommendation 10-03--Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program). ICCAT Recommendation 12-02 (Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program) and Recommendation 13-09 (Recommendation by ICCAT Amending the Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program) maintained the TAC and U.S. BFT quota as one-year "rollovers" of the existing quotas for ICCAT Contracting Parties considering the results of the 2012 stock assessment, which were substantively similar to the results of the 2010 stock assessment.

The last analysis of the environmental impacts of domestic implementation of the baseline annual U.S. BFT quota was the Supplemental EA for the 2013 BFT quota specifications, which allocated to the domestic fishing categories the unharvested quota that the United States was allowed to carry forward from 2012 to 2013 (78 FR 36685, June 19, 2013). Although it was not technically necessary for NMFS to prepare an EA for quota specifications alone (in accordance with the approach described in the 2006 Consolidated HMS FMP), NMFS prepared the Supplemental EA to present updated information regarding the affected environment, including information from the 2012 stock assessment, the latest catch information, and other updates relative to the information presented in the EA/RIR/FRFA for the 2011 final quota rule in May 2011.

In August 2014, NMFS published Final Amendment 7, which included an FEIS, Final Regulatory Impact Review, Final Regulatory Flexibility Analysis, and Final Social Impact Statement. NMFS implemented Amendment 7 to meet domestic management objectives of the Magnuson-Stevens Act including preventing overfishing, achieving optimal yield, and minimizing bycatch to the extent practicable, as well as the objectives of ATCA and obligations pursuant to binding recommendations of

ICCAT. NMFS took several actions to reduce BFT dead discards and account for dead discards in all categories; optimize fishing opportunities in all categories; enhance reporting and monitoring; and adjust other aspects of the 2006 Consolidated HMS FMP as necessary.

Since publication of the Amendment 7 FEIS, ICCAT issued a new recommendation regarding western BFT management, following a stock assessment update conducted in 2014 by the SCRS. Through ICCAT Recommendation 14-05, ICCAT recommended an increase to the BFT TAC. Therefore, in accordance with the approach described in the 2006 Consolidated HMS FMP, NMFS is preparing this EA to analyze the potential environmental effects of the resulting BFT quotas and alternatives. The baseline annual subquotas would be adjusted consistent with the process established in Amendment 7, and these amounts would be codified.

In December 2014, NMFS published the final rule to implement Amendment 7 (79 FR 71510, December 2, 2014). The “Codified Quota Reallocation” measures in Amendment 7 took effect January 1, 2015. (See the summary of the subquota calculation process below in the Alternative 2 description). Thus far in 2015, NMFS has published four actions that adjusted the 2015 subquotas. First, for the General category, NMFS transferred 21 mt from the December 2015 subquota to the January 2015 subquota (79 FR 77943, December 29, 2014). In that action, NMFS also adjusted the daily retention limit for the January 2015 subquota period to three bluefin tuna measuring 73 inches and greater, although that part of the action had no effect on the 2015 subquotas. Second, NMFS calculated the amounts of quota available to individual purse seine participants based on their individual catch levels in 2014 and the codified process adopted in Amendment 7 and accordingly adjusted the quota available to individual purse seine fishery participants and the amount of quota in the Purse Seine and Reserve category quotas for 2015 (80 FR 7547, February 11, 2015). Third, NMFS transferred 34 mt from the Reserve category to the Longline category (80 FR 45098, July 29, 2015). Fourth, NMFS transferred 40 mt from the Reserve category to the Harpoon category (80 FR 46516, August 5, 2015).

Amendment 7 also changed the way that NMFS adjusts the U.S. annual quota for any previous year’s underharvest. Rather than publishing proposed and final quota specifications annually, NMFS will automatically augment the Reserve category quota to the extent that underharvest from the previous year is available. Such adjustment will be consistent with ICCAT limits and be calculated when complete BFT catch information for the prior year is available and finalized. Consistent with the quota regulations, NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any fishing category quota pursuant to regulatory determination criteria described at 50 CFR 635.27(a)(8), or for scientific research.

Although preliminary 2014 total catch (landings and the best available dead discard estimate) indicates an underharvest of approximately 233.3 mt (using the 143-mt 2014 dead discard estimate as a proxy for estimated 2015 dead discards), the amount the United States may carry forward to 2015 is limited to 94.9 mt by ICCAT recommendation. Consistent with the Amendment 7 regulations, NMFS will announce the augmentation of the 2015 Reserve category quota with this 94.9 mt of available underharvest in the Federal Register notice for the final rule.

NMFS plans to make any daily retention limit adjustments, if needed, for the 2015 fishing year and onward, via Federal Register notices separate from the final BFT quota rule. Federal regulations at 50 CFR 635.23 allow the establishment and adjustment of General, Harpoon, Charter/Headboat, and

Angling category retention limits via inseason actions, and NMFS has used inseason actions in the past for this purpose.

See Table 1 for a summary of the 2014 BFT quotas and landings.

#### *Recent Applicable ICCAT Recommendations*

##### 2012 ICCAT Recommendation (Recommendation 12-02 -- Supplemental Recommendation by ICCAT concerning the western Atlantic Bluefin Tuna Rebuilding Program) (See Appendix 1 for full text)

At its 2012 annual meeting in Agadir, Morocco, following consideration of the 2012 western BFT stock assessment update, ICCAT adopted a recommendation that included a one-year rollover of the annual TAC of 1,750 mt and the country-specific quotas that were set for 2011 and 2012. This amount was expected to allow for continued stock growth under both low and high stock recruitment scenarios, discussed below, considering the most recent stock assessment results. The U.S. baseline quota continued to be 923.7 mt, and the total U.S. quota, including 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area, continued to be 948.7 mt.

Key provisions from prior recommendations were maintained, including:

- An allocation scheme that includes the United Kingdom (in respect of Bermuda), France (in respect of St. Pierre and Miquelon), and Mexico. These three ICCAT Contracting Parties previously received western BFT allocations as specific tonnage directly from the TAC prior to application of the agreed allocation scheme (to the United States, Canada, and Japan). The amount of TAC allocated to the Contracting Parties depends on the amount of the overall recommended TAC.
- As a method for limiting fishing mortality on juvenile BFT, ICCAT continued to recommend a tolerance limit on the annual harvest of BFT measuring less than 115 cm (straight fork length) to no more than 10 percent of a Contracting Party's total BFT quota. The United States implemented this provision by limiting the harvest of school BFT (measuring 27 to less than 47 inches curved fork length) as appropriate to not exceed the 10-percent limit over the management period (i.e., 2013).
- A limit on the amount of unused quota Contracting Parties may carry forward to 10 percent of their total quota. This limited the amount of 2012 U.S. underharvest carried forward to 2013 to 94.9 mt (10 percent of the 948.7-mt total U.S. quota).

Other notable aspects of ICCAT Recommendation 12-02 included:

- Establishment of an absolute minimum size consistent with current U.S. regulations (i.e., 67 cm straight fork length, the equivalent of 27 inches curved fork length).
- Revision of the quota transfer provisions to require that any transfer of quota underharvests from Mexico and France (in respect of St. Pierre and Miquelon) to Canada, or the United Kingdom (in respect of Bermuda) to the United States be used to support cooperative research that will contribute to the objectives of ICCAT's Atlantic-wide Bluefin Tuna Research Program and help inform the 2015 stock assessment. No provision is made for transfer of quota from the other Contracting Parties (i.e., Canada, Japan, and the United States).



- Addition of several scientific research and data and reporting requirements, including:
  - Request to ICCAT to convene a working group of fisheries managers and scientists in mid-2013 to guide the work of the SCRS leading up to the next stock assessment in 2015;
  - Request to Contracting Parties that harvest WBFT to contribute to ICCAT's Atlantic-wide Research Program for Bluefin Tuna (GBYP), including enhancing biological sampling activities;
  - Requests to the SCRS to:
    - Prepare a strategy matrix reflecting stock recovery scenarios;
    - In preparation for the 2015 stock assessment, thoroughly review the evidence that initially was used in support of each recruitment scenario as well as any additional information available as a means of informing the Commission on which recruitment scenario is more likely to reflect the current stock recruitment potential; and
    - Review and report to ICCAT on new available information on the potential existence of additional BFT spawning grounds.

2013 ICCAT Recommendation (Recommendation 13-09 -- Recommendation by ICCAT concerning the western Atlantic BFT Rebuilding Program) (See Appendix 2 for full text)

In 2013, the SCRS updated the most recent assessment information with data through 2012, but the SCRS advice did not change from 2012. At its 2013 annual meeting in Cape Town, South Africa, ICCAT adopted a recommendation that included a one-year rollover of the annual TAC of 1,750 mt and the country-specific quotas that had been set for 2013. The U.S. baseline quota continued to be 923.7 mt, and the total U.S. quota, including 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area, continued to be 948.7 mt. The key provisions described above were maintained, including the 10-percent limit on underharvest that could be carried to 2014 (i.e., 94.9 mt) and the 10-percent limit on the annual harvest of BFT measuring less than 115 cm.

Other notable aspects of ICCAT Recommendation 13-09 included:

- Request for each Contracting Party, where practical, to develop a research plan and by April 30, 2014, for exchange among the parties for scientific review and comments, and discussion at the Second Meeting of the Working Group of Fishery Managers and Scientists in Support of the Western BFT Stock Assessment in July 2014; and
- Prohibition on the sale of recreationally harvested fish of any size and reiteration of the requirement that all vessels used a data recording system to match similar text in the eastern Atlantic/Mediterranean BFT recommendation.

2014 ICCAT Recommendation (ICCAT Recommendation 14-05 -- Recommendation by ICCAT Amending the Supplemental Recommendation by ICCAT concerning the Western Atlantic BFT Rebuilding Program) (See Appendix 3 for full text)

At its 2014 annual meeting in Genoa, Italy, following consideration of the 2014 western BFT stock assessment update, ICCAT adopted a recommendation that included a TAC of 2,000 mt annually for 2015 and for 2016. The recommended annual U.S. quota is 1,058.79 mt, and the recommended total

U.S. quota, including 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area, is 1,083.79 mt. The key provisions described for the 2012 and 2013 recommendations were maintained, including the 10-percent limit on underharvest that can be carried forward from one year to the next (i.e., 94.9 mt can be carried forward to 2015).

Other notable aspects of ICCAT Recommendation 14-05 included:

- A return to a two-year balancing period for the tolerance of harvest of BFT measuring less than 115 cm (i.e., BFT Contracting Parties must limit the harvest so that the average over 2015 and 2016 is no more than 10 percent by weight of the total BFT quota for a BFT Contracting Party);
- Requests that the SCRS provide guidance on fish size management measures and impact on yield/recruit and spawner/recruit, as well as effect of fish size management measures on ability to monitor stock status;
- Calls for Contracting Party collaboration in the improvement of existing indices of abundance and the development of new combined indices.

## **Section 2: Summary of the Alternatives**

This section describes the alternatives for achieving the objectives identified in Section 1. Section 2.1 describes the alternatives NMFS developed for consideration of implementation of the U.S. baseline BFT quota.

### **Alternative 1: No action**

Under this alternative, NMFS would not allocate the ICCAT-recommended quota for 2015 and 2016 among domestic fishing categories, and would maintain the U.S. baseline quota of 923.7 mt and the domestic fishing subquotas established in the 2011 quota rule (7576 FR 39019, July 5, 2011). This baseline quota as well as the domestic fishing subquotas were effective through 2014 and serve as baseline conditions for comparison and analytical purposes with the preferred alternative. Under this alternative, the baseline quota for the 2015 fishing year (and effective annually until changed, for instance as a result of a new ICCAT BFT TAC and U.S. quota recommendation) would remain 923.7 mt.

NMFS would implement the ICCAT-recommended limit on the harvest of school BFT (measuring 27 to less than 47 inches curved fork length) as appropriate to not exceed the a 94.9-mt average over each 2-consecutive-year period (starting with 2015-2016).

### **Alternative 2: Implementation of U.S. quota to domestic categories in accordance with the 2014 ICCAT Recommendation, Amendment 7, and implementing regulations (Preferred Alternative)**

Under this alternative, NMFS would implement the baseline annual U.S. BFT of 1,058.79 mt and apply the allocation scheme established in Amendment 7 in order to determine and codify baseline subquotas. The baseline annual quota and subquotas would be effective for the 2015 fishing year and annually until changed. As described in Section 1, NMFS may make subsequent quota transfers, such as from one category (including the Reserve category) to another within the fishing year pursuant to

regulatory determination criteria. Table 2 shows the baseline category allocations that would result from implementation of Alternative 2. NMFS would implement the ICCAT-recommended limit on the harvest of school BFT (measuring 27 to less than 47 inches curved fork length) as appropriate to not exceed the a 108.4-mt average over each two-consecutive-year period (starting with 2015-2016).

Section 2.1.2 of the Amendment 7 FEIS describes the preferred Codified Reallocation alternative, which was implemented in January 2015. In brief, the baseline percentage quota shares established in the 1999 FMP for the domestic fishing categories were continued in the 2006 Consolidated HMS FMP. These percentage shares were based on allocation procedures that NMFS developed over several years, based on historical share, fleet size, effort, and landings by category, and stock assessment data collection needs. NMFS developed Amendment 7, including quota reallocation alternatives, over the course of several years to address BFT management needs due to recent trends and characteristics in the BFT fishery. Amendment 7 established the following quota calculation process. First, 68 mt is subtracted from the baseline annual U.S. BFT quota and allocated to the Longline category quota. Second, the remaining quota is divided among the categories according to the following percentages: General—47.1 percent; Angling—19.7 percent; Harpoon—3.9 percent; Purse Seine—18.6 percent; Longline—8.1 percent (plus the 68-mt initial allocation); Trap—0.1 percent; and Reserve—2.5 percent. Table 3 shows the baseline category allocations that would result from implementation of Alternatives 1 and 2.

Consistent with the process adopted in the Amendment 7 implementing regulations, NMFS calculated at the beginning of the year the quota available to individual Atlantic Tunas Purse Seine category fishery participants for 2015. NMFS based this calculation on the Atlantic bluefin tuna catch (landings and dead discards) by those fishery participants in 2014. Based on that information, 87.4 mt of the baseline Purse Seine category quota of 159.1 mt was reallocated to the Reserve category for the 2015 fishing year. This process resulted in a total of 71.7 mt for Purse Seine fishery participants for 2015 and 108.8 mt (i.e., the base Reserve quota of 21.4 mt + 87.4 mt from the Purse Seine category) for the Reserve category (80 FR 7547, February 11, 2015). Under this alternative, NMFS would again calculate the amounts of quota available to individual Purse Seine fishery participants for 2015 applying the baseline Purse Seine category quota as finalized (and adjust the Reserve category quota as appropriate). Based on the U.S. baseline BFT quota analyzed in this EA, the 2015 Purse Seine and Reserve category quotas would be further adjusted. As a result, the baseline Purse Seine category quota would increase by 25.2 mt to 184.3 mt. NMFS has recalculated the amounts of quota that would be available to individual Purse Seine fishery participants for 2015 applying the final baseline Purse Seine category (184.3 mt), and would adjust the 2015 Purse Seine and Reserve category quotas as appropriate. This process results in a total of 82.9 mt for Purse Seine fishery participants in 2015, with the remainder (i.e.,  $184.3 - 82.9 = 101.4$  mt) added to the Reserve category. NMFS would notify Atlantic Tunas Purse Seine fishery participants of the adjusted amount of quota available for their use in 2015 through the Individual Bluefin Quota (IBQ) electronic system established in Amendment 7 and in writing, and would publish notice of the adjusted Purse Seine and Reserve category quotas for 2015 in the Federal Register notice announcing the final rule.

NMFS recently implemented two inseason transfers from the Reserve category for 2015 (34 mt to the Longline category and 40 mt to the Harpoon category), so the adjusted 2015 Reserve category quota as of publication of this action, including the 2014 allowable underharvest described above, would

be  $24.8 - 34 - 40 + 101.4 + 94.9 = 147.1$  mt (80 FR 45098, July 29, 2015 and 80 FR 46516, August 5, 2015, respectively).

### **Alternative 3: Allocation of ICCAT quota to domestic categories in accordance with the 2014 ICCAT recommendation but not the 2006 Consolidated HMS FMP**

Alternative 3 would use an allocation scheme other than the one established in Amendment 7 for the purpose of implementing BFT fishing category subquotas. This alternative would implement the 2014 ICCAT recommendation and allocate the U.S. baseline quota of 1,058.79 mt in a manner other than per the allocation scheme in Amendment 7 and implementing regulations.

NMFS implemented Amendment 7, including the Codified Reallocation preferred alternative, to meet domestic management objectives of the Magnuson-Stevens Act including preventing overfishing, achieving optimal yield, and minimizing bycatch to the extent practicable, as well as the objectives of ATCA and obligations pursuant to binding recommendations of ICCAT. NMFS took additional actions to reduce BFT dead discards and account for dead discards in all categories; optimize fishing opportunities in all categories; enhance reporting and monitoring; and adjust other aspects of the 2006 Consolidated HMS FMP as necessary.

The development of Amendment 7 spanned several years and reflects input by the participants in the BFT fisheries, the Highly Migratory Species Advisory Panel, interested organizations, and members of the public in addressing BFT management needs due to recent trends and characteristics in the BFT fishery. For the purpose of this analysis, modifications to domestic management of BFT outside the recently implemented Amendment 7 quota regulations would not satisfy the purpose and need for the action. Therefore, Alternative 3 was considered, but is not analyzed further in this EA.

For comparison purposes, Table 3 shows the baseline category allocations that would result from implementation of Alternative 1 and Alternative 2.

### **Section 3: DESCRIPTION OF AFFECTED ENVIRONMENT**

This section includes a brief summary of the status of the stocks, fishery participants and gear types, focused on information that has been updated since the publication of the Amendment 7 FEIS. Chapter 3 of the Amendment 7 FEIS included a description of the fishery participants, gear types, and affected area including habitat as of August 2014. The action area is the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

For a complete description of the biology and status of BFT and the U.S. tuna fisheries, including operations, catches, and discards, please see Section 3.2 of the Amendment 7 FEIS, the latest BFT Stock Assessment (SCRS, 2014), as well as the 2014 HMS Stock Assessment and Fishery Evaluation (SAFE) Report (NMFS, 2014). Also, for information on interactions and concerns with protected species and the Atlantic tuna fisheries, please see Section 7 of the 2014 SAFE Report and the *2004 Final Supplemental Environmental Impact Statement (FSEIS) for a Final Rule to Implement Management Measures to Reduce Bycatch and Bycatch Mortality of Atlantic Sea Turtles in the Atlantic Pelagic Longline Fishery* (NMFS, 2004). These documents are hereby incorporated by reference and a summary of their content is included here. NMFS is still operating under the terms and conditions and

Reasonable and Prudent Alternative in the 2004 Biological Opinion, although it is currently undergoing reinitiation of consultation for the pelagic longline fishery, as described below in Section 4.

### **Status of the Stock**

In 2014, the SCRS conducted an update of the 2012 stock assessments for both the western and eastern BFT stocks using data collected through 2013. A key factor in determining BFT stock status is the estimation of maximum sustainable yield (MSY)-related benchmarks, which depend to a large extent on the relationship between spawning stock biomass (SSB) and recruitment. There are two competing stock-recruitment relationships that are currently considered for western BFT: the two-line (low recruitment potential) scenario and the Beverton-Holt (high recruitment potential) scenario. Similar to prior western BFT stock assessments and updates, the SCRS presented status and projection information based on the two divergent stock recruitment scenarios and stated that it has insufficient evidence to favor either scenario over the other. The SCRS' findings did not permit specification of a single MSY level. Generally, under the low recruitment scenario, it is assumed that the stock is not as productive as it once was (i.e., prior to the 1970s) and therefore the MSY is fairly low. Under the high recruitment scenario, it is assumed that the stock can be much more productive as it recovers and the MSY target is much higher. It is important to note that the estimate of current and past SSB is independent of the recruitment scenario. Note that the recruitment assumption (low vs. high recruitment) only affects *future* SSB projections.

The SSB trends estimated in the 2014 update were consistent with previous analyses in that SSB declined steadily from 1970 to 1992 and has since fluctuated around 25 to 30 percent of the 1970 level for about the next decade. In recent years, however, there appears to have been a gradual increase in SSB from 32 percent of the 1970 level in 2003 to an estimated 55 percent in 2013, with a more rapid increase in recent years. Since 1998, when the rebuilding plan was adopted, the SSB has increased by 70 percent. The stock has experienced different levels of fishing mortality over time, depending on the size of fish targeted by various fleets. Fishing mortality on spawners (ages 9 and older) declined markedly after 2003.

Since 1977, recruitment has varied from year to year without trend, with the exception of strong year-classes in 2002 and 2003. The 2014 assessment suggests that both the 2002 and 2003 year classes were large; but the estimate of a strong 2002 year class may be an artifact of the lack of direct observations of the age of fish in the catch and recent regulations in the United States that limited the take of fish in that size range. Under the current maturity assumptions (age 9 and older), the 2002/2003 year classes started to contribute to the spawning biomass in 2011/2012. The SCRS noted that the strong 2002/2003 year classes and recent reduction in fishing mortality have contributed to the more rapid increase in SSB in recent years.

*Under the low recruitment scenario*, the fishing mortality rate (F) for 2010-2012 was 36 percent of  $F_{MSY}$  and the SSB for 2013 was 225 percent of the SSB that can support maximum sustainable yield ( $SSB_{MSY}$ ). The MSY estimate was 3,050 mt, with an  $SSB_{MSY}$  of 13,226 mt. This means the stock is not overfished or subject to overfishing, the current  $SSB > SSB_{MSY}$ , and substantial growth in TAC levels cannot happen.

*Under the high recruitment scenario*, the fishing mortality rate ( $F$ ) for 2010-2012 was 88 percent of  $F_{MSY}$  and the SSB for 2013 was 48 percent of  $SSB_{MSY}$ . The MSY estimate was 5,316 mt, with an  $SSB_{MSY}$  of 63,102 mt. This means that the stock is not subject to overfishing, but is overfished. The stock would not rebuild by the end of the rebuilding period even with no catch. Once rebuilt, however, future TACs could be much higher than under the low recruitment scenario. This was the first assessment in which the stock was estimated to not be undergoing overfishing under both recruitment scenarios.

One of the differences between the 2012 and 2014 assessments was that the 2014 assessment incorporated a change to the Gulf of Mexico pelagic longline index of abundance so that what appeared to be a sharp decline in SSB in the early 1990s was no longer apparent, resulting in a higher estimated SSB over the historical time series. In addition, a Canadian index from the Gulf of St. Lawrence, which has increased very rapidly over the past few years, was included in the assessment although questions were raised within the SCRS about its reliability. While the assessment results yielded a more optimistic view of the stock than previous assessments, the increase in the estimated spawning stock biomass may largely be due to the changes in the indices of abundance and may not reflect actual changes in stock size.

The SCRS advised that annual catches of less than 2,250 mt would have a 50-percent probability of allowing the SSB to be at or above its current (2013) level by 2019. The SCRS also advised that maintaining catch at current levels (1,750 mt) would be expected to allow the spawning stock biomass to increase more quickly, which may help resolve the issue of low and high recruitment potential. SCRS advised that annual catches of 2,000 mt would continue to allow for stock growth under both recruitment scenarios.

As in the past, the SCRS noted that management actions taken for the eastern Atlantic and Mediterranean stock likely will impact the recovery of the western BFT stock, given evidence that indicates that the productivity of western BFT fisheries is linked to the eastern Atlantic and Mediterranean stock. The SCRS continues to caution that the conclusions of the western BFT assessment do not fully capture the degree of uncertainty in the assessments and projections (e.g., mixing, maturity at age, recruitment, natural mortality, lack of representative samples of otoliths, conflicting and/or biologically implausible abundance indices). The next full stock assessment has been delayed from 2015 to 2016, in order to conduct the necessary preparatory work to incorporate new data and methodologies. Further, to help support the next stock assessment, western harvesters are planning to collaborate in the development of combined indices of abundance.

Taking this information into consideration and following protracted negotiations, ICCAT adopted a two-year measure that increased the TAC to 2,000 mt and maintained key provisions of the previous recommendation, including the allocations to Contracting Parties. This TAC is expected to allow for continued stock growth, under both low and high stock recruitment scenarios, for the remaining period of the rebuilding program. A new SCRS stock assessment is expected to be conducted in 2016; it is expected to incorporate new data from the research conducted by the Atlantic-wide BFT Research Program and related activities, and to utilize new methodologies and an assessment peer review process.

The 2014 SCRS stock assessment update is the best scientific information available. That stock assessment update was subject to rigorous analysis and review by a panel of experts from participating ICCAT countries. Any newly available data and methodologies, such as models that address mixing of eastern and western BFT stocks, will be reviewed and incorporated when and as appropriate in future assessments, following acceptance by ICCAT's panel of experts. The next full stock assessment is planned for 2016. ICCAT will renegotiate the western BFT recommendation on TAC and country quotas and other BFT conservation and management measures in November 2016.

### **Fishery Participants**

There are over 27,000 permitted vessels that may participate in the Atlantic tuna fisheries. Vessel permits are issued in five directed fishing categories and two incidental fishing categories (Table 4). Generally, permits are issued for a distinct fishery by gear types, and participants are restricted to the use of only those allowed gears. For directed fisheries on BFT, these gears consist of purse seine, rod and reel, harpoon, handline, bandit gear, and green-stick (which is used primarily to harvest yellowfin tuna). Pelagic longline gear is not an allowed gear type for directed fishing on BFT; it is used to target other HMS species, primarily swordfish, and bigeye and yellowfin tuna. However, NMFS allocates a quota for landings of incidentally-caught BFT by longline and trap gear. See Section 3.3 of the Amendment 7 FEIS for thorough descriptions of the BFT fisheries by quota category and gear type.

U.S. landings of BFT for 2011 through 2014 are provided in Table 5. The historical level of landings has generally been determined by quotas since 1982. Commercial fisheries are focused on large medium (73 inches to less than 81 inches) and giant (81 inches or greater) BFT, while recreational fisheries are focused on large school/small medium BFT (47 inches to less than 73 inches), with allowances for school (27 inches to less than 47 inches), large medium, and giant BFT. Commercial categories are monitored by a census of landing cards, whereas the recreational catch is monitored primarily by survey, although the states of Maryland and North Carolina have implemented recreational census BFT tagging programs as well.

## **Section 4: ENVIRONMENTAL CONSEQUENCES**

The impacts of alternatives identified in Section 2 are discussed separately in the following subsections by issue and in the context of the relevant Magnuson-Stevens Act National Standards and the objectives of the 2006 Consolidated HMS FMP, as amended. The economic impacts of each alternative are briefly summarized in the following sections, and are described more fully in Sections 6, 7 (RIR), and 8 (FRFA).

### **Ecological Impacts**

As discussed in Section 3.1 of the Amendment 7 FEIS and in the Amendment 7 final rule, NMFS implements the ICCAT U.S. quota recommendation, as required by ATCA, and further divides the quota among U.S. fishing categories through the domestic rulemaking process. Continued management with ICCAT-recommended catch levels that comport with SCRS advice should support further stock growth of the western BFT stock and is consistent with the ICCAT rebuilding plan given the current state of the science regarding the stock status.

Under Alternative 1, the no action alternative, NMFS would not implement the 2014 ICCAT BFT quota recommendation, and would instead implement the annual baseline U.S. quota that was in effect in 2011 through 2014, consistent with the 2013 ICCAT recommendation, with subquotas set as established in Amendment 7. Alternative 1 would be inconsistent with the 2006 Consolidated HMS FMP, as amended, ATCA, and the 2014 ICCAT recommendation, because it would implement a quota different than that recently recommended by ICCAT. Thus, it would not meet the purpose for the action (i.e., to implement the new ICCAT recommendation concerning western BFT). The fishery for 2015 and annually until changed would be based on the level of quota under the 2013 ICCAT recommendation for 2014 (i.e., 948.7 mt, which is approximately 135 mt (14 percent) lower than the level currently recommended). As a result, Alternative 1 would have short-term, direct, minor, beneficial ecological impacts on BFT, as it is within the range that the SCRS has indicated will continue to allow stock growth. The SCRS advised that catches of less than 2,250 mt would have a 50-percent probability of allowing the SSB to be at or above its current (2013) level by 2019. The SCRS also advised that maintaining catch at current levels (1,750 t) would be expected to allow the spawning stock biomass to increase more quickly, which may help resolve the issue of low and high recruitment potential.

Regarding the ICCAT-recommended 10-percent limit on school BFT, NMFS does not expect that harvest averaging 94.9 mt per year over each two-year period, even if harvested within one fishing (i.e., calendar) year, would result in negative impacts to the stock. Because several BFT year classes contribute to the spawning stock biomass, a change in selectivity totaling less than 10 percent (i.e., 190 mt/2,000 mt) of the total expected annual mortality should not result in negative impacts. NMFS would implement the ICCAT-recommended limit on the harvest of school BFT (measuring 27 to less than 47 inches curved fork length) as appropriate to not exceed a 108.4-mt average over each two-consecutive-year period (starting with 2015-2016). Thus, maintaining the status quo would be expected to result in direct, short- and long-term, minor to moderate, beneficial impacts to the western BFT stock. Compliance by other nations harvesting the BFT stock under the ICCAT western BFT Rebuilding Program would also influence overall stock conditions. There would be no additional impacts to other species because this alternative would not significantly alter existing fishing patterns or effort.

Consistent with the 2013 recommendation, Alternative 1 also would allocate 25 mt for bycatch of BFT associated with pelagic longline fishing in the NED. As BFT caught and landed under this quota would be caught incidental to directed pelagic longline fisheries for other species, there would not be any additional mortality or ecological impacts to the BFT stock from continuing to implement the 25-mt allocation in this manner. Continuing this 25-mt allocation would not result in additional impacts to other species either as this alternative would not significantly alter existing fishing patterns or effort of pelagic longline vessels. NMFS would monitor and manage the pelagic longline fishery in this area, and account for the 25 mt, in concert with the reporting and monitoring mechanisms that are already in place.

Alternative 2, the preferred alternative, would be consistent with the 2014 ICCAT Recommendation and with the TAC that is within the range that the SCRS has indicated will continue to allow stock growth. The maintenance of the quota within this range could be expected to result in direct, long-term, moderate beneficial impacts to the western BFT stock because the adopted TAC followed the scientific advice of the SCRS as part of the ICCAT Rebuilding Program. Compliance by



other nations harvesting the BFT stock under the ICCAT western BFT Rebuilding Program would also influence overall stock conditions. Under Alternative 2, it is possible that fishing pressure could increase slightly due to the 135-mt increase in U.S. quota, but any such increase in effort likely would have nominal effect in terms of actual increased landings compared against the No Action alternative (maintaining the current quota), since landings have been below the quota for some time. In 2014, only the Angling category trophy BFT fishery (for BFT measuring greater than 73 inches) in the southern area (with a 1.3-mt subquota) was closed. To the extent that fishing activities within the other quotas and subquotas were not quota-limited in 2014, NMFS does not expect that the additional quota that will apply to each category necessarily will equate to additional fishing trips or BFT mortality. NMFS also has the authority to adjust the daily retention limits for the General, Harpoon, and Angling categories inseason, which allows additional harvest opportunity per day, increasing efficiency within a trip and potentially reducing the number of trips with which the quota could be filled, thus helping to control fishing effort if it becomes necessary.

Regarding the ICCAT-recommended 10-percent limit on school BFT, NMFS does not expect that harvest averaging 108.4 mt per year over each two-year period, even if harvested within one fishing (i.e., calendar) year, would result in negative impacts to the stock. Because several BFT year classes contribute to the spawning stock biomass, a change in selectivity totaling less than 11 percent (i.e., 216 mt/2,000 mt) of the total expected annual mortality should not be expected to result in negative impacts.

As in Alternative 1, Alternative 2 also would allocate 25 mt for bycatch of BFT associated with pelagic longline fishing in the NED. As BFT caught and landed under this quota would be caught incidental to directed pelagic longline fisheries for other species, there would not be any additional mortality or ecological impacts to the BFT stock from continuing to implement the 25-mt allocation in this manner. Continuing this 25-mt allocation would not result in additional impacts to other species either as this alternative would not significantly alter existing fishing patterns or effort of pelagic longline vessels. NMFS would monitor and manage the pelagic longline fishery in this area, and account for the 25 mt, in concert with the reporting and monitoring mechanisms that are already in place.

#### BFT Reserve Category Quota and BFT Collection via Authorized Fishing Activities

In 1992, when NMFS established baseline quotas for each category in the BFT fishery based upon the historical share of landings in each category during the period 1983-1991, NMFS also began to hold in reserve specific amounts of quota for inseason adjustments and authorized research activities, and established determination criteria (factors NMFS would consider prior to effecting inseason adjustment to any quota category). As codified in the current regulations, the total amount of BFT that is held in reserve for inseason or annual adjustments and fishery-independent research using quotas or subquotas is 2.5 percent of the baseline annual U.S. BFT quota once 68 mt is subtracted and allocated to the Longline category quota. In addition, the total amount of school BFT quota that is held in reserve (the “school reserve”) for inseason or annual adjustments and fishery-independent research is 18.5 percent of the total school BFT Angling category subquota. NMFS may allocate any portion of the Reserve for inseason or annual adjustments to any category in the fishery through an inseason action. NMFS may allocate any portion of the School Reserve subquota for inseason or annual adjustments to the Angling category through an inseason action. As shown in Table 2, the baseline Reserve quota would be 24.8 mt, and the school reserve subquota would be 20.1 mt.

NMFS issues Exempted Fishing Permits (EFPs), display permits, and Scientific Research Permits (SRPs) for research activities involving the collection of biological samples, live animals, and tagging BFT and other tunas. EFPs, display permits, and SRPs are issued under the authority of the Magnuson-Stevens Act and/or ATCA. These permits authorize collections of tunas, as well as other HMS, from Federal waters in the Atlantic Ocean and Gulf of Mexico for the purposes of scientific data collection and public display. Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activity with respect to Atlantic HMS. EFPs are issued to individuals for the purpose of conducting research or other fishing activities using private (non-research) vessels, whereas an SRP would be issued to Agency, state, and academic scientists who are using NOAA or bona fide research vessels as their platforms. Display permits are issued to aquaria or third party collectors that collect live BFT for public display.

Issuance of EFPs, SRPs, and display permits, may be necessary as the fisheries for BFT may be closed for extended periods during which collection of live animals and/or biological samples would otherwise be prohibited. In addition, sampling may require collecting undersize fish, sampling fish in excess of retention/bag limits, the use of unauthorized gears, the collection of fish without the necessary commercial or recreational permits (as research vessels are not required to obtain such permits), and/or the deployment of archival tags. Researchers are required to submit interim reports regarding collections within five days of the completion of a fishing trip and an annual report within 30 days of the expiration of a permit.

EFPs and SRPs have been issued for a wide range of research involving tagging and biological sampling of BFT. For instance, much research has involved the deployment of archival and pop-up satellite archival tags (PSATs) on BFT to determine BFT stock structure as well as the location and timing of spawning. Other tagging studies have investigated migration routes, residency, spawning areas, mixing, and stock structure of BFT. PSAT work has also been conducted on adult BFT in the Gulf of Mexico during the spawning season to determine estimates of post-release mortality of live BFT while on their spawning grounds. Biological sampling has been conducted to determine reproduction status, feeding habits, and nutritional condition of fish. In addition, genetic and otolith sampling has been conducted on young-of-year fish to determine the mixture of eastern and western origin yearling fish entering the U.S. mid-Atlantic fishery. Pilot studies (described in more detail below) were initiated in 2010 to collect hard parts representative of the recreational and commercial fisheries for use in determining both age and stock structure of the BFT catches. BFT sampling also has been conducted to supplement LPS length-weight keys used to update length-weight conversion tables. In 2014, an EFP was issued to investigate and gather data regarding reducing discards of large medium (73 to less than 81 inches) BFT in the purse seine fishery.

In all cases, mortality associated with an EFP, SRP, or display permit, is counted against the Reserve category quota, school reserve subquota, or the quota applicable to the authorized vessels (e.g., if the fish were collected during regular commercial fishing operations and were sold). NMFS issued a total of 32 EFPs, SRPs, and Display Permits, in 2013 for the collection of HMS. Although NMFS authorized collection of 287 BFT, only one was collected that year. NMFS issued a total of 29 EFPs, SRPs, and display permits for 2014, including authorization for 242 BFT, of which only one was collected in 2014. As of July 7, 2015, NMFS has received applications for six EFPs, SRPs, and display permits for BFT that authorize less than 2 mt (less than 11 percent) of the school reserve subquota

(whether codified or as analyzed in this document) and less than 2 mt (less than 1 percent) of the Reserve category quota.

As noted above, the Reserve and school reserve categories have been used to account for mortality of BFT under EFPs, SRPs, and display permits as these reserve categories were specifically set up to account for inseason adjustments and authorized research activities. The impacts to the human environment of these and other BFT quota categories have been previously analyzed in the 2006 Consolidated HMS FMP, as amended, and specific quota allocations based on ICCAT recommendations have been analyzed in subsequent NEPA analyses. NMFS would continue to use the Reserve and school reserve categories to account for mortality associated with these types of permits. Mortality associated with these types of permits is usually a small percentage of the amount authorized for research activities, as evidenced by the number of BFT collected reported versus authorized for 2013 and 2014. However, mortality associated with these types of permits would not exceed the Reserve or school reserve quotas. Therefore, the impacts to the human environment associated with BFT mortality authorized under these permits would be consistent with the analyses conducted under the 2006 Consolidated HMS FMP, as amended, and implementing regulations and no further analysis is needed here.

### Economic and Social Impacts

See Chapter 5 of the Amendment 7 FEIS for a description of economic and social impacts related to the Codified Reallocation and IBQ measures implemented for 2015 in the Amendment 7 final rule.

Alternative 1 would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2014 but would deny fishermen additional fishing opportunities as recommended by the 2014 ICCAT Recommendation and as mandated by ATCA. Alternative 2 would provide slightly greater short-term beneficial economic impacts due to the additional quota of approximately 135 mt, depending on the quota category. These additional positive economic impacts would be distributed among the recreational and commercial sectors per the allocation scheme in Amendment 7. For categories other than the Longline category, the increase in subquotas relative to the 2014 baseline level is approximately 7% and the increase relative to the Amendment 7 category subquotas is approximately 16%. For example, the General category baseline subquota was 435.1 mt in 2014, 403 mt upon implementation of Amendment 7 on January 1, 2015, and would be 466.7 mt under preferred Alternative 2. For the Longline fishery, the increase in baseline quota from 137.3 mt, as finalized in Amendment 7, to 148.3 mt will result in small increases in the amount of quota available to IBQ program participants. Purse Seine participants also would see small increases in their allocations, with the increase in baseline subquota from 159.1 mt as finalized in Amendment 7, to 184.3 mt under Alternative 2.

In the long term, beneficial socio-economic impacts would be expected as the stock grows. However, potential short-term socio-economic impacts from this alternative would depend upon the ability of the fishery to harvest the quota. In 2014, approximately 70 percent of the adjusted quota was harvested (see Table 1). Based on the best available dead discard estimate for 2014, NMFS anticipates that the underharvest of the adjusted U.S. quota of 1,043.6 mt for 2014 is approximately 233 mt. Per the 2014 ICCAT recommendation, only 10 percent of the total 2014 U.S. quota, or 94.9 mt, of that

underharvest would be carried over to the 2015 fishing year (and placed in the Reserve consistent with Amendment 7), and the opportunity to harvest the remaining 138 mt of underharvest has been lost. NMFS will augment the Reserve category with the 94.9 mt of underharvest from 2014.

See Section 6 for potential changes in ex-vessel gross revenues that could be expected to result under Alternative 2. Total ex-vessel gross revenues for fishing years since implementation of the previous (2010) ICCAT recommended U.S. quota were approximately \$10.2 million in 2011, \$10.8 million in 2012, \$5.8 million in 2013, and \$7.8 million in 2014 (see Table 6).

### Conclusion

Alternative 2 is the preferred alternative as it is consistent with the 2006 Consolidated HMS FMP, as amended, ATCA, ICCAT Recommendation 14-05, and Magnuson-Stevens Act requirements. Ecological impacts among the alternatives are similar except that there may be a slight increase in BFT fishing effort associated with the minor increase of BFT quota. Overall beneficial economic and social impacts are also similar among alternatives with differences expected mainly in the short-term to the extent that the increases in quotas result in increased fishing opportunities. Actual impacts would largely be attributable to the availability of BFT and ability of fishery participants to harvest the quota. Under each of the alternatives considered, there may be slight differences in the level of economic and social impacts experienced by the specific individuals of the BFT fishery, as well as by participants within a particular fishery sector.

### **Impacts on Essential Fish Habitat**

Pursuant to 16 U.S.C. 1853(a)(7), and as implemented by 50 C.F.R. § 600.815, the Magnuson-Stevens Act requires that an FMP identify and describe essential fish habitat (EFH) for each life stage of managed species, minimize to the extent practicable adverse effects of fishing activities on EFH including the cumulative effects of multiple fisheries activities, and identify other actions to encourage the conservation and enhancement of such habitat. If NMFS determines that fishing gears are having an adverse effect on HMS EFH, or other species' EFH, then NMFS must include management measures that minimize adverse effects to the extent practicable. The analysis in Amendment 1 to the 2006 Consolidated HMS FMP indicated that most HMS gears are fished in the water column and the impacts on EFH are generally considered negligible. HMS gears do not normally affect the physical characteristics that define HMS EFH such as salinity, temperature, dissolved oxygen, and depth. Similarly, most HMS gears are not expected to impact other fisheries' EFH, with the possible exception of shark bottom longline gear, depending on the area where it is fished. In Amendment 1 to the 2006 Consolidated HMS FMP, a determination was made that HMS gears, other than shark bottom longline, were not having a negative impact on EFH. Similarly, other state and federally managed gears were also determined not to have an impact on HMS EFH, with the possible exception of some bottom-tending gears in shark nursery areas in coastal bays and estuaries (for which NMFS anticipates any resulting impacts would be minimal and only temporary in nature). Ecological impacts to EFH due to actions in this action would likely be neutral and have no adverse effects as the preferred alternative would not affect the range of gears used in the tuna fisheries or the nature of the use of gear. The preferred alternative may change the amount of particular gear type used, but such changes would not affect EFH. Because the action in this rule also would not significantly alter fishing gears or practices, it is anticipated that it would not have any adverse impacts to EFH, and the conclusion for Amendment 1

to the 2006 Consolidated HMS FMP is still applicable, so further consultation is not necessary. Additionally, recently NMFS determined that revisions to EFH descriptions and designations are warranted, and an amendment to the 2006 Consolidated Atlantic HMS FMP will be initiated (80 FR 37598, July 1, 2015). In this amendment, all Atlantic HMS EFH geographic boundaries will be updated to analyze whether these data will impact EFH geographic boundaries, even for species where there was limited or no new EFH data found in the literature review.

## **Overview of Impacts on Protected Species**

The preferred alternative would not be expected to change endangered species or marine mammal interaction rates or magnitudes, substantially alter current fishing practices, or bycatch mortality rates.

On June 14, 2001, NMFS released a Biological Opinion (BiOp), which stated that the continued operation of recreational and commercial handgear fisheries (i.e., handgear, including rod and reel) may adversely affect, but is not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. NMFS has implemented the Reasonable and Prudent Measures (RPMs) and Terms and Conditions of the 2001 BiOp.

In June 2004, NMFS released a BiOp that concluded that the Atlantic pelagic longline 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. NMFS has implemented the Reasonable and Prudent Alternative (RPA) and Terms and Conditions specified in the BiOp (e.g., hook type, bait type, mandatory workshops).

On March 31, 2014, NMFS reinitiated consultation on the 2004 BiOp for the pelagic longline fishery due to new information on mortality rates and total mortality estimates for leatherback turtles that exceed those specified in the RPA, changes in information about leatherback and loggerhead populations, and new information on sea turtle mortality. Pending completion of consultation, NMFS continues to implement the RPA and Terms and Conditions specified in that BiOp (e.g., hook type, bait type, mandatory workshops). While the mortality rate measure needs to be re-evaluated, this does not affect the overall ability of the RPA to avoid jeopardy during the reinitiation. NMFS has determined that continued operation of the pelagic longline fishery during consultation would not constitute an irretrievable or irreversible commitment of resources in accordance with section 7(d) of the Endangered Species Act (ESA) and that continued compliance with the RPA would avoid jeopardy to listed species.

In July 2014, NMFS published a final rule that, among other things, listed the Central and Southwest Atlantic Distinct Population Segments (DPS) of scalloped hammerhead sharks as threatened species under the ESA (79 FR 38213, July 3, 2014). In September 2014, NMFS listed as threatened five new Caribbean species of corals and maintained the threatened listing for two other Caribbean coral species (79 FR 53851, September 10, 2014).

The Central and Southwest Atlantic DPS of scalloped hammerhead and the listed Caribbean coral species occur within the management area of Atlantic HMS commercial and recreational fisheries, including the pelagic longline fishery. Following these listings and based on the information included in an October 2014 biological evaluation, NMFS determined that certain authorized Atlantic HMS gear

types may affect and are likely to adversely affect scalloped hammerhead sharks within the Central and Southwest Atlantic DPS. Additionally, certain authorized Atlantic HMS gear types may affect but are not likely to adversely affect threatened Caribbean coral species. Thus, on October 30, 2014, the NMFS requested reinitiation of ESA section 7 consultation for the 2006 Consolidated HMS FMP activities, as amended, and as previously consulted on in the 2001 Atlantic HMS BiOp, and also provided supplemental information for the separate reinitiation of consultation requested on March 31, 2014, for the pelagic longline fishery.

NMFS is still operating under the RPA, RPMs, and Terms and Conditions in the 2001 and 2004 BiOps, although it is currently undergoing reinitiation of consultation for pelagic longline and the commercial and recreational handgear fisheries. On October 30, 2014, NMFS determined that ongoing operation of HMS fisheries consistent with the RPA, RPMs, and Terms and Conditions in the existing BiOps and consistent with conservation and management measures is not likely to jeopardize the continued existence of the hammerhead or coral species consistent with section 7(a)(2) of the ESA, or result in an irreversible or irretrievable commitment of resources consistent with section 7(d) of the ESA during the re-initiation of consultation. On July 7, 2015, NMFS submitted a memo that supplements the Section 7(a)(2) and Section 7(d) determinations, stating that NMFS has determined that ongoing operation of the Atlantic HMS fisheries is consistent with the RPA and RPMs in existing biological opinions, is consistent with conservation and management measures, and is not likely to jeopardize the continued existence of the hammerhead or coral species or result in an irreversible or irretrievable commitment of resources which would foreclose formulation or implementation of any RPA or RPM. Consistent with the current restrictions on the pelagic longline and the commercial and recreational handgear fisheries, the Atlantic bluefin tuna quota increase in this action is not anticipated to affect species listed as endangered or threatened under the ESA in any way not previously analyzed, including the provision for exempted fishing activities, and is not likely to increase effort or interactions with leatherback turtles or other protected resources because this quota amount is within levels consistent with existing consultations. NMFS may implement requirements of the new BiOp(s) for the pelagic longline and commercial and recreational handgear fisheries in the future.

Goals of the 2006 Consolidated HMS FMP, as amended, include implementing rebuilding plans, minimizing bycatch and bycatch mortality for overfished stocks, and managing healthy stocks for optimum yield. Bycatch reduction measures are in place under the HMS Bycatch Reduction Implementation Plan (discussed in Section 3.8 of the 2006 Consolidated HMS FMP), and the preferred alternative would not change any of the bycatch measures in place under the 2006 Consolidated HMS FMP, as amended, or the effectiveness of those measures. Chapter 7 of the 2011 SAFE Report lists and discusses the 22 marine mammal species that are, or could be, of concern with respect to potential interactions with HMS fisheries. Chapter 7 of the 2014 SAFE Report discusses how NMFS addresses bycatch reduction, incidental catch, and protected species in HMS fisheries, including within the fisheries that are the subject of this action. Table 7.1 summarizes the bycatch species, MMPA categories, ESA requirements, data collection, and management measures for HMS fisheries by fishery/gear type. Section 7.3.1 addresses interactions and the MMPA, and 7.3.2 addresses interactions and the ESA. Interactions with non-listed marine mammals are managed in accordance with the MMPA “List of Fisheries” categories for each appropriate sector (including pelagic longline incidental catch of BFT), and the preferred alternative is not anticipated to change effort in these fishery sectors in any manner that would increase the potential for interaction with non-listed marine mammals as previously analyzed in the 2006 Consolidated HMS FMP, as amended. The preferred alternative would not alter

the measures undertaken to ensure MMPA or ESA compliance in those fisheries.

### **Environmental Justice Concerns**

Executive Order (E.O.) 12898 requires that Federal agencies address environmental justice in the decision-making process. In particular, the environmental effects of Federal actions should not have a disproportionate effect on minority and low-income communities. This action would not have any effects on human health nor is it expected to have any disproportionate social or economic effects on minority and low-income communities. Any social or economic impacts are expected to be slightly positive in the short- and long-term through the potential increase in economic opportunities, and are anticipated to affect the fishing sectors and communities equally.

### **Coastal Zone Management Act (CZMA) Concerns**

In 2011 and 2012, NMFS determined that the proposed rule to implement the Atlantic bluefin tuna quotas (and other measures) and the 2012 quota specifications (to adjust baseline the baseline quota and subquotas for prior-year underharvest), were consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states on the Atlantic including the Gulf of Mexico and the Caribbean Sea (76 FR 13583, March 14, 2011 and 77 FR 15712, March 16, 2012, respectively). Pursuant to 15 CFR 930.41(a), NMFS provided the Coastal Zone Management Program of each coastal state a 60-day period to review those consistency determinations and to advise the Agency of their concurrence. NMFS received concurrence with the consistency determinations from several states and inferred consistency from those states that did not respond within the 60-day time period.

NMFS has determined that this action would not affect the coastal zone of any state in any manner beyond that previously analyzed in the consistency determinations for the Atlantic bluefin tuna quota and quota specifications proposed rules sent to the states in 2011 and 2012 following publication of the applicable proposed rules. This action is being taken to implement a 14-percent increase in the baseline annual U.S. quota, and this relatively small increase would apply coastwide from Maine to Texas, including the Caribbean (21 states and territories). Thus, the amount of increased quota available on an individual state basis would be relatively minor and is unlikely to affect fishing activity or practices within any given state in a manner that would warrant a new consistency determination or additional consultation. Furthermore, it would be consistent with the most recent ICCAT recommendation and the SCRS advice, and is expected to allow for continued stock growth under both the low and high stock recruitment scenarios. Implementation of the recommended U.S. quota will allow NMFS to manage the fishery as appropriate to not exceed the resulting fishing category subquotas. Consequently, no additional consistency consultation is required.

### **Comparison of Alternatives**

Table 7 summarizes the determinations made above regarding ecological, social and economic impacts of all the various alternatives, organized and subdivided by issue. A brief summary of the legal and administrative issues is also provided. As set forth above, no Environmental Justice or CZMA issues were identified.

## Cumulative Impacts

See Chapter 6 of the Amendment 7 FEIS, which described incremental impacts of Amendment 7 when added to other past, present, and reasonably foreseeable future actions, as of August 2014. This action would implement the latest ICCAT recommendation regarding western BFT, which included an increased TAC and U.S. quota.

ICCAT is developing an electronic bluefin tuna catch documentation program to replace the current paper-based catch document program which was first implemented in 2007 as a means to track bluefin tuna from capture through farming operations, landing, and trade. Transformation of the program into an electronic system is expected to more accurately monitor trade of bluefin tuna product. In conjunction with domestic implementation of the International Trade Data System under Executive Order 13659 (Streamlining the Export/Import Process for America's Businesses), which will require electronic submission of all U.S.-required trade documentation, trade data for bluefin tuna is expected to be available on a real time basis, and compliance with bluefin tuna import admissibility requirements will likely increase.

ICCAT is next scheduled to review the status of Atlantic BFT stocks in 2016, and a new western BFT recommendation is expected at the 2016 ICCAT meeting. New measures or changes to the ICCAT BFT rebuilding program may require a future domestic rulemaking. Any future domestic actions taken in regard to the BFT fishery would remain within the scope of ICCAT recommendations as well as established BFT TACs, consistent with ATCA and the Magnuson-Stevens Act.

This action is not expected to change current fishing practices or increase fishing effort, and therefore should not cause biological impacts not previously considered in the 2001 and 2004 BiOps and addressed in the 2006 Consolidated HMS FMP FEIS, as amended. Therefore, the cumulative effects analyses presented in Amendment 7, is hereby incorporated by reference. Briefly, the cumulative effects section of the Amendment 7 indicated that the cumulative impacts the past, present, and future Federal fishery management actions, including the Amendment 7 Preferred Alternatives, on the ecosystem components considered in this analysis will be positive long-term outcomes. Nevertheless, regulatory actions can be associated with negative socio-economic impacts. For example, reducing dead discards or increasing the quota accountability of a fishery may result in negative short-term socio-economic impacts for fishery participants. However, these impacts are usually necessary to bring about long-term sustainability of the resource and as such, should, in the long-term, promote positive effects on human communities, especially those that are economically dependent upon the managed resource.

Regarding implementation of ICCAT-recommended quotas, Section 6.1.1 of the Amendment 7 FEIS reflected the 2006 Consolidated HMS FMP conclusion that the cumulative long-term impact of the final implementing actions, including the ICCAT bluefin rebuilding program and annual quota allocation process, would be to establish sustainable fisheries for Atlantic HMS.

This action is necessary to implement binding ICCAT recommendations, as required by ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act.

No other past, present, or reasonably foreseeable future actions beyond what was analyzed in the Amendment 7 and discussed above were identified. In summary, NMFS considers that this action is



consistent with past and current HMS fisheries actions, and anticipates that it also will be consistent with future actions with no substantial adverse, cumulative impacts on the environment from the preferred alternative.

## **Section 5: MITIGATION AND UNAVOIDABLE ADVERSE IMPACT**

### **Mitigating Measures**

No adverse environmental impacts are expected to result from the preferred alternative, thus no mitigating measures were identified or considered necessary. Under the preferred alternative, NMFS would implement the 2014 ICCAT recommendation for 2015 (and until changed) in accordance with domestic legislation, and the 2006 Consolidated HMS FMP, as amended, and implementing regulations. The ICCAT-recommended increase in TAC, as part of the ICCAT Rebuilding Program, is expected to allow for stock growth under both the low and high recruitment scenarios and should have long-term positive ecological benefits. The U.S. domestic BFT management program includes numerous management measures to implement ICCAT quota and management recommendations, consistent with the 2006 Consolidated HMS FMP, as amended. NMFS uses a variety of controls such as BFT subquotas, seasons, retention limits, size limits, and time/area closures to provide reasonable BFT fishing and harvest opportunities over a wide geographic range within available quotas, while minimizing negative environmental impacts.

Using its inseason management authority, NMFS would be able to monitor and make adjustments to the commercial fishery close to “real time.” Since NMFS will continue to monitor the commercial fishery, any unpredicted increase in effort and landings of BFT, should they occur, could be addressed within a fishing season. NMFS also may adjust recreational effort controls inseason based on the best information available, but landings data are not available with the timing and frequency of commercial data (submitted within 24 hours to NMFS through required landings reports for each fish) such that adjustments in recreational fishing effort may need to be made in subsequent fishing years.

### **Unavoidable Adverse Impacts**

There are no unavoidable adverse impacts from the preferred alternative.

### **Irreversible and Irretrievable Commitment of Resources**

No irreversible or irretrievable commitments of resources are expected from the preferred alternative.

## **Section 6: ECONOMIC EVALUATION**

### **Prices and Markets**

Since implementation of the 1999 FMP, the ex-vessel average price per pound of BFT has varied from a low in 2003 of \$4.75 to just under \$9 in 2012. The role of the Japanese market and of quality and market structure considerations in the determination of BFT prices is discussed in great detail in the 2006 Consolidated HMS FMP and is not repeated here. Many factors, including the yen/dollar exchange rate, market supply and demand, and fish quality may affect ex-vessel prices. In addition, the amount of product from the Mediterranean BFT farming industry can influence prices, with over-supply of the market potentially leading to reduced ex-vessel prices for U.S. fishermen. Table 8 gives the annual average ex-vessel price of BFT, for 2011 through 2014, per year for each category.

Ex-vessel prices (nominal values) per category have fluctuated over the last several years. Accounting for inflation, preliminary average ex-vessel prices for BFT in 2014 were lower than in 2013 for all categories except the Harpoon category.

### **Ex-vessel Gross Revenues**

Ex-vessel gross revenues (nominal values) from recorded sales of BFT in all commercial categories for 2011 through 2014 are presented in Table 6. Revenues for the General, Harpoon, and Longline category in 2014 were 35 percent, 114 percent, and 20 percent higher, respectively, than in 2013. Revenues for the Purse Seine category have fluctuated at a low level since 2004, and were 4 percent lower in 2014 than in 2013. All categories have generally shown declines since 2001, with the exception of the incidental Longline category. Note that this discussion focuses on gross revenues only, and not net revenues. It is important to note that Amendment 7 implemented several changes to NMFS' management of the U.S. BFT quota and fishery for 2015 onward and thus, comparisons of future economic data should take those changes into consideration. The social and economic impacts of those changes are described in Chapter 5 of the Amendment 7 FEIS.

### **Bluefin Tuna Fishery Participation**

A complete description of participation rates in the BFT fishery is provided in Chapter 5 of the Amendment 7 and the Chapter 8 of 2014 SAFE Report and is not repeated here. However, Table 4 indicates the number of vessels permitted during the 2014 fishing season, by category, to participate in the BFT fishery.

### **Bluefin Tuna Processing and Export**

The 2006 Consolidated HMS FMP and the Section 5.3 of the 2014 SAFE Report include detailed discussion of the export, import, and re-export trade program and market for BFT, and that information is not repeated here.

## Expected Economic Impacts of the Alternatives

The most recent ex-vessel average price per pound information for each commercial quota category is used to estimate potential ex-vessel gross revenues under Alternatives 1 and 2. Under the No Action Alternative (Alternative 1), the baseline subquotas could result in estimated gross revenues of \$9.6 million, if the available quota is fully utilized, broken out by category as follows: General category: \$5.9 million (403 mt \* \$6.60/lb); Harpoon category: \$529,426 (33.4 mt \* \$7.19/lb); Purse Seine category: \$1.7 million (159.1 mt \* \$ 4.77/lb); Longline category: \$1.6 million (137.3 mt \* \$5.22/lb); and Trap category: \$10,357 (0.9 mt \* \$ 5.22/lb).

Under the preferred alternative (Alternative 2), estimated gross revenues would be \$11 million, if the available quota is fully utilized, broken out by category as follows: General category: \$6.8 million (466.7 mt \* \$6.60/lb); Harpoon category: \$611,851 (38.6 mt \* \$7.19/lb); Purse Seine category: \$1.9 million (184.3 mt \* \$ 4.77/lb); Longline category: \$1.7 million (148.3 mt \* \$5.22/lb); and Trap category: \$11,508 (1.0 mt \* \$ 5.22/lb). Depending on the average ex-vessel value and average size of the fish caught per category, additional economic benefits would accrue to each category as a result.

## Section 7: REGULATORY IMPACT REVIEW

This section assesses the economic impacts of the alternatives presented in this document. The RIR is conducted to comply with E.O. 12866 and provides analyses of the economic benefits and costs of each alternative to the nation and the fishery as a whole. Certain elements required in an RIR are also required as part of an EA. Thus, this section should be considered only part of the RIR. The rest of the RIR can be found throughout this document.

The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

*In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits should be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.*

E.O. 12866 further requires Office of Management and Budget review of proposed regulations that are considered to be “significant.” A significant regulatory action is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments of communities;
- Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the president's priorities, or the principles set forth in this Executive Order.

### **Description of the Management Objectives**

Please see Section 1 for a description of the objectives of this rulemaking.

### **Description of the Fishery**

Please see Section 3 for a description of fishery and environment that could be affected by this rulemaking.

### **Statement of the Problem**

Please see Section 1 for a description of the problem and need for this rulemaking.

### **Description of Each Alternative**

Please see section 2 for a summary of each alternative and section 4 for a complete description of each alternative and its expected ecological, social, and economic impacts.

### **Economic Analysis of Expected Effects of Each Alternative Relative to the Baseline**

NMFS does not foresee that the national net benefits and costs would change significantly in the long term as a result of implementation of this action. The total amount of BFT landed and available for sale would be expected to increase slightly with modest net positive economic impacts.

NMFS does not foresee that the national net benefits and costs would change significantly in the long term as a result of implementation of this action. The total amount of BFT potentially landed and available for sale under the action is expected to provide greater positive economic benefits than the no action alternative. In the long term, both alternatives would have positive economic impacts, as they are associated with a TAC that is expected to allow for stock growth. Table 9 indicates the possible net economic benefits and costs of each alternative. The western Atlantic BFT fishery TAC will be renegotiated in 2016.

### **Conclusion**

The action described in this EA/RIR/FRFA does not meet the above criteria. For example, the economic impacts as reflected in this action are under the \$100 million threshold. This action raises no novel or legal policy issues as it implements the ICCAT-recommended quota, consistent with the western BFT Rebuilding Program, as necessary and appropriate pursuant to ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act, including rebuilding stocks and ending overfishing. Therefore, under E.O. 12866, the action described in this document has been

determined to be not significant for the purposes of E.O. 12866. A summary of the expected net economic benefits and costs of each alternative can be found in Table 9.

## **Section 8: FINAL REGULATORY FLEXIBILITY ANALYSIS**

The Final Regulatory Flexibility Analysis (FRFA) is conducted to comply with the Regulatory Flexibility Act (5 USC 601 et. seq.) and provides a description of the economic impacts of the various alternatives on small entities

### **Statement of the Need for and Objectives of the Rule**

In compliance with section 604(a)(1) of the Regulatory Flexibility Act, the purpose of this rulemaking is, consistent with the 2006 Consolidated HMS FMP objectives, the Magnuson-Stevens Act, and other applicable law, to analyze the impacts of the alternatives for implementing and allocating the ICCAT-recommended U.S. quota for 2015 and 2016. See Section 1 for a full description of the reasons why this action is being considered.

### **Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA), a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made as a Result of Such Comments**

Section 604(a)(2) of the RFA requires agencies to summarize significant issues raised by the public in response to the IRFA, a summary of the agency's assessment of such issues, and a statement of any changes made as a result of the comments. NMFS received a few comments on the proposed rule (80 FR 33467, June 12, 2015) during the comment period. A summary of these comments and the Agency's responses are included in Section 13. However, NMFS did not receive comments specifically on the IRFA.

### **Description and Estimate of the Number of Small Entities to Which the Rule Will Apply**

Section 604(a)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. The rule is expected to directly affect commercial and for-hire fishing vessels that possess an Atlantic Tunas permit or Atlantic HMS Charter/Headboat permit. In general, the HMS Charter/Headboat category permit holders can be regarded as small entities for RFA purposes. HMS Angling (recreational) category permit holders are typically obtained by individuals who are not considered small entities for purposes of the RFA. The SBA has established size criteria for all major industry sectors in the United States including fish harvesters (79 FR 33647; June 12, 2014). A business involved in fish harvesting is classified as a "small business" if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts (revenue) not in excess of \$20.5 million for all of its affiliated operations worldwide (NAICS code 114111, finfish fishing). NAICS is the North American Industry Classification System, a standard system used by business and government to classify business establishments into industries, according to their economic activity. The United States government developed NAICS to collect, analyze, and publish data about the economy. In addition, the

SBA has defined a small charter/party boat entity (NAICS code 487210, for-hire) as one with average annual receipts (revenue) of less than \$7.5 million.

As described in the final rule to implement Amendment 7 to the 2006 Consolidated HMS FMP (79 FR 71510, December 2, 2014), the average annual gross revenue per active pelagic longline vessel was estimated to be \$187,000 based on the 170 active vessels between 2006 and 2012 that produced an estimated \$31.8 million in revenue annually. The maximum annual revenue for any pelagic longline vessel during that time period was less than \$1.4 million, well below the SBA size threshold of \$20.5 million in combined annual receipts. Therefore, NMFS considers all Atlantic Tunas Longline category permit holders to be small entities. NMFS is unaware of any other Atlantic Tunas category permit holders that potentially could earn more than \$20.5 million in revenue annually. NMFS is also unaware of any charter/headboat businesses that could exceed the \$7.5 million thresholds for those small entities. HMS Angling category permit holders are typically obtained by individuals who are not considered small entities for purposes of the RFA. Therefore, NMFS considers all Atlantic Tunas permit holders and HMS Charter/Headboat permit holders subject to this action to be small entities.

This action would apply to all participants in the Atlantic BFT fishery, i.e., to the over 27,000 vessels that held an Atlantic HMS Charter/Headboat, Atlantic HMS Angling, or an Atlantic Tunas permit as of October 2014. The rule is expected to directly affect commercial and for-hire fishing vessels that possess an Atlantic Tunas permit or Atlantic HMS Charter/Headboat permit. It is unknown what portion of HMS Charter/Headboat permit holders actively participate in the BFT fishery or fishing services for recreational anglers. As summarized in the 2014 SAFE Report for Atlantic HMS, there were 6,792 commercial Atlantic tunas or Atlantic HMS permits in 2014, as follows: 2,782 in the Atlantic Tunas General category; 14 in the Atlantic Tunas Harpoon category; 5 in the Atlantic Tunas Purse Seine category; 246 in the Atlantic Tunas Longline category; 3 in the Atlantic Tunas Trap category; and 3,742 in the HMS Charter/Headboat category. In Amendment 7, NMFS authorized 136 Longline category permits for IBQ shares. This constitutes the best available information regarding the universe of permits and permit holders recently analyzed. No impacts are expected to occur from the clarification of the transfer at sea prohibition regulatory text.

NMFS has determined that this action would not likely directly affect any small government jurisdictions defined under the RFA.

**Description of the Projected Reporting, Record-Keeping, and other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities which will be Subject to the Requirements of the Report or Record**

Under section 604(a)(4) of the RFA, agencies are required to describe any new reporting, record-keeping and other compliance requirements. There are no new reporting or recordkeeping requirements in any of the alternatives considered for this action.

**Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and the Reason That Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect Small Entities Was Rejected**

Under section 604(a)(5) of the Regulatory Flexibility Act, agencies are required to describe any alternatives to the rule which accomplish the stated objectives and which minimize any significant economic impacts. These alternatives and impacts are discussed below and in Chapters 4 and 6 of this document. Additionally, the Regulatory Flexibility Act (5 U.S.C. § 603 (c) (1)-(4)) lists four general categories of “significant” alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are:

- Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities,
- Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities,
- Use of performance rather than design standards, and
- Exemptions from coverage of the rule for small entities.

In order to meet the objectives of this rule, consistent with the Magnuson-Stevens Act, ATCA, and the ESA, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. Thus, no alternatives are discussed that fall under the first and fourth categories described above. Amendment 7 implemented criteria for determining the availability of quota for Purse Seine fishery category participants and IBQs for the Longline category. Both of these and the eligibility criteria for IBQs and access to the Cape Hatteras GRA for the Longline category can be considered individual performance standards. NMFS has not yet found a practical means of applying individual performance standards to the other quota categories while, concurrently, complying with the Magnuson-Stevens Act. Thus, there are no alternatives considered under the third category.

NMFS has estimated the average impact that establishing the increased baseline annual U.S. BFT quota for all domestic fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2014 ICCAT recommendation increased the annual U.S. baseline BFT quota for each of 2015 and 2016 to 1,058.79 mt and provides 25 mt annually for incidental catch of BFT related to directed longline fisheries in the NED. The baseline annual subquotas would be adjusted consistent with the process established in Amendment 7 (79 FR 71510, December 2, 2014), and these amounts would be codified.

To calculate the average ex-vessel revenues under this action, NMFS first estimated potential category-wide revenues. The most recent ex-vessel average price per pound information for each commercial quota category is used to estimate potential ex-vessel gross revenues under each of the subquotas (i.e., 2014 prices for the General, Harpoon, Purse Seine, and Longline/Trap categories). For

comparison, in 2014, gross revenues were approximately \$7.8 million, broken out by category as follows: General--\$5.9 million, Harpoon--\$544,778, Purse Seine--\$391,607, Longline--\$953,055, and Trap--\$0. The baseline subquotas could result in estimated gross revenues of \$11 million, if finalized and fully utilized, broken out by category as follows: General category: \$6.8 million (466.7 mt \* \$6.60/lb); Harpoon category: \$611,851 (38.6 mt \* \$7.19/lb); Purse Seine category: \$1.9 million (184.3 mt \* \$4.77/lb); Longline category: \$1.7 million (148.3 mt \* \$5.22/lb); and Trap category: \$11,508 (1.0 mt \* \$5.22/lb). This rule would implement the recently adopted ICCAT-recommended U.S. quota and applies the allocations for each quota category as recently amended in the implementing regulations for Amendment 7 to the 2006 Consolidated HMS FMP. This action would be consistent with ATCA, under which the Secretary promulgates regulations as necessary and appropriate to carry out ICCAT recommendations.

No affected entities would be expected to experience negative, direct economic impacts as a result of this action. On the contrary, each of the quota categories would increase relative to the baseline quotas that applied in 2011 through 2014 and the quotas finalized in Amendment 7. To the extent that Purse Seine fishery participants and IBQ participants could receive additional quota as a result of Amendment 7-implemented allocation formulas being applied to increases in available Purse Seine and Longline category quota, those participants would receive varying increases, which would result in direct benefits from either increased fishing opportunities or quota leasing.

To estimate potential average ex-vessel revenues that could result from this action, NMFS divides the potential annual gross revenues for the General, Harpoon, Purse Seine, and Trap category by the number of permit holders. For the Longline category, NMFS divides the potential annual gross revenues by the number of active vessels as defined in Amendment 7. This is an appropriate approach for BFT fisheries, in particular because available landings data (weight and ex-vessel value of the fish in price-per-pound) allow NMFS to calculate the gross revenue earned by a fishery participant on a successful trip. The available data (particularly from non-Longline participants) do not, however, allow NMFS to calculate the effort and cost associated with each successful trip (e.g., the cost of gas, bait, ice, etc.), so net revenue for each participant cannot be calculated. As a result, NMFS analyzes the average impact of the alternatives among all participants in each category.

Success rates vary widely across participants in each category (due to extent of vessel effort and availability of commercial-sized BFT to participants where they fish) but for the sake of estimating potential revenues per vessel, category-wide revenues can be divided by the number of permitted vessels in each category. For the Longline fishery, the number of permits authorized for IBQ shares is used, and actual revenues would depend, in part, on each vessel's IBQ in 2015. Although HMS Charter/Headboat vessels may fish commercially under the General category quota and retention limits, because it is unknown what portion of HMS Charter/Headboat permit holders actively participate in the BFT fishery, NMFS is estimating potential General category ex-vessel revenue changes using the number of General category vessels only.

Estimated potential 2015 revenues on a per vessel basis, considering the number of permit holders listed above and the subquotas, could be \$2,441 for the General category; \$43,703 for the Harpoon category; \$387,618 for the Purse Seine category; \$12,549 for the Longline category, using the 136 vessels authorized for IBQ shares; and \$3,836 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.



Consistent with Amendment 7 regulations, NMFS calculated the quota available to Purse Seine fishery participants for 2015 and then reallocated the remaining 87.4 mt of available Purse Seine category quota to the Reserve category (80 FR 7547, February 11, 2015). NMFS has recalculated those amounts based on the U.S. baseline BFT quota and subquotas analyzed in this EA, with an increase of 11.2 mt and 17.4 mt for the Purse Seine and Reserve categories, respectively. The analyses in this FRFA are limited to the baseline subquotas.

Because the directed commercial categories have underharvested their subquotas in recent years, the potential increases in ex-vessel revenues above may overestimate the probable economic impacts to those categories relative to recent conditions. Additionally, there has been substantial interannual variability in ex-vessel revenues per category in recent years due to recent changes in BFT availability and other factors.

## **Section 9: COMMUNITY PROFILES**

Section 102(2)(a) of the National Environmental Policy Act (NEPA) requires Federal agencies to consider the interactions of natural and human environments by using “a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences...in planning and decision making.” Federal agencies should address the aesthetic, historic, cultural, economic, social, or health effects which may be direct, indirect, or cumulative. The Magnuson-Stevens Act also requires, among other matters, consideration of social impacts. Consideration of the social impacts associated with fishery management measures is a growing concern as fisheries experience variable participation and/or declines in stocks.

Profiles for the following communities were included in Section 3.8 of the Amendment 7 FEIS and updated in the 2014 SAFE Report: Gloucester and New Bedford, MA; Wakefield-Peacedale, RI; Montauk, NY; Brielle, Barnegat Light, and Cape May, NJ; Ocean City, MD; Wanchese, Beaufort, Morehead City, and Atlantic Beach, NC; Fort Pierce, Port Salerno, Pompano Beach, Islamorada, Madeira Beach, Apalachicola, Panama City, and Destin, FL; Orange Beach, AL; Venice, Grand Isle, and Dulac, LA; Freeport and Port Aransas, TX. These communities are analyzed for social impacts in this action due to the importance of BFT fishing to the community.

The impacts of the action will be minor in all of these communities. The action to increase the BFT quota could increase the time vessels spend fishing for BFT but could also allow fishermen more time to plan activities with their families during the fishing season because the fishing seasons may be longer, depending on the availability of BFT. Additionally, because individual BFT fishermen might land more fish than they have under the 948.7-mt U.S. quota and might fish for longer during the season, dealers, suppliers, and other related industries within the community could experience positive benefits.

## **Section 10: OTHER CONSIDERATIONS**

### **Magnuson-Stevens Act**

The analyses in this document are consistent with the National Standards (NS) under the Magnuson-Stevens Act, as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act, and as set forth in the 50 CFR part 600 NS Guidelines.

This action is consistent with NS 1 in that it would prevent the overfishing of BFT and maintain the western Atlantic BFT rebuilding schedule recommended by ICCAT. NMFS continues to limit BFT mortality by U.S. fishermen in accordance with the strict quota limits set by ICCAT and established under the approved 20-year rebuilding plan. As described in Section 3, the 2014 SCRS stock assessment update and advice takes into account the two divergent stock recruitment scenarios, with insufficient evidence to favor either scenario over the other. ICCAT has recommended a relatively small (approximately 14 percent) increase in the TAC and in the annual U.S. quota after considering the SCRS advice. Because the alternatives are based on the results of the 2014 ICCAT Recommendation, the alternatives considered are based on the best scientific information available (NS 2), including stock assessment data which provide for the management of these species throughout their ranges (NS 3).

The action does not discriminate against fishermen in any state (NS 4) nor does it alter the efficiency in utilizing the resource (NS 5). With regard to NS 6, the action takes into account any variations that may occur in the fishery and the fishery resources. Additionally, NMFS considered the costs and benefits of these management measures economically and socially under NSs 7 and 8 in Sections 4 and 6 of this document. The action could ensure that bycatch of BFT, in terms of dead discards, is counted against an ICCAT allowance quota and NMFS has considered the impact of the action on protected species (NS 9). Finally, the action would not require fishermen to fish in an unsafe manner (NS 10).

### **Paperwork Reduction Act**

This action contains no new collection-of-information requirements subject to the Paperwork Reduction Act.

### **E. O. 13132**

This action does not contain regulatory provisions with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 13132.

## **Section 11: LIST OF PREPARERS/AGENCIES AND PERSONS CONSULTED**

This EA/RIR/FRFA was prepared by Sarah McLaughlin, Brad McHale, George Silva, and Margo Schulze-Haugen from the HMS Management Division, Office of Sustainable Fisheries. Please contact the HMS Management Division, Northeast Regional Office, for a complete copy of current regulations for the Atlantic tunas fisheries.

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Discussions relevant to the preparation of this EA/RIR/FRFA involved input from several NMFS components and constituent groups, including: NMFS Southeast Fisheries Science Center; NMFS Northeast Regional Office, NMFS Office for Law Enforcement; NMFS Office of Science and Technology; NOAA Office of the General Counsel, Fisheries and Protected Resources Section; and the members of the HMS AP (which includes representatives from the commercial and recreational fishing industries, environmental and academic organizations, state representatives, and fishery management councils). NMFS also has received numerous comments from individual fishermen and interested parties.

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### Section 13: PUBLIC COMMENT AND AGENCY RESPONSES

NMFS received two written comments on the proposed rule, as well as two verbal comments through the public conference call/webinar. Few of the comments NMFS received focused specifically on the proposed rule. Below, NMFS summarizes and responds to all comments made specifically on the proposed rule during the comment period. The comments that were outside the scope of this rule are summarized under “Other Issues” below.

Comment 1: One commenter suggested that, for conservation reasons and to allow the BFT stock to grow, NMFS should not increase the quota.

Response: The western Atlantic BFT TAC, which includes the U.S. quota, is expected to allow for continued BFT stock growth under the both the low and high stock recruitment scenarios considered by ICCAT’s Standing Committee on Research and Statistics (SCRS) and is consistent with ICCAT recommendations, ATCA, and domestic and international management objectives. Furthermore, NMFS is required under the Magnuson-Stevens Act and ATCA to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

Comment 2: Two commenters, representing fishing industry organizations, supported finalizing the rule as proposed but encouraged NMFS to increase BFT daily retention limits to allow more of the available quota to be harvested.

Response: This rulemaking does not address daily retention limits. Adjusting daily retention limits occurs through separate inseason actions. NMFS has the authority to adjust the daily retention limits for the General, Harpoon, and Angling categories inseason, based on consideration of applicable regulatory determination criteria at § 635.27(a)(8). In adjusting Angling category limits, NMFS also considers the ICCAT tolerance limit of school BFT, which NMFS manages as appropriate to not exceed 10 percent (108.4 mt) of the annual U.S. BFT quota over each two-consecutive-year period (starting with 2015-2016). To date in 2015, NMFS has taken two inseason actions to increase the General and Angling category retention limit from the default levels (79 FR 77943, December 29, 2014, and 80 FR 27863, May 15, 2015). These actions may result in more of the General and Angling category subquotas to be harvested, relative to 2014, depending on the availability of BFT to the fisheries. NMFS also may adjust recreational effort controls inseason based on the best information available, but landings data are not available with the timing and frequency of commercial data (submitted within 24 hours to NMFS through required landings reports for each fish) such that adjustments in recreational fishing effort may need to be made in subsequent fishing years.

Comment 3: One representative of an environmental non-governmental organization commented that the proposed rule is reasonable but expressed disappointment in ICCAT’s recommendation to increase the TAC, given stock assessment uncertainties, and expressed concern that a quota increase could jeopardize rebuilding the stock by 2019.

Response: The TAC recommended by ICCAT in 2014 followed the scientific advice of ICCAT’s SCRS and considered the results of the 2014 stock assessment update while also taking into account remaining uncertainties. The SCRS indicated that annual catches of less than 2,250 mt would have a 50 percent probability of allowing the spawning stock biomass to be at or above its 2013 level by

2019 under either recruitment scenario, and that annual catches of 2,000 mt or less would continue to allow stock growth under both the low and high recruitment scenarios for the remainder of the rebuilding program. NMFS is committed to the sustainable, science-based management of BFT and is hopeful that the updated information and new data that will be incorporated into the next benchmark/full stock assessment will help to reduce some of the scientific uncertainty that the SCRS has identified for this stock.

#### Other Issues

In addition to the above comments specifically on the content of the proposed rule, other comments raised issues that are outside the scope of this rule, particularly regarding Amendment 7 implementation. These comments included concern about the potential impact of quota transfers to the Longline category on IBQ shareholders and interest in how the reporting by commercial handgear vessel owners is proceeding during the initial implementation this year.

Although outside the scope of this rulemaking, NMFS is noting here that it carefully considers the regulatory determination regarding inseason adjustments before making any inseason quota transfer. These criteria include the effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments. Thus, NMFS would consider, among other things, how such a transfer would optimize fishing opportunity and contribute to full accounting for landings and dead discards, while still supporting the broader objectives of the fishery management plan. NMFS considered these and other requisite factors in its recently published inseason action transferring 34 mt of quota from the Reserve to the Longline category (80 FR 45098, July 29, 2015). NMFS will report on the progress of Amendment 7 implementation (including the IBQ program and vessel catch reporting) at upcoming meetings of the HMS Advisory Panel, and these presentations and transcripts will be publically accessible through the HMS website.

## FINDING OF NO SIGNIFICANT IMPACT

### Atlantic bluefin tuna (BFT) quota rule

The Highly Migratory Species (HMS) Management Division of the Office of Sustainable Fisheries submits the attached Environmental Assessment for the BFT fisheries for Secretarial review under the procedures of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

This EA considers information contained in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP), as amended, including the recently published Amendment 7 (August 2014), and implementing regulations, and was developed as an integrated document that includes a Regulatory Impact Review and Initial Regulatory Flexibility Analysis. The responses in the Finding of No Significant Impact statement are supported by the analyses in the EA as well as in the other NEPA documents referenced. Copies of the EA/Regulatory Impact Review/Final Regulatory Flexibility Analysis are available at the following address:

Highly Migratory Species Management Division, F/SF1  
National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930  
(978) 281-9260

or

<http://www.nmfs.noaa.gov/sfa/hms>

This action would increase the baseline annual U.S. BFT quota from the 923.7-mt level established via a 2011 quota rule (76 FR 39019, July 5, 2011) to the ICCAT-recommended level of 1,058.79 mt. The baseline annual subquotas would be adjusted consistent with the process established in Amendment 7 (79 FR 71510, December 2, 2014), and these amounts would be codified.

The National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of an action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. 1508.27 state that the significance of an action should be analyzed both in terms of context and intensity. Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQs context and intensity criteria. These include:

1) Can the action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

No. The action is not expected to jeopardize the sustainability of BFT, which is the primary target species of fishing operations affected by this action.

In this action, NMFS would implement the annual U.S. BFT quota in the western Atlantic management area to 1,058.79 mt, and the recommended total annual U.S. quota, including 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area, to 1,083.79 mt, consistent with ICCAT Recommendation 14-05. These amounts represent an approximately 14-percent increase from the annual quotas in effect for 2011 through 2014. Because the recommended quota was adopted as part of ICCAT's ongoing implementation of the rebuilding program for western Atlantic BFT and is expected to result in stock growth under both the low and high recruitment scenario, it is not expected to jeopardize the sustainability of BFT.

2. Can the action be reasonably expected to jeopardize the sustainability of any non-target species?

No. This action is not expected to jeopardize the sustainability of any non-target finfish species. NMFS does not expect the action to significantly alter existing fishing patterns or effort of fishing vessels. Although fishing pressure may increase slightly, due to the 135-mt increase in U.S. quota, this increase in effort may be attributed to the increase of quota, allowing vessels to make a minor to moderate increase in fishing trips to harvest the available quotas. However, except for the very small (2.8-mt) southern area Trophy subquota, none of the quotas and subquotas were met in 2014, i.e., those fisheries were not quota-limited. Thus, NMFS does not expect that the additional quota that will apply to each category necessarily will equate to additional fishing trips or BFT mortality.

The primary fishing gears used to target BFT (i.e., rod and reel and purse seine) allow for the live release of non-target species to a great degree. The quotas for these sectors of the fishery account for more than 85 percent of the total U.S. annual quota. Primary non-target fish species caught by vessels targeting BFT include yellowfin tuna, bigeye tuna, and other large pelagic species. NMFS has already implemented rebuilding plans, as appropriate, and fishing controls for the primary non-target finfish species.

Handgear and purse seine gear fisheries actions, covered under the June 2001 Biological Opinion (BiOp) for HMS fisheries, were determined not likely to jeopardize the continued existence of endangered or threatened species, including sea turtles. In June 2004, NMFS released a BiOp that concluded that the Atlantic pelagic longline 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. NMFS has implemented the Reasonable and Prudent Alternative (RPA), Reasonable and Prudent Measures (RPMs), and Terms and Conditions specified in these BiOps.

On March 31, 2014, NMFS reinitiated consultation on the 2004 BiOp for the pelagic longline fishery due to new information on mortality rates and total mortality estimates for leatherback turtles that exceed those specified in the RPA, changes in information about leatherback and loggerhead populations, and new information on sea turtle mortality. Pending completion of consultation, NMFS continues to implement the RPA and Terms and Conditions specified in that BiOp (e.g., hook type, bait type, mandatory workshops). While the mortality rate measure needs to be re-evaluated, this does not affect the overall ability of the RPA to avoid jeopardy during the reinitiation. NMFS has determined that continued operation of the pelagic longline fishery during consultation would not constitute an irretrievable or irreversible commitment of resources in accordance with section 7(d) of the ESA and that continued compliance with the RPA would avoid jeopardy to listed species.



In July 2014, NMFS published a final rule that, among other things, listed the Central and Southwest Atlantic Distinct Population Segments (DPS) of scalloped hammerhead sharks as threatened species under the ESA (79 FR 38213, July 3, 2014). In September 2014, NMFS listed as threatened five new Caribbean species of corals and maintained the threatened listing for two other Caribbean coral species (79 FR 53851, September 10, 2014).

The Central and Southwest Atlantic DPS of scalloped hammerhead and the listed Caribbean coral species occur within the management area of Atlantic HMS commercial and recreational fisheries, including the pelagic longline fishery. Following these listings and based on the information included in an October 2014 biological evaluation, NMFS determined that certain authorized Atlantic HMS gear types may affect and are likely to adversely affect scalloped hammerhead sharks within the Central and Southwest Atlantic DPS. Additionally, certain authorized Atlantic HMS gear types may affect but are not likely to adversely affect threatened Caribbean coral species. Thus, on October 30, 2014, the NMFS requested reinitiation of ESA section 7 consultation for the 2006 Consolidated HMS FMP activities, as amended, and as previously consulted on in the 2001 Atlantic HMS BiOp, and also provided supplemental information for the separate reinitiation of consultation requested on March 31, 2014, for the pelagic longline fishery.

NMFS is still operating under the RPA, RPMs, and Terms and Conditions in the 2001 and 2004 BiOps, although it is currently undergoing reinitiation of consultation for pelagic longline and the commercial and recreational handgear fisheries. On October 30, 2014, NMFS determined that ongoing operation of HMS fisheries consistent with the RPA, RPMs, and Terms and Conditions in the existing BiOps and consistent with conservation and management measures is not likely to jeopardize the continued existence of the hammerhead or coral species consistent with section 7(a)(2) of the ESA, or result in an irreversible or irretrievable commitment of resources consistent with section 7(d) of the ESA during the re-initiation of consultation. On July 7, 2015, NMFS submitted a memo that supplements the Section 7(a)(2) and Section 7(d) determinations, stating that NMFS has determined that ongoing operation of the Atlantic HMS fisheries is consistent with the RPA and RPMs in existing biological opinions, is consistent with conservation and management measures, and is not likely to jeopardize the continued existence of the hammerhead or coral species or result in an irreversible or irretrievable commitment of resources which would foreclose formulation or implementation of any RPA or RPM. Consistent with the current restrictions on the pelagic longline and the commercial and recreational handgear fisheries, the Atlantic bluefin tuna quota increase in this action is not anticipated to affect species listed as endangered or threatened under the ESA in any way not previously analyzed, including the provision for exempted fishing activities, and is not likely to increase effort or interactions with leatherback turtles or other protected resources because this quota amount is within levels consistent with existing consultations. NMFS may implement requirements of the new BiOp(s) for the pelagic longline and commercial and recreational handgear fisheries in the future.

Goals of the 2006 Consolidated HMS FMP, as amended, include implementing rebuilding plans, minimizing bycatch and bycatch mortality for overfished stocks, and managing healthy stocks for optimum yield. Bycatch reduction measures are in place under the HMS Bycatch Reduction Implementation Plan (discussed in Section 3.8 of the 2006 Consolidated HMS FMP), and this action would not change any of the bycatch measures in place under the 2006 Consolidated HMS FMP, as amended, or the effectiveness of those measures. Chapter 7 of the 2011 SAFE Report lists and discusses the 22 marine mammal species that are, or could be, of concern with respect to potential interactions

with HMS fisheries. Chapter 7 of the 2014 SAFE Report discusses how NMFS addresses bycatch reduction, incidental catch, and protected species in HMS fisheries, including within the fisheries that are the subject of this rulemaking. Table 7.1 summarizes the bycatch species, MMPA categories, ESA requirements, data collection, and management measures for HMS fisheries by fishery/gear type. Section 7.3.1 addresses interactions and the MMPA, and 7.3.2 addresses interactions and the ESA. Interactions with non-listed marine mammals are managed in accordance with the MMPA “List of Fisheries” categories for each appropriate sector (including pelagic longline incidental catch of BFT), and the action is not anticipated to change effort in these fishery sectors in any manner that would increase the potential for interaction with non-listed marine mammals as previously analyzed in the 2006 Consolidated HMS FMP, as amended. This action would not alter the measures undertaken to ensure MMPA or ESA compliance in those fisheries.

3. Can the action be reasonably expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in FMPs?

No. Although EFH is present in the action area and the action implements a 14-percent increase in annual quota for the BFT fishery, it is not expected to change BFT fishing patterns or impacts on EFH from the prior year, or to allow substantial damage to ocean and coastal habitats and/or EFH. As discussed in the 2006 Consolidated HMS FMP and amendments, the primary fishing gears used to harvest BFT (hook and line and purse seine) are fished in the water column and have little impact on coastal resources or bottom substrate. Water column features also are identified as EFH, but there is no evidence that physical effects caused by fishing for HMS are adversely affecting EFH to the extent that detrimental effects can be identified.

4. Can the action be reasonably expected to have a substantial adverse impact on public health and safety?

No. Because the action is not expected to change the current fishery practices or behavior overall, no significant effects to public health and safety are anticipated from its implementation.

5. Can the action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

No. See response to Question 2 regarding findings of the 2001 and 2004 BiOps. The action would not modify fishing behavior or gear type, although it may increase effort in the handgear fisheries slightly. Implementation of RPA, RPMs, and Terms and Conditions of those BiOps is underway, and this action is within the scope of those BiOps.

In addition, the interactions with non-listed marine mammals are managed in accordance with the MMPA “List of Fisheries” categories for each appropriate sector (including pelagic longline incidental catch of BFT), and this action is not anticipated to change the effort in these fisheries in any manner that would increase the potential for interaction with non-listed marine mammals as previously analyzed in the 2006 Consolidated HMS FMP, as amended.

6. Can the action be expected to have a substantial impact on biodiversity and/or ecosystem

function within the affected area (e.g. benthic productivity, predator-prey relationships, etc.)?

No. The action is not expected to have a significant impact on biodiversity and ecosystem function within the affected area, because the action is not expected to change fishing practices, and/or interactions with non-target and endangered or threatened species. The action would not affect unique geographic areas. In addition, this action is not expected to introduce or spread non-indigenous species.

7. Are significant social or economic impacts interrelated with significant natural or physical environmental effects?

No. There are no significant natural or physical environmental effects associated with the action and no significant social or economic impacts interrelated with natural or physical environmental effects that would result from the action. The action is expected to have some short-term beneficial socio-economic impacts due to the increase in U.S. quota and subquotas for 2015 (and until changed) although actual impacts would depend on BFT availability to the various fishing gears. In the long-term, positive social and economic impacts can be expected as the stock grows. See Sections 6 and 8 for an analysis of the predicted economic impacts to the BFT fishery and small business entities.

8. To what degree are the effects on the quality of the human environment expected to be highly controversial?

The effects of this action on the human environment are not expected to be highly controversial. The action would implement a 14-percent increase in the annual U.S. quota consistent with an ICCAT recommendation that was taken consistent with scientific advice. The domestic quota category subquotas would be codified consistent with the percentage allocations implemented in Amendment 7.

9. Can the action be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

No. This action would not result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas because fishing effort would occur in open areas of the ocean. In addition, there is no park land, prime farmlands, wetlands, or wild and scenic rivers within the action area so there would be no adverse impacts on these areas.

10. Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

No. Effects on the human environment would be similar to those in similar annual actions since 1999, and have been considered in the 2006 Consolidated HMS FMP FEIS, the Amendment 7 FEIS, and the EA for this action. None of the previous actions resulted in highly uncertain effects or unique or unknown risks. This action would allocate the 2014 ICCAT-recommended BFT quota consistent with the 2006 Consolidated HMS FMP, as amended.

11. Is the action related to other actions with individually insignificant, but cumulatively significant impacts?

No. There are no significant cumulative impacts associated with this action in combination with other past, present, or reasonable foreseeable future actions. This action would implement the 2014 ICCAT recommendation for BFT for the 2015 fishing year and effective until changed (for instance as the result of a future ICCAT Recommendation). It would be consistent with the ongoing implementation of ICCAT's rebuilding program for western Atlantic BFT. NMFS regulations provide tools for the agency to manage quota attainment during the season.

Other recent actions (including numerous BFT inseason actions to adjust daily retention limits for the handgear categories, the 2008 authorization of green-stick gear for BFT, the 2011 weak hook requirement for pelagic longline vessels fishing for HMS in the Gulf of Mexico, and the 2011 General and Harpoon category regulatory amendment) have been consistent with ICCAT recommendations and the 2006 Consolidated HMS FMP. NMFS recently implemented Amendment 7 to the 2006 Consolidated HMS FMP, which was intended to address BFT management needs due to recent trends and characteristics in the BFT fishery. NMFS took several actions to reduce BFT dead discards and account for dead discards in all categories; optimize fishing opportunities in all categories; enhance reporting and monitoring; and adjust other aspects of the 2006 Consolidated HMS FMP as necessary. Any future domestic actions taken in regard to the BFT fishery would remain within the scope of ICCAT recommendations and the 2006 Consolidated HMS FMP, as amended. Likewise, all actions in this rule are consistent with those proposed and consulted over in previous BiOps issued under the ESA.

12. Is the action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

No. The management measures would occur in inshore and offshore waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea and would not occur in any areas listed or eligible for listing in the National Register of Historic Places. This action has no potential to cause loss or destruction of significant scientific, cultural, or historical resources because there are no significant scientific, cultural, or historic resources within the action area.

13. Can the action reasonably be expected to result in the introduction or spread of a non-indigenous species?

No. This action would adjust the annual U.S. BFT quota and subquotas. Most vessels in the directed BFT fishery are small day boats that return to port each night and do not travel between ecologically different bodies of water or exchange ballast water. No activity associated with this action would involve the potential introduction or spread of a non-indigenous species.

14. Is the action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

No. Implementation of ICCAT-recommended annual quotas is a routine procedure which occurs every few years to annually, as anticipated in the western BFT Rebuilding Program and the 2006

Consolidated HMS FMP, as amended. It would not set a new precedent, and would provide positive economic impacts due to the application of the additional BFT quota. For these reasons, NMFS considers these decisions limited in nature and unlikely to set precedent or represent a decision in principle about future considerations. The annual U.S. BFT quota will be renegotiated in 2016.

15. Can the action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

No. The action would be consistent with the Magnuson-Stevens Act, ATCA, and the regulations at 50 CFR 635. NMFS has determined that this rule will not affect the coastal zone of any state beyond that previously analyzed in the consistency determinations for the Atlantic bluefin tuna quota and quota specifications proposed rules sent to the states in 2011 and 2012 following publication of the applicable proposed rules. The action would not be expected to violate any Federal, state, or local law or requirement imposed for the protection of the environment.

16. Can the action reasonably be expected to result in cumulative adverse effects that could have substantial effect on the target species or non-target species?

No. The action is not expected to result in cumulative adverse effects that could have a substantial effect on target species or non-target species. The action would be consistent with the ongoing implementation of ICCAT's Rebuilding Program for western Atlantic BFT and the objectives of the 2006 Consolidated HMS FMP, as amended. No change in fishing behavior or patterns is anticipated relative to recent fishing years. The current ICCAT recommendation was made after consideration of scientific and statistical information, including the 2014 BFT stock assessment update, and to guide cumulative future management actions of member countries.

## **DETERMINATION**

In view of the information presented in this document and the analysis contained in the attached EA prepared for the BFT Quota Rule and in the FEISs for the 2006 Consolidated HMS FMP and Amendment 7, it is hereby determined that this action would not significantly impact the quality of the human environment as described above and in the EA. In addition, all impacts to potentially affected areas, including national, regional and local, have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



Alan D. Risenhoover  
Director, Office of Sustainable Fisheries, NMFS

**AUG 12 2015**

Date

## **TABLES AND FIGURES**

**Table 1. Atlantic bluefin tuna adjusted quotas and landings (metric tons) by category for the 2014 fishing year (January 1- December 31, 2014)**

| <b>Category</b>  | <i>Baseline Quota</i> | <i>Adjusted Quota<sup>1</sup></i> | <i>Landings &amp; LL dead discards</i> | <i>% of Adjusted Quota</i> |
|--|-----------------------|-----------------------------------|--|----------------------------|
| <i>General</i>   | 435.1                 | 435.1                             | 412.0                                  | 94.7                       |
| <i>Harpoon</i>   | 36.0                  | 51.0                              | 34.5                                   | 67.6                       |
| <i>Longline</i>  | 99.8                  | 124.2                             | 83.6                                   | 67.3                       |
| North  | 29.9                  | 39.7                              | 38.6                                   | 97.2                       |
| NED  | 25                    | 25                                | 3.8                                    | 15.2                       |
| South  | 44.9                  | 59.5                              | 41.2                                   | 69.2                       |
| <i>Trap</i>  | 0.9                   | 0.9                               | 0                                      | 0                          |
| <i>Purse Seine</i>   | 171.8                 | 171.8                             | 37.6                                   | 21.9                       |
| <i>Angling</i>   | 182.0                 | 182.0                             | 99.6                                   | 54.7                       |
| School   | 94.9                  | 94.9                              | 24.7                                   | 26.0                       |
| Large school/Small medium  | 82.9                  | 82.9                              | 69.8                                   | 84.2                       |
| Large Medium/Giant ("trophy")  | 4.2                   | 4.2                               | 5.1 <sup>2</sup>                       | 121.4                      |
| <i>Reserve</i>   | 23.1                  | 8.1                               | n/a                                    | n/a                        |
| <b>TOTAL</b>   | <b>948.7</b>          | <b>948.1<sup>3</sup></b>          | <b>667.3</b>                           | <b>70.4</b>                |
|  |                       | <b>1,043.6</b>                    |  | <b>63.9</b>                |
| <i>TOTAL (incl. 143-mt dead discard estimate as proxy<sup>4</sup>)</i> | <i>948.7</i>          | <i>948.1<sup>3</sup></i>          | <i>810.3</i>                           | <i>85.5</i>                |
|  |                       | <i>1,043.6</i>                    |  | <i>77.6</i>                |

Data for the 2014 fishing year are as of July 7, 2015, except Angling category landings, revised April 21, 2015. Commercial landings information is from the BFT dealer report database. Recreational landings information is from Large Pelagics Survey estimates, NC catch card data, MD catch card data (outside LPS sampling timeframe) and the NMFS Automated Landings Reporting System.

Totals are subject to rounding error.

<sup>1</sup> 2014 adjusted quota and subquotas as published in 79 FR 38255 (July 7, 2014) and further adjusted with a transfer of 15 mt from the Reserve category to the Harpoon category effective August 8, 2014 (79 FR 47381, August 13, 2014)

<sup>2</sup> The Angling category southern area trophy fishery closed effective April 11, 2014 (79 FR 20108, April 11, 2014)

<sup>3</sup> The total 2014 adjusted quota as published in 79 FR 38255 (July 7, 2014) was 948.1 mt, reflecting NMFS' accounting for half of the estimated dead discards at the beginning of the fishing year, with the remainder to be accounted for at year-end. **The 2014 U.S. adjusted quota for ICCAT accounting purposes was 1,043.6 mt.**

<sup>4</sup> Currently, the best available annual estimate of U.S. dead discards that could be expected in 2015 is the 2014 estimate of 138.8 mt for the pelagic longline fishery and the 2014 observed dead discards of 4.2 mt for the purse seine fishery), totaling 143 mt.

**Table 2. Annual Atlantic bluefin tuna quotas (in metric tons)**

| Category  | Annual Baseline Quotas and Subquotas |                            |       |      |
|---|--------------------------------------|----------------------------|-------|------|
|   | Quota                                | Subquotas                  |       |      |
| General   | 466.7                                |                            |       |      |
|   |                                      | January-March <sup>1</sup> | 24.7  |      |
|   |                                      | June-August                | 233.3 |      |
|   |                                      | September                  | 123.7 |      |
|   |                                      | October-November           | 60.7  |      |
|   |                                      | December                   | 24.3  |      |
| Harpoon   | 38.6                                 |                            |       |      |
| Longline  | 148.3                                |                            |       |      |
| Trap  | 1.0                                  |                            |       |      |
| Purse Seine   | 184.3 <sup>2</sup>                   |                            |       |      |
| Angling   | 195.2                                |                            |       |      |
|   |                                      | School                     | 108.4 |      |
|   |                                      | Reserve                    |       | 20.1 |
|   |                                      | North of 39°18' N. lat.    |       | 41.7 |
|   |                                      | South of 39°18' N. lat.    |       | 46.6 |
|   |                                      | Large School/Small Medium  | 82.3  |      |
|   |                                      | North of 39°18' N. lat.    |       | 38.9 |
|   |                                      | South of 39°18' N. lat.    |       | 43.5 |
|   |                                      | Trophy                     | 4.5   |      |
|   |                                      | North of 39°18' N. lat.    |       | 1.5  |
|   |                                      | South of 39°18' N. lat.    |       | 1.5  |
|   |                                      | Gulf of Mexico             |       | 1.5  |
| Reserve   | 24.8 <sup>2</sup>                    |                            |       |      |
| <b>U.S. Baseline BFT Quota</b>                              | <b>1,058.9<sup>3</sup></b>           |                            |       |      |
| <b>Total U.S. Quota, including 25 mt for NED (Longline)</b> | <b>1,083.9<sup>3</sup></b>           |                            |       |      |

<sup>1</sup> January 1 through the effective date of a closure notice filed by NMFS announcing that the January subquota is reached or projected to be reached, or through March 31, whichever comes first.

<sup>2</sup> Baseline amount shown. Does not reflect the annual adjustment process (for the Purse Seine and Reserve category quotas) adopted in Amendment 7.

<sup>3</sup> Totals subject to rounding error.



**Table 3. Comparison of the baseline quotas and subquotas under the two analyzed alternatives**

|   | Alternative 1 (no action)                           | Quota Alternative 2                                 |
|---|---|---|
| ICCAT Recommendation  | 10-03; 12-02; 13-09<br>(TAC=1,750 mt)               | 14-05<br>(TAC=2,000 mt)                             |
| Allocation scheme   | 2006 Consolidated HMS FMP, as amended (Amendment 7) | 2006 Consolidated HMS FMP, as amended (Amendment 7) |
|   | mt  | mt  |
| Baseline Annual U.S. quota  | 923.7   | 1,058.79  |
| Suballocations:   |   |   |
| General category  | 403   | 466.7   |
| Harpoon category  | 33.4  | 38.6  |
| Longline category   | 137.3   | 148.3   |
| Trap category   | 0.9   | 1.0   |
| Purse Seine category  | 159.1   | 184.3   |
| Angling category  | 168.6   | 195.2   |
| Reserve category  | 21.4  | 24.8  |
| Northeast Distant gear restricted area (NED) set-aside (for use by Longline category) | 25  | 25  |
| Annual Total U.S. quota   | 948.7   | 1,083.79  |

Comparison of *baseline* annual quota and subquotas only. Does not reflect any adjustments such as inseason transfers or the annual adjustment process (for the Purse Seine and Reserve category quotas) adopted in Amendment 7.

**Table 4. 2014 Atlantic HMS and Atlantic Tunas permits as of October 2014**

| Category                      | Number of<br>Permits |
|-------------------------------|----------------------|
| General                       | 2,782                |
| Harpoon                       | 14                   |
| Longline                      | 246*                 |
| Trap                          | 3                    |
| Purse Seine                   | 5                    |
| HMS Angling<br>(Recreational) | 20,239               |
| HMS Charter/Headboat          | 3,742                |
| <b>Total</b>                  | <b>27,031</b>        |

Data Source: Atlantic HMS/Tunas Permit Database, as reported in 2014 SAFE Report

\* Note that under the regulations implementing Amendment 7, the number of Longline category permits authorized for Individual Bluefin Quota shares is 136

**Table 5. BFT landings (metric tons) by year and category, 2011-2014**

| <b>Category</b>                     | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> |
|-------------------------------------|-------------|-------------|-------------|-------------|
| <b>General</b>                      | 461         | 456         | 278         | 412         |
| <b>Harpoon</b>                      | 29          | 17          | 17          | 35          |
| <b>Longline<br/>North &amp; NED</b> | 38          | 39          | 29          | 42          |
| <b>Longline<br/>South</b>           | 37          | 51          | 34          | 41          |
| <b>Trap</b>                         | 0           | 0           | 0           | 0           |
| <b>Purse Seine</b>                  | 0           | 2           | 29          | 38          |
| <b>Angling</b>                      | 182         | 149         | 131         | 100         |
| <b>Total</b>                        | <b>746</b>  | <b>713</b>  | <b>519</b>  | <b>668</b>  |

Data for the 2014 fishing year are as of July 7, 2015.

Commercial landings information is from the BFT dealer report database.

Recreational landings information is from Large Pelagics Survey estimates, NC catch card data, MD catch card data (outside LPS sampling timeframe) and the NMFS Automated Landings Reporting System.

Landings and totals are rounded.

**Table 6. Ex-vessel gross revenues in the U.S. Atlantic BFT fishery by commercial fishing category, 2011-2014.**

| <b>Year</b> | <b>General</b> | <b>Harpoon</b> | <b>Incidental<br/>(Longline/Trap)</b> | <b>Purse Seine</b> | <b>Total</b> |
|-------------|----------------|----------------|---------------------------------------|--------------------|--------------|
| <b>2014</b> | \$5,902,745    | \$544,778      | \$953,055                             | \$391,607          | \$7,792,185  |
| <b>2013</b> | \$4,378,480    | \$254,150      | \$792,614                             | \$405,931          | \$5,831,175  |
| <b>2012</b> | \$9,174,742    | \$346,246      | \$1,184,722                           | \$46,137           | \$10,751,847 |
| <b>2011</b> | \$8,735,534    | \$458,464      | \$972,575                             | --                 | \$10,166,573 |

Revenues contained in the table reflect calendar year summaries.

All prices are presented as nominal dollars, consistent with methods used in the 2006 Consolidated HMS FMP, as amended.

There were no Purse Seine category landings in 2011.

Data Source: BFT Dealer Report Database. Data for 2014 are as of February 25, 2015.

**Table 7. Comparison of Impacts of Alternatives**

| <b>Alternative</b>  | <b>Ecological<br/>Impacts BFT</b>                           | <b>Ecological<br/>Impacts other fish<br/>species</b>                                  | <b>Protected<br/>Species</b>  | <b>Economic<br/>Impacts</b>                                   | <b>Social<br/>Impacts</b>   | <b>Administrative/<br/>Legal/EJ/CZMA<br/>Considerations</b>  |
|---|---|---|---|---|---|--|
| 1. No Action  | Direct, short- and long-term, minor to moderate, beneficial | Direct, short- and long-term, neutral<br>(No increase in effort)                      | Direct, short- and long term, neutral<br>(No increase in effort)                      | Direct, short- and long-term, neutral to moderate, adverse    | In short-term: direct, negative to neutral adverse.<br>In long-term: direct, neutral to moderate beneficial | Inconsistent with ATCA and ICCAT Recommendation 14-05. (i.e., additional quota not allocated)                    |
| 2. Implement 2014 ICCAT recommendation:<br><b>PREFERRED</b> | Direct, short- and long-term, minor to moderate, beneficial | Direct, short- and long-term, neutral<br>(Neutral effort or minor increase in effort) | Direct, short- and long term, neutral<br>(Neutral effort or minor increase in effort) | Direct, short- and long-term, neutral to moderate, beneficial | Direct, short- and long-term, neutral to moderate beneficial  | Consistent with 2006 Consolidated HMS FMP as amended, ATCA, ICCAT Recommendation 14-05, and Magnuson-Stevens Act |

**Table 8. Ex-vessel average price (per lb, round weight) for BFT by commercial fishing category, 2010-2014**

| <b>Category</b>                       | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> |
|---------------------------------------|-------------|-------------|-------------|-------------|
| <b>General</b>                        | \$8.90      | \$9.38      | \$7.11      | \$6.60      |
| <b>Harpoon</b>                        | \$7.12      | \$9.13      | \$6.75      | \$7.19      |
| <b>Incidental<br/>(Longline/Trap)</b> | \$6.10      | \$6.19      | \$5.89      | \$5.22      |
| <b>Purse Seine</b>                    | n/a         | \$12.46*    | \$6.36      | \$4.77      |

\* price likely reflects relatively small amount of purse seine-caught BFT on market

Prices contained in the table reflect calendar year averages. All prices are presented as nominal dollars, consistent with methods used in the 2006 Consolidated HMS FMP, as amended.

There were no Purse Seine category landings in 2011.

Data Source: BFT Dealer Report Database. Data for 2014 are as of February 25, 2015.

**Table 9. Summary of expected net economic benefits and costs of analyzed alternatives**

| <b>Alternative</b>  | <b>Net Economic Benefits</b>   | <b>Net Economic Costs</b>  |
|---|--|--|
| A1. No Action. Allocate U.S. quota in accordance with 2013 ICCAT western BFT recommendation and Amendment 7           | Positive economic benefit  | Opportunity cost of revenue foregone from not implementing 2014 ICCAT Recommendation |
| A2. Allocate U.S. quota in accordance with 2014 ICCAT western BFT recommendation and Amendment 7 ( <b>PREFERRED</b> ) | Greater positive economic benefit than No Action as it allocates additional quota and greater fishing opportunities. | N/A  |

## **Appendix 1. 2014 ICCAT Western BFT Recommendation**



**RECOMMENDATION BY ICCAT AMENDING THE SUPPLEMENTAL RECOMMENDATION BY ICCAT CONCERNING THE WESTERN ATLANTIC BLUEFIN TUNA REBUILDING PROGRAM**

*RECALLING* the 1998 Recommendation by ICCAT to Establish a Rebuilding Program for Western Atlantic Bluefin Tuna [Rec. 98-07], the Recommendation by ICCAT Concerning Conservation of Western Atlantic Bluefin Tuna [Rec. 02-07], the Recommendation by ICCAT Concerning the Western Atlantic Bluefin Tuna Rebuilding Program and the Conservation and Management Measures for Bluefin Tuna in the Eastern Atlantic and Mediterranean [Rec. 04-05], the Supplemental Recommendations by ICCAT Concerning the Western Atlantic Bluefin Tuna Rebuilding Program [Recs. 06-06, 08-04, 10-03, 12-02, and 13-09];

*FURTHER RECALLING* that the objective of the Convention is to maintain populations at levels that will support maximum sustainable catch (usually referred to as MSY);

*CONSIDERING* that the 2014 stock assessment resulted in a more optimistic view of stock status with respect to the 2012 assessment, but that the assessment and the projections do not capture the full degree of uncertainty;

*NOTING* that under the low recruitment scenario the western Atlantic bluefin tuna stock is above the biomass level that can support MSY and is consistent with the Convention objective. Under the high recruitment scenario (under which higher sustainable yields are possible in the future), the stock remains overfished, but is not experiencing overfishing. Regardless of recruitment scenario, the spawning stock biomass has increased by 70 percent since 1998, when the rebuilding program was adopted;

*FURTHER CONSIDERING* that the Standing Committee on Research and Statistics (SCRS) has estimated MSY to be 3,050 t under the low recruitment scenario and 5,316 t under the high recruitment scenario;

*ACKNOWLEDGING* that the SCRS indicates that the issue of identifying either the high or low recruitment scenario, or an alternative scenario, as being the more realistic remains unresolved;

*RECOGNIZING* that the SCRS recommends that the next stock assessment be conducted in 2016 to incorporate new data from the research conducted under the Atlantic-wide Bluefin Tuna Research Program (GBYP) and related activities and to utilize new assessment methodologies;

*FURTHER RECOGNIZING* the value of increasing biological sampling to provide additional support toward addressing some key stock assessment uncertainties;

*FURTHER ACKNOWLEDGING* the need to re-evaluate the western Atlantic bluefin tuna rebuilding program no later than 2016 in light of the 2016 stock assessment results and resulting advice from SCRS;

*UNDERSCORING* that the SCRS indicates that the strong 2002/2003 year classes and recent reduction in fishing mortality have contributed to a more rapid increase in spawning stock biomass in recent years;

*UNDERSCORING FURTHER* that SCRS has advised that further increases in spawning stock biomass will increase the ability to discriminate between alternative recruitment hypotheses;

*RECOGNIZING* that the SCRS noted the uncertainties associated with existing CPUE fishery dependent indices, and suggested that using a scientific research quota within a TAC that is consistent with scientific advice may help support the improvement of stock abundance indices, including fishery independent indices, for western Atlantic bluefin tuna and overcome this situation;

*FURTHER ACKNOWLEDGING* that management actions taken in the eastern Atlantic and Mediterranean are likely to affect recovery in the western Atlantic, given that the productivity of the western Atlantic bluefin tuna fisheries is linked to the eastern Atlantic and Mediterranean stock;

*FURTHER RECOGNIZING* the ICCAT Criteria for the Allocation of Fishing Possibilities [Ref. 01-25];

*RENEWING* the commitment to the full implementation of existing mandatory reporting obligations including those in the Recommendation by ICCAT Concerning the Recording of Catch by Fishing Vessels in the ICCAT Convention Area [Rec. 03-13];

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION  
OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

1. Contracting Parties and Cooperating non-Contracting Parties, Entities and Fishing Entities (CPCs) whose vessels have been actively fishing for bluefin tuna in the western Atlantic will continue the 20-year rebuilding program that began in 1999 and continues through 2018.

*Effort and capacity limits*

2. In order to avoid increasing fishing mortality of bluefin tuna in the eastern or western Atlantic, CPCs will continue to take measures to prohibit any transfer of fishing effort from the western Atlantic to the eastern Atlantic and Mediterranean and from the eastern Atlantic and Mediterranean to the western Atlantic.

*TACs, TAC allocations, and catch limits*

3. The rebuilding program for bluefin tuna in the western Atlantic will have a TAC, inclusive of dead discards, of 2,000 t in each of 2015 and 2016.
4. The annual TAC, MSY target, and the 20-year rebuilding period shall be reviewed and, if appropriate, adjusted based upon subsequent SCRS advice. No adjustment to the annual TAC or the 20-year rebuilding period shall be considered unless SCRS advice indicates that the TAC under consideration will allow the MSY target to be achieved within the rebuilding period with a 50 percent or greater probability.
5. If the SCRS detects a serious threat of stock collapse, the Commission shall suspend all bluefin tuna fisheries in the western Atlantic for the following year.
6. The allocation of the annual TAC, inclusive of dead discards, will be indicated as follows:
  - a) The annual TAC shall include the following allocations:

| <i>CPC</i>  | <i>Allocation</i> |
|---|-------------------|
| USA (by-catch related to longline fisheries in vicinity of management area boundary)    | 25 t              |
| Canada (by-catch related to longline fisheries in vicinity of management area boundary) | 15 t              |

- b) After subtracting the amounts under paragraph 6(a), the remainder of the annual TAC will be allocated as follows:

|   | <i>If the remainder of the annual TAC is:</i> |                        |  |                            |
|---|---|------------------------|--|----------------------------|
| <b>CPC</b>                                      | <b>&lt;2,413 t<br/>(A)</b>                    | <b>2,413 t<br/>(B)</b> | <b>&gt;2,413-2,660 t<br/>(C)</b>                       | <b>&gt;2,660 t<br/>(D)</b> |
| United States                                   | 54.02%  | 1,303 t                | 1,303 t  | 49.00%                     |
| Canada  | 22.32%  | 539 t                  | 539 t  | 20.24%                     |
| Japan   | 17.64%  | 426 t                  | 426 t + all increase<br>between 2,413 t and<br>2,660 t | 24.74%                     |
| United Kingdom (in<br>respect of Bermuda)       | 0.23%   | 5.5 t                  | 5.5 t  | 0.23%                      |
| France (in respect of St.<br>Pierre & Miquelon) | 0.23%   | 5.5 t                  | 5.5 t  | 0.23%                      |
| Mexico  | 5.56%   | 134 t                  | 134 t  | 5.56%                      |



- c) Consistent with paragraphs 1, 3, and 6(b), the TAC for each of 2015 and 2016 results in the following CPC-specific quota allocations (not including by-catch allowances listed in 6(a)):

| TAC (for each of 2015 and 2016)              | 2,000 t    |
|--|------------|
| United States                                | 1,058.79 t |
| Canada                                       | 437.47 t   |
| Japan  | 345.74 t   |
| United Kingdom (in respect of Bermuda)       | 4.51 t     |
| France (in respect of St. Pierre & Miquelon) | 4.51 t     |
| Mexico                                       | 108.98 t   |

In no case shall the allocation to France (in respect of St. Pierre & Miquelon) and to the United Kingdom (in respect of Bermuda) be less than 4 t each in any single year unless the fishery is closed.

- d) Depending on availability, Mexico can transfer up to 108.98 t of its adjusted quota in each of 2015 and 2016 to Canada to support cooperative research as specified in paragraph 20.
- e) Depending on availability, the United Kingdom (in respect of Bermuda) can transfer up to the amount of its adjusted quota in each of 2015 and 2016 to the United States to support cooperative research as specified in paragraph 20.
- f) Depending on availability, France (in respect of St. Pierre & Miquelon) can transfer up to the amount of its adjusted quota in each of 2015 and 2016 to Canada to support cooperative research as specified in paragraph 20.
- g) CPCs planning to engage in the cooperative research activities specified in paragraphs 6(d), 6(e), and 6(f) above shall: notify the Commission and the SCRS of the details of their research programs to be undertaken before they commence, and present the results of the research to the SCRS.
7. A CPC's total quota shall include its allocations in paragraph 6, adjusted for underharvest or overharvest consistent with the remainder of this paragraph. Each year shall be considered as an independent management period for the remainder of this paragraph.
- a) Any underharvest of a CPC's total quota in a given year may be carried forward to the next year. However, in no event shall the underharvest that is carried forward exceed 10% of the CPC's initial quota allocation under paragraph 6, with the exception of UK (in respect of Bermuda), France (in respect of St. Pierre and Miquelon), and Mexico (i.e., those with initial allocations of 115 t or less), for which the underharvest that is carried forward shall in no event exceed 100% of the initial allocation under paragraph 6 (i.e., the total quota for such CPC shall not exceed twice its annual quota in any given year).
- b) If, in the applicable management period, and each subsequent management period, any CPC has an overharvest of its total quota, its initial quota for the next subsequent management period will be reduced by 100% of the excess of such total quota, and ICCAT may authorize other appropriate actions.
- c) Notwithstanding paragraph 7(b), if a CPC has an overharvest of its total quota during any two consecutive management periods, the Commission will recommend appropriate measures, which may include, but are not limited to, reduction in the CPC's total quota equal to a minimum of 125% of the overharvest amount and, if necessary, trade restrictive measures. Any trade measures under this paragraph will be import restrictions on the subject species and consistent with each CPC's international obligations. The trade measures will be of such duration and under such conditions as the Commission may determine.

#### ***Minimum fish size requirements and protection of small fish***

8. CPCs will prohibit the taking and landing of western Atlantic bluefin tuna weighing less than 30 kg or, in the alternative, having a fork length of less than 115 cm.
9. Notwithstanding the above measures, CPCs may grant tolerances to capture western Atlantic bluefin tuna either weighing less than 30 kg, or in the alternative, having a fork length of less than 115 cm, provided they limit the take of these fish so that the average over the 2015 and 2016 fishing periods is no more than 10% by weight of the total bluefin tuna quota for each CPC, and institute measures to deny economic gain to the fishermen from such fish. CPCs granting such a tolerance will prohibit the taking and landing of western Atlantic bluefin tuna having a fork length of less than 67 cm, except as the subject of a research project notified to SCRS, developed taking into consideration the recommended research priorities of the SCRS, and conducted by individuals duly permitted by the CPC to undertake such research.
10. CPCs shall prohibit fishermen from selling or offering for sale recreationally harvested fish of any size.
11. CPCs will encourage their commercial and recreational fishermen to tag and release all fish less than 30 kg or, in the alternative, having a fork length less than 115 cm and report on steps taken in this regard in their Annual Report.

#### ***Area and time restrictions***

12. There shall be no directed fishery on the bluefin tuna spawning stock in the western Atlantic spawning grounds (i.e., the Gulf of Mexico). In light of advice received from SCRS pursuant to paragraph 23, the Commission shall review this measure and consider the need for alternative management actions.

#### ***Transshipment***

13. Transshipment at-sea shall be prohibited.

#### ***Scientific research and data and reporting requirements***

14. In 2016, and thereafter every three years, the SCRS will conduct a stock assessment for bluefin tuna for the western Atlantic stock and for the eastern Atlantic and Mediterranean stock and provide advice to the Commission on the appropriate management measures, approaches, and strategies, including, *inter alia*, regarding TAC levels for those stocks for future years.
15. The SCRS shall prepare and present a Kobe II strategy matrix reflecting recovery scenarios of western Atlantic bluefin tuna consistent with *Resolution by ICCAT to Standardize the Presentation of Scientific Information in the SCRS Annual Report and in Working Group Detail Reports* [Res. 11-14].
16. Canada, the United States, Japan, Mexico, and, as appropriate, other CPCs harvesting western Atlantic bluefin tuna shall collaborate in the improvement of existing indices of abundance and the development of new combined indices. To advance this work, SCRS should review the current stock abundance indices for western Atlantic bluefin tuna at its 2015 data preparatory meeting, as well as analysis of any relevant non-aggregated catch and effort data that can be provided, consistent with domestic confidentiality requirements.
17. The SCRS shall annually review available fishery and stock indicators and evaluate whether they warrant advancing the scheduling of the next stock assessment. In support of this evaluation, CPCs shall make special efforts to update abundance indices and other fishery indicators annually and provide them in advance of the SCRS annual species group meetings.



18. In preparation for the 2016 stock assessment, the SCRS should thoroughly review the evidence that initially was used in support of each recruitment scenario as well as any additional information available that might also support alternative scenarios as a means of informing the Commission on which recruitment scenario is more likely to reflect the current stock recruitment potential. If the SCRS is unable to support one scenario over the other, the SCRS then should provide the Commission with management advice that takes into consideration the risks (e.g., risk of not achieving the Convention objective, lost yield) that would be associated with opting to manage the stock under a scenario that does not accurately reflect the stock-recruit relationship.
19. If scientific evidence results in an SCRS recommendation to alter the definition of management units, or to take explicit account of mixing between management units, then the western Atlantic rebuilding program shall be re-evaluated.
20. CPCs that harvest western Atlantic bluefin tuna should contribute to the research being undertaken through ICCAT's GBYP. At the 2015 Bluefin Tuna Data Preparatory meeting, the SCRS will (a) identify existing fisheries for which biological sampling rates should be increased, (b) identify any fisheries for which improvements in the collection and/or provision of catch, effort, and/or size data are necessary to support the stock assessment, and (c) provide guidance on enhancing efforts to cover any deficiencies identified in (a) and (b) above. CPCs should make special efforts to enhance biological sampling activities in these fisheries beginning in the 2015 bluefin tuna fishing seasons. Complementary information will also be required for the eastern Atlantic and Mediterranean stock in order to more fully evaluate the effects of mixing. In addition, it is also important to enhance, and where needed develop, an accurate abundance index for juvenile fish. CPCs should also make special efforts to ensure complete and timely submission of any collected data to the SCRS.
21. All CPCs shall monitor and report on all sources of fishing mortality, including dead discards, and shall minimize dead discards to the extent practicable.
22. Each CPC shall ensure that its fishing vessels landing bluefin tuna are subject to a data recording system, in accordance with the *Recommendation by ICCAT Concerning the Recording of Catch by Fishing Vessels in the ICCAT Convention Area* [Rec. 03-13].
23. As part of the 2016 stock assessment, the SCRS shall review new available information related to the identification of specific spawning times and areas of bluefin tuna within the western Atlantic Ocean, including from those CPCs that harvest western Atlantic bluefin tuna, and advise the Commission on the results of this review for its consideration. Concerned CPCs are encouraged to work through the SCRS to develop advice for managing any identified times and areas under a precautionary approach.
24. Each CPC shall report its provisional monthly catches of bluefin tuna. This report shall be sent to the ICCAT Secretariat within 30 days of the end of the calendar month in which the catches were made.
25. The ICCAT Secretariat shall, within 10 days following the monthly deadline for receipt of the provisional catch statistics, collect the information received and circulate it to CPCs together with aggregated catch statistics.
26. All CPCs shall provide the best available data for the assessment of the stock by the SCRS, including information on the catches of the broadest range of all age classes encountered in their fisheries, consistent with minimum size restrictions.
27. SCRS should provide guidance on a range of fish size management measures for western Atlantic bluefin tuna and their impact on yield per recruit and spawner per recruit considerations. The SCRS should also comment on the effect of fish size management measures on their ability to monitor stock status.
28. This Recommendation replaces the *Supplemental Recommendation by ICCAT Concerning the Western Atlantic Rebuilding Program* [Rec. 13-09].