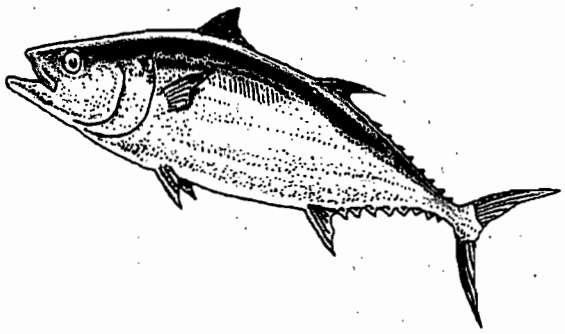
Environmental Assessment,
Regulatory Impact Review,

and

Final Regulatory Flexibility Analysis

for a Rule to Adjust the

Atlantic Bluefin Tuna General and Harpoon Category Regulations



United States Department of Commerce
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ABSTRACT

Final Action: Adjust the Atlantic bluefin tuna (BFT) General category and Harpoon category regulations to increase daily retention limits and allow the full January General category subquota to be reached.

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:
This action would adjust regulations governing the U.S. BFT fishery to: (1) Increase the General category maximum possible BFT daily retention limit from three to five fish (with limit adjustments to be executed via inseason actions as appropriate); (2) Allow the BFT General category season to remain open until the January subquota is reached or March 31 (whichever happens first); and (3) Increase the Harpoon category daily retention limit of BFT measuring 73 to 81 inches from two to four fish (allowed under current regulations to be taken incidentally while targeting BFT measuring 81 inches or greater). This action is intended to enable more thorough utilization of the available U.S. BFT quota for the General and Harpoon permit categories; minimize bycatch and bycatch mortality to the extent practicable; expand fishing opportunities for participants in the commercial winter General category fishery; and increase NMFS' flexibility and range for setting the General category retention limit depending on available quota. General category fishing regulations apply to vessels permitted in the commercial Atlantic tunas General category and the Highly Migratory Species (HMS) Charter/Headboat category *while fishing commercially*. These measures would be consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Atlantic Tunas Convention Act (ATCA), and the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP).

The draft EA/RIR/Initial Regulatory Flexibility Analysis, prepared in August 2009, contained fishery data through the 2008 fishing year. This EA/RIR/FRFA maintains the original information and analyses and provides updated information, data, and analyses based on data available through the 2010 fishing year.

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1.0 PURPOSE AND NEED FOR ACTION

1.1 Management History

Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tuna Convention Act (ATCA), which requires the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary and appropriate to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (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). On May 28, 1999, NMFS published in the Federal Register (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). The 1999 FMP included 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. On October 2, 2006, NMFS published in the Federal Register (71 FR 58058) final regulations, effective November 1, 2006, implementing the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP).

General Category Maximum Daily Retention Limit

In 1992 the BFT regulations were overhauled in response to quota reductions from ICCAT, and also to address the need to reduce the fishing pressure on small fish and reduce economic incentives to target small fish. In addition, a new size class of large mediums was created and defined as fish that are smaller than giants that may be sold (i.e., 70 to less than 77 inches[1]). The General category three fish maximum daily retention limit was established in the early 1990s, and has been specifically three large medium or giant BFT since 1995.

General Category Season

Prior to 2004, the General category quota was available to all commercial handgear tuna fishermen from the opening of the fishing year on June 1 through the end of the season on December 31. Due to high participation and limited quota, NMFS used effort controls such as restricted fishing days and time period subquotas to slow down the catch rate and distribute landings both geographically and over time. Despite the implementation of effort controls in the General category, the quota was attained and the General category closed in mid to late summer while BFT were still off northern New England states. During the seasonal General category closure, a southern recreational BFT fishery on large mediums and giants emerged off the coast of North Carolina during February and March. In later years, fish began to arrive in the region during the late fall/early winter, and

[1]In March 1995, the length definition for each BFT size category was amended to specify BFT size classes relative to curved length measure. Specifically, the large medium size class changed to 73 to less than 81 inches, and the giant size class to 81 inches or greater. This measure was implemented as a more feasible measurement method to apply to BFT on a vessel or at the dock and eased enforcement.

interest in a commercial fishery developed.

During the development of the 1999 HMS FMP, the emergence of a General category BFT fishery in the southern Atlantic region was extensively discussed by the HMS Advisory Panel (AP) and the public (NMFS, 1999). At the time, the majority of General category fishing activity took place in the summer and fall off the New England and Mid-Atlantic coasts. However, the HMS AP did not agree on how the 1999 HMS FMP should address the scope of a southern area late season General category BFT fishery. In the early 2000s, NMFS performed a number of inseason quota transfers of BFT, consistent with the transfer criteria established in the 1999 FMP, which allowed the General category BFT fishery to extend into the winter months (i.e., late November - December). In 2002, NMFS received a Petition for Rulemaking from the North Carolina Division of Marine Fisheries to formalize this winter fishery and extend fishing opportunities for the General category into January (67 FR 69502, November 18, 2002). In December 2003, NMFS extended the General category end date from December 31 to January 31 (68 FR 74504, December 24, 2003) to address some of the concerns raised in the Petition, as well as to increase fishing opportunities and optimum yield for the fishery overall. In 2006, NMFS modified the General category time period subquotas to allow for a formalized winter fishery via the Consolidated HMS FMP (NMFS, 2006). These subquotas remain effective and are shown, in Figure 1. The December and January time periods are currently allocated 5.2 percent and 5.3 percent of the General category base quota, respectively.

The BFT fishery was managed on a fishing year basis (June through May) versus a calendar year basis (January through December) starting with the implementation of the 1999 FMP in 2000. In January 2008, management reverted to a calendar year basis per implementation of the Consolidated HMS FMP. As of 2008, the January time period and associated fishing activities now occur at the *beginning* rather than the *end* of the General category season. General category fishing regulations apply to vessels permitted in the commercial Atlantic tunas General category and the HMS Charter/Headboat category *while fishing commercially.*

Harpoon category daily incidental retention limit

When the Harpoon category was created in 1980, it was allocated a small portion of the handgear quota of giant tuna in recognition that harpooning had long been used as a method of catching giant tuna in the northern fishery and merited a historical niche in the giant fishery. In 1992, NMFS limited incidental retention of large medium BFT to one per day as well as an unlimited number of giants, within the Harpoon category quota (57 FR 32905, July 24, 1992). This action was taken to reduce the fishing mortality on large medium BFT, thus allowing for an increase in the spawning potential of the western Atlantic BFT stock, while allowing for the incidental take of large medium BFT to minimize regulatory discards and negative economic impacts.

In 2003 (68 FR 74504, December 24, 2003), NMFS increased the large medium BFT tolerance limit to two fish per day to allow greater opportunity for Harpoon category participants to fully harvest its subquota and to address Harpoon vessel operator concerns about not being able to locate schools of exclusively giant BFT on the fishing grounds due to the mixing of the larger size classes within schools.

Recent Quota Specification

At its 2008 meeting, ICCAT recommended a reduction in the western Atlantic BFT Total Allowable Catch (TAC), to allow for rebuilding of the stock through 2018, from 2,100 mt to 1,900 mt for 2009 and 1,800 mt for 2010. In 2010, ICCAT adopted a western Atlantic BFT TAC of 1,750 mt for 2011 and 2012 as part of Recommendation 10-03 (Supplemental Recommendation by ICCAT concerning the western Atlantic BFT Rebuilding Program). Note that decisions regarding the recommended TACs were made by ICCAT in November 2008 and 2010, and that analyses of these decisions are not provided as part of this document. As discussed thoroughly in the EA for the 2009 BFT Quota Specifications and Effort Controls (NMFS, 2009a), the Supplemental EA for the 2010 BFT Quota Specifications (NMFS, 2010a), and the EA for the Final BFT Quotas and Atlantic Tuna Fisheries Management Measures (NMFS, 2011), the baseline U.S. quotas for 2009, 2010, and 2011 respectively, are 1,009.9 mt, 952.4 mt, and 923.7 mt, not including the annual allocation of 25 mt to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Area. Under the Consolidated HMS FMP, the General and Harpoon categories are allocated 47.1 and 3.9 percent, respectively, of the annual baseline BFT quota. See Figure 2 for the current quota category allocation percentages. The slight declines in the base quota for the General and Harpoon categories from 2009 through 2011 reflect the decline in the overall BFT TAC. Base and adjusted BFT quotas for all categories for 2009 through 2011 are shown in Tables 1 through 3.

1.2 Need for Action and Objectives

In recent years, U.S. BFT landings have fallen below their respective ICCAT-recommended quotas (see Figure 3). Factors that may have played a role in the underharvest of the domestic BFT fishery since 2004 include reduced availability of BFT for harvest, possibly due to recent changes in BFT regional availability and/or a reduced BFT population level, and reduced fishing effort due to operational expenses (such as fuel costs). While the recreational Angling category and the commercial Longline category have been able to fill their adjusted subquotas in recent years, the commercial handgear categories (General and Harpoon) have not, with the exception of the General category in 2010 (see Table 4). The percentage of the 2008 through 2010 General and Harpoon category base and adjusted quotas landed is shown in Table 5. On average, the General category landed 77 percent of its base quota and 60 percent of its adjusted quota, and the Harpoon category landed 68 percent of its base quota and 44 percent of its adjusted quota. Figure 4 compares base subquotas, adjusted subquotas, and landings by category for 2001 (a year in which BFT landings were close to the adjusted quota) and 2008 (as included in the draft EA), and is updated with data from 2009 and 2010.

Since 2008, NMFS has received comments suggesting changes that could increase domestic BFT landings within existing quotas and subquotas. NMFS received these suggestions at the HMS AP meetings, during the annual BFT quota specifications public hearings, and in constituent and congressional correspondence. In response to these suggestions and related ones regarding the Atlantic swordfish fishery, NMFS published an Advance Notice of Proposed Rulemaking (ANPR) (74 FR 26174, June 1, 2009), requesting specific comment on potential regulatory changes that would potentially increase fishing opportunities in the BFT and swordfish fisheries. NMFS specifically

requested comment on the following potential changes to the BFT regulations: increasing the General category maximum daily retention limit (currently three BFT greater than 73 inches) or eliminating it; extending the General category season (currently closed February through May); decreasing the commercial minimum size for the General and Harpoon categories and reallocating quota within those categories to allow access to fish under 73 inches; eliminating a retention limit restriction for the Harpoon category; allowing HMS Charter/Headboats to fish both commercially and recreationally on the same day; and allowing removal of Atlantic tunas tails at sea. Because NMFS had already received substantive comment from 2008 to 2009 both for and against changing BFT regulations, and due to requests for an expedited rulemaking, the comment period for the ANPR was 30 days. Comment received ranged from complete support by some industry participants (who generally believed that the regulations were needed when initially established to *limit* landings to the quota but should be relaxed now that commercial landings are relatively low compared to available quota) to complete opposition by some recreational fishermen, environmental organizations, and other individuals (who generally were concerned that relaxation of the regulations would compromise NMFS' BFT rebuilding and bycatch reduction efforts). The latter were particularly concerned about the potential impacts of a reduction in the BFT commercial minimum size, and several commenters suggested *more* conservative protections for the BFT fishery, such as an increase in commercial minimum size to reflect recent research on the age of BFT maturity and the prohibition of pelagic longlining for other target species during BFT spawning season in known spawning areas.

Following consideration of the wide range of comments received on the ANPR described above, NMFS published a proposed rule on November 4, 2009 (74 FR 57128) to increase fishing opportunities for BFT within the existing U.S. quota, specifically for the General and Harpoon category subquotas due to the persistent underharvest. That proposed rule solicited public comment for a 45-day period, ending on December 21, 2009. NMFS extended the original comment period through March 31, 2010, based on public, Congressional, and non-governmental organization requests for NMFS to wait to complete any related final rulemaking until after the March 2010 meeting regarding the Convention on the International Trade in Endangered Species of Wild Flora and Fauna, and new research expected to be published in 2010.

NMFS delayed issuing a final rule pending a new ICCAT BFT stock assessment and subsequent ICCAT recommendation on BFT conservation and management in 2010 (discussed in Section 3.1), as well as the decision on a May 2010 petition to list BFT as threatened or endangered under the Endangered Species Act (ESA). In May 2011, NMFS determined that listing BFT as threatened or endangered under the ESA was not warranted, but listed BFT as a species of concern. NMFS will revisit the status of BFT under the ESA in 2013. Because the concerns that led to NMFS addressing the BFT regulations in the 2009 proposed rule still exists, NMFS has prepared this Final EA/RIR/FRFA to now take final action. The alternatives analyzed in this document are the same as those analyzed in the August 2009 draft, with one exception, which is described below in Section 2.0. Implementation of the preferred alternatives would enable more thorough utilization of the available U.S. quota, minimize bycatch and bycatch mortality to the extent practicable; expand fishing opportunities for participants in the commercial winter General category fishery; and increase NMFS' flexibility for setting the General category retention limit depending on available quota.

2.0 SUMMARY OF THE ALTERNATIVES

This section describes the alternatives considered in this EA/RIR/FRFA for achieving the objectives identified in Section 1.2. Sections 2.1, 2.2, and 2.3, respectively, present the alternatives considered regarding the General category maximum daily retention limit, General category season, and Harpoon category daily incidental retention limit. General category fishing regulations apply to vessels permitted in the commercial Atlantic tunas General category and the HMS Charter/Headboat category *while fishing commercially*. For a summary table of the alternatives considered in this EA/RIR/FRFA, see Table 6.

2.1 Issue 1: General category maximum daily retention limit

Effort controls, such as daily retention limits and restricted-fishing days (not implemented for several years), are meant to maximize the opportunity for catching the quota and achieving biological, social, and economic benefits while balancing relative costs and negative impacts. For example, certain effort controls might provide more flexibility for the fishery by increasing retention limits when fish are known to be available on the fishing grounds in certain areas, and then reducing limits at other times so that limited quota may be available to other areas at other times.

Under the current BFT retention limit regulations at §635.25, the default daily retention limit of large medium and giant BFT (measuring 73 inches or greater) is one fish per vessel. To provide for maximum utilization of the quota for BFT, NMFS may increase or actual allowed decrease the daily retention limit of large medium and giant BFT over a range from zero (on restricted fishing days, if applicable) to a maximum of three per vessel, under NMFS' inseason action authority. Such increase or decrease will be based on the determination criteria and other relevant factors provided under §635.27(a)(8), which are:

(i) The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock.

(ii) The catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made.

(iii) The projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year.

(iv) The estimated amounts by which quotas for other gear categories of the fishery might be exceeded.

(v) Effects of the adjustment on BFT rebuilding and overfishing.

(vi) Effects of the adjustment on accomplishing the objectives of the fishery management plan.

(vii) Variations in seasonal distribution, abundance, or migration patterns of BFT.

(viii) Effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota.

(ix) Review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

The General category quota is utilized by vessels permitted in the Atlantic Tunas General category as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT. HMS Charter/Headboat category participants may retain and land BFT under the daily limits and quotas applicable to the Angling or General category, except when fishing in the Gulf of Mexico (where only one recreational "trophy" large medium or giant BFT may be landed). The size of the first BFT retained determines the category applicable that day (e.g., if the first BFT retained is a large medium BFT, the vessel may fish only under the General category limit that day).

During the comment period for the 2009 BFT Quota Specifications and Effort Controls and for the ANPR, NMFS received comments requesting a change to, or elimination of, the General category maximum daily retention limit to increase opportunities to utilize the General category quota, which has been underharvested for several years. NMFS has continued to receive similar public input since the draft EA/RIR/IRFA and proposed rule were published (both during and following the public comment period). This section describes the three alternatives considered by NMFS regarding the General category maximum daily retention limit. Four alternatives are considered but one is not analyzed further in this EA.

Alternative A1: No action – no change to the current General category maximum daily retention limit

Under this alternative, NMFS would maintain the current General category maximum daily retention limit of three fish (large medium or giant BFT, measuring 73 inches or greater) per vessel.

Alternative A2: Increase the maximum daily retention limit to five BFT (Preferred Alternative)

Under this preferred alternative, NMFS would increase the maximum daily retention limit to five fish per vessel, such that NMFS could increase or decrease the actual allowed daily retention limit of large medium and giant BFT over a range from zero (on restricted fishing days, if applicable) to a maximum of five per vessel via an inseason action based on the determination criteria and other relevant factors provided under §635.27(a)(8). The intent of this alternative would be to increase opportunities to harvest the General category quota.

Alternative A3: Eliminate the maximum daily retention limit

Under this alternative, NMFS would eliminate the maximum daily retention limit but maintain

its authority to increase or decrease the daily retention limit of large medium and giant BFT via an inseason action based on the determination criteria and other relevant factors provided under §635.27(a)(8). The intent of this alternative would be to increase opportunities to harvest the General category quota and to allow the greatest flexibility in selecting the daily retention limit of large medium and giant BFT.

Alternative A4: Allow the daily retention limit to apply for each day of a multi-day fishing trip

Currently, regardless of the length of a trip, no more than a single day's retention limit of large medium or giant BFT may be possessed or retained aboard a vessel fishing under the General category quota (i.e., a vessel that has an Atlantic tunas General category permit or an HMS Charter/Headboat permit, when fishing commercially). This means that a single day's retention limit applies for vessels taking multi-day trips. During the comment period for the 2009 BFT Quota Specifications and Effort Controls and for the ANPR, NMFS received comments that it is not practical economically for General category vessels to travel offshore for multi-day trips when limited to a maximum of three fish. Some commenters requested that NMFS waive this restriction to increase the opportunities and incentive for General category vessels to take multi-day trips to more distant fishing grounds, and suggested that NMFS require vessel monitoring system (VMS) use by these vessels for enforcement purposes (i.e., to verify the length of the trip when more than a single day's retention limit is possessed and retained). However, during the comment period for the ANPR, the industry organization that had originally made this request modified their comment after recognizing NMFS' existing and short-term operational limits regarding vessel monitoring limitations and the difficulty of enforcing a daily retention limit without a VMS program for participating General category vessels. The industry organization instead requested that NMFS increase the maximum daily retention limit to five fish. Therefore, Alternative A4 was considered, but not analyzed further in this EA.

2.2 Issue 2: General category season

During the comment period for the 2009 BFT Quota Specifications and Effort Controls and for the ANPR, NMFS received comments requesting extension of the General category season as well as changes to the time period subquotas to increase opportunities to utilize the General category quota. NMFS has continued to receive similar public input since the draft EA/RIR/IRFA and proposed rule were published (both during and following the public comment period). The following three alternatives provide options for the duration of the General category season to address utilization of the existing January subquota.

Alternative B1: No action - no change to the current General category season

Under this alternative, the General category fishery would be open January 1 through 31, or when the January subquota (adjusted, if applicable) is reached (or is projected to be reached), and June 1 through December 31, or when the General category subquotas or overall General category

quota is reached (or is projected to be reached). The General category fishing season and quota is subdivided among five seasonal time periods as follows (see also Figure 5):

TIME PERIOD	DATES	SUB-QUOTA %
1st	January 1 – January 31	5.3
2nd	June 1 – August 31	50
3rd	September 1– September 30	26.5
4th	October 1 – November 30	13
5th	December 1 – December 31	5.2

Alternative B2: Leave the General category open until the January subquota is reached regardless of date

Under this alternative, the General category would not automatically close effective February 1 and remain closed through May 31. Instead, the General category season would remain open until the date NMFS determines that the January subquota (adjusted if applicable) has been reached, or is projected to be reached. Consistent with existing closure policies, NMFS would publish a closure action for the General category January subquota in the Federal Register, if necessary to close the fishery prior to May 31. This alternative was the Preferred Alternative in the Draft EA (NMFS, 2009); however, based on public comment, NMFS has determined that this alternative should not be adopted as proposed, but should instead be modified as described below in Alternative B2b, below.

Alternative B2b: Leave the General category open until the January subquota is reached or until March 31, whichever happens first (Preferred Alternative)

This alternative is a new alternative that was not contained in the draft EA and proposed rule, but falls within the scope of alternatives analyzed in the draft EA and was developed based upon public comments. Under this alternative, the General category would not automatically close effective February 1 and remain closed through May 31. Instead, the General category season would remain open until the date NMFS determines that the January subquota (adjusted if applicable) has been reached (or is projected to be reached), or until March 31, whichever happens first. NMFS would publish a closure action for the General category January subquota in the Federal Register, if necessary to close the fishery prior to March 31. By allowing the possibility of fishing past January 31, this alternative achieves the goal of allowing additional opportunities to harvest the available January subquota. Setting an end-date of March 31 (instead of being open-ended as in Alternative B2) reduces the potential for late spring gear conflicts among fishery participants (i.e., if General category fishing activity continues through May while the Harpoon category must wait until June 1 to begin fishing), as well as reduces the likelihood that total fishing effort and potential bycatch would increase.

Alternative B3: Establish a January through December General category fishing season and establish equal monthly General category time periods and subquotas

Under this alternative, NMFS would not close the fishery for the months of February through May, and instead would manage a year round season. However, unless the General category subquota allocations also are changed, NMFS would need to close the fishery once the existing January subquota (adjusted, if applicable) is reached (or is projected to be reached). Thus, this alternative would have the same effect as Alternative B2. During public meetings for the ANPR, NMFS received requests to reallocate the General category quota evenly across 12 monthly time periods. This concept was raised during preparation of the Consolidated HMS FMP, but at the time, the suggestion was for allocation of 12.5 percent of the quota to be allocated to each month for the 8 months of June through January, when the fishery was managed on a June through May schedule.

2.3 Issue 3: Harpoon category daily incidental retention limit

During the comment period for the 2009 BFT Quota Specifications and Effort Controls and for the ANPR, NMFS received comments requesting an increase to, or elimination of, the Harpoon category incidental retention limit of large medium BFT. This section describes the three alternatives considered by NMFS regarding the incidental limit.

Alternative C1: No action – no change to current daily incidental retention limit

Under this alternative, Harpoon category participants would be able to retain, possess, and land two large medium BFT (measuring 73 to less than 81 inches) per day.

Alternative C2: Increase the daily incidental retention limit to 4 large medium BFT (Preferred Alternative)

Under this alternative, Harpoon category participants would be able to retain, possess, and land four large medium BFT (measuring 73 to less than 81 inches) per day.

Alternative C3: Eliminate the daily incidental retention limit for large medium BFT

Under this alternative, Harpoon category participants would be able to retain, possess, and land an unlimited number of both large medium and giant BFT per day.

3.0 DESCRIPTION OF AFFECTED ENVIRONMENT

This section includes a brief summary of the status of the stocks, fishery participants and gear types, and affected area including habitat and protected species. For a complete description of the biology and status of BFT and the U.S. tuna fishery, including operations, catches, and discards, please see the 2010 HMS Stock Assessment and Fishery Evaluation (SAFE) Report (NMFS, 2010b), as well as the latest BFT Stock Assessment (SCRS, 2010). Also, for information on interactions and concerns with protected species and the Atlantic tuna fisheries, please see Section 7 of the 2010 SAFE Report. The action area is the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

3.1 Status of the Stocks

2008 Stock Assessment (the information in the four paragraphs below is presented exactly as it was in the draft EA)

Western Atlantic BFT are considered overfished and overfishing is occurring. At the 2008 meeting of the Standing Committee on Research and Statistics (SCRS) of ICCAT, stock assessment analyses were prepared for the western and eastern Atlantic stocks of BFT. SCRS cautioned that conclusions of the 2008 stock assessment do not capture the full degree of uncertainty in the assessments and projections, and noted that an important factor contributing to uncertainty is mixing between fish of eastern and western origin. Furthermore, the projected trends in stock size are strongly dependent on estimates of recent recruitment. To address this uncertainty, SCRS strongly advised against an increase in Western Atlantic BFT TAC (at that time, 2,100 mt) and recommended adoption of a lower TAC that would result in a higher probability (than the historical 50-percent probability used to set TACs) that stock biomass at maximum sustainable yield (B_{MSY}) is achieved by the beginning of 2019, the target rebuilding time. SCRS provided projections for a range of TACs for both the high and low recruitment scenarios, looking specifically at probability levels of 50 percent and 75 percent, for consideration in developing management recommendations. The following three paragraphs summarize information and recommendations presented by SCRS to ICCAT for the consideration in setting the western Atlantic BFT TAC.

To determine the outlook, SCRS conducted a medium-term (12-year) evaluation of changes in spawning stock size and yield over the remaining rebuilding period under various management options. In order to provide advice relative to rebuilding the western Atlantic bluefin tuna resource, SCRS conducted projections for two scenarios about future recruitment. The "low recruitment" scenario assumed that future average recruitment will approximate the average of recruitment (at age one) levels observed from 1976 through 2004 (70,000 recruits). The "high recruitment" scenario assumed average recruitment levels would increase as the stock rebuilds (an MSY level of 160,000 recruits). SCRS had no strong evidence to favor one scenario over the other and noted that both are reasonable (but not extreme) lower and upper bounds on rebuilding potential.

The outlook for BFT in the West Atlantic with the low recruitment scenario is similar to that from the 2006 assessment. The 2008 projections for the low recruitment scenario suggests that catch

levels of 2,400 mt would have about a 50-percent chance of rebuilding the stock by 2019; catches of 2,100 mt (the TAC in effect through 2008) would have a 71-percent chance; and catches of 2,000 mt or lower would have greater than a 75-percent chance of rebuilding. A TAC between 2,000 and 2,100 mt would have a 50-percent probability of ending overfishing by the end of 2010 and a TAC of 1,800 mt increases the probability to 75 percent. If the high recruitment scenario is correct, then the western stock would not rebuild by 2019 even with no catch, although catches of 1,500 mt or less are expected to immediately end overfishing and initiate rebuilding. SCRS also examined an alternative model that excluded the Canadian Gulf of St. Lawrence catch per unit of effort (CPUE) index, noting considerations of possible resource re-distribution, and the observation that the recent high values were difficult to reconcile with other available fisheries data, and could reflect the impact of a single or a limited number of strong year-classes. The levels of catch that lead to rebuilding with that alternative model are lower; 1,800 mt would have about a 50-percent chance and 1,500 mt would have a 75-percent chance.

SCRS again noted that evidence is accumulating which indicates that both the productivity of western Atlantic BFT and western BFT fisheries are linked to the eastern and Mediterranean stock. Therefore, management actions taken in the eastern Atlantic and Mediterranean are likely to impact the recovery in the western Atlantic, because even small rates of mixing from East to West can have significant effects on the West due to the fact that the Eastern plus Mediterranean resource is much larger than that of the West.

2010 Stock Assessment (best available information for the preparation of this EA/RIR/FRFA, as presented in the EA for the Final BFT Quotas and Atlantic Tuna Fisheries Management Measures (NMFS, 2011))

As part of the 2010 western BFT stock assessment, ICCAT's Standing Committee on Research and Statistics (SCRS) presented status and projection information based on two divergent stock recruitment scenarios and indicated there is no strong evidence to choose one scenario over the other. Projected trends in stock size are strongly dependent on estimates of recent recruitment. 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 maximum sustainable yield (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 maximum sustainable yield target is much higher. The results of the stock assessment were strongly affected by use of a new growth curve that assigns fish above 120 cm (47 inches) to older ages than did the previous growth curve. The implication of this new growth curve in the assessment that the stock has been subjected to lower fishing mortality (F) rates than previously estimated (SCRS, 2010).

The spawning stock biomass (SSB) trends estimated in the 2010 assessment are consistent with previous analyses in that SSB declined steadily from 1970 to 1992 and has since fluctuated between 21 percent and 29 percent of the 1970 level. In recent years, however, there appears to have been a gradual increase in SSB from the low of 21 percent in 2003 to an estimated 29 percent in 2009. The stock has experienced different levels of F over time, depending on the size of fish targeted by

various fleets. Fishing mortality on spawners (ages 9 and older) declined markedly after 2003. The SCRS indicated that the 2003 year-class is estimated to be the largest since 1974, but not quite as large as those prior to 1974. The 2003 year class is expected to begin to contribute to an increase in spawning biomass after several years. The SCRS expressed concern that the year-class estimates subsequent to 2003, while less reliable, are the lowest on record (SCRS, 2010).

Overall, the 2010 assessment showed that, under the low recruitment scenario, the stock is above the biomass that can support MSY (i.e., it is considered rebuilt, overfishing is not occurring, and a TAC of up to 2,500 mt would maintain the stock biomass above the MSY level). Conversely, under the high recruitment scenario, the stock remains overfished with overfishing occurring and will not rebuild by the end of 2018 (under the 20-year rebuilding period that began in 1999) even with no catch. As in prior years, SCRS cautioned that conclusions of the 2010 stock assessment do not capture the full degree of uncertainty in the assessments and projections, and noted that an important factor contributing to uncertainty is mixing between fish of eastern and western origin (SCRS, 2010).

Taking this information into consideration and following protracted negotiations among western BFT Contracting Parties, ICCAT adopted a western BFT TAC of 1,750 mt annually for 2011 and 2012. This TAC, reduced from 1,800 mt for 2010, is expected to allow for continued stock growth under both the low and high stock recruitment scenarios. A new SCRS stock assessment is expected to be conducted in 2012.

3.2 Fishery Participants, Gear Types, and Affected Area

There are nearly 33,000 permitted vessels that may participate in the Atlantic tuna fisheries. When the draft EA/RIR/IRFA was prepared, the number of permits was nearly 43,000 (Table 7). Vessels permits are issued in five directed fishing categories and two incidental fishing categories. 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 greenstick (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, bigeye, and yellowfin tuna. However, NMFS allocates a quota for landings of incidentally-caught BFT by longline and trap gear. Atlantic Tunas, HMS Charter/Headboat, and HMS Angling category permits are issued over the internet, telephone or mail. Regulations currently allow vessels to be permitted in only one category per year and allow for only one permit category change to occur during the permit renewal period. For those applicants who inadvertently select an incorrect category, corrections must occur within 10 calendar days from the permit date of issuance; otherwise, applicants must wait until the following season to change the permit category.

U.S. landings of BFT for the 1998-2010 period are provided in Table 8. 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.

The BFT fishery has been managed on a fishing year basis (June through May) versus a calendar year basis (January through December) starting with the implementation of the 1999 FMP in 2000 until January 2008, when management reverted to a calendar year basis per implementation of the Consolidated HMS FMP. The 2007 fishing year was June 1, 2007, through December 31, 2007. Therefore, Table 8 landings are presented on a calendar year (versus fishing year) basis for 1996 through 1999, and for 2008 through 2010.

The majority of BFT landings are taken by handgear fisheries in the commercial General category and recreational Angling and Charter/Headboat categories. The distribution of fishing activity for BFT is generalized in Table 9. General category fisheries are focused in New England during the summer and fall, and the mid-Atlantic during the winter. However, in the last several years, particularly 2004 through 2008, the availability of commercial-sized BFT to the commercial fisheries, particularly off New England appears to have declined dramatically, while the Canadian commercial quota has been approached or met (SCRS, 2010). The low level of U.S. commercial landings relative to quotas during this time period led the SCRS to consider two plausible explanations in its 2010 stock assessment: "(1) that availability of fish to the U.S. fishery has been abnormally low, and/or (2) the overall size of the population in the western Atlantic declined substantially from the level of recent years. SCRS noted that while there is no overwhelming evidence to favor either explanation over the other, the base case assessment implicitly favors the first hypothesis (regional changes in availability) by virtue of the estimated increase in SSB. The decrease indicated by the U.S. catch rate of large fish is matched by an increase in several other large fish indices." SCRS noted that substantial uncertainty remains on this issue and more research needs to be done (SCRS, 2010).

Recreational fisheries are prosecuted by private vessels fishing in the Angling category and vessels for hire fishing under the Charter/Headboat category. The Consolidated HMS FMP notes that charter/headboats have been targeting school BFT off New York and New Jersey since the early 1900s. School BFT are caught recreationally off Virginia, Delaware, and Maryland during the summer and off New Jersey and New York as the summer progresses. In recent years, school BFT have been increasingly available to southern New England fisheries, in that school BFT have been appearing and caught further north than in the past. Fishery landings and school BFT availability generally decline in the fall with colder water temperatures and degrading fishing conditions. Recreational fishing also takes place for large medium and giant BFT in the mid-Atlantic winter fishery, and the Consolidated HMS FMP notes that this fishery includes an active charter/headboat fishery. Large school and small medium BFT are landed by private and charter/headboat fisheries in summer and early fall off Virginia, Delaware, Maryland, New Jersey, and Massachusetts, but are overall less accessible to New York, Connecticut and Rhode Island fisheries. Large school and small medium BFT are also available in the mid-Atlantic winter fishery. In general, BFT fisheries vary

from year to year since the exact availability of BFT and the demand for fishing opportunities is unpredictable.

BFT migration throughout the Atlantic is the subject of much research and affects the availability of harvest for regional fisheries. Over the last few years, fishermen have noted a substantial decline in the availability of large medium and giant BFT in the New England area. Commercial landings by General category fishermen, Harpoon category fishermen, and Purse Seine category fishermen have also been suppressed relative to the end of the 1990s and early 2000s, resulting in large underharvests of commercial quotas (Table 8) until 2009. In 2007 through 2010, purse seine activity for BFT was very low; in 2008 and 2010, no BFT were landed using this gear type. Conversely, the ratio of landings to quota was very high for the Angling category, relative to that for other categories, particularly in 2007 through 2009.

3.3 Habitat

The area in which this action is planned has been identified as Essential Fish Habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the HMS Management Division of NMFS. Generally, the target species of the HMS fishery management units are associated with hydrographic structures of the water column, e.g., convergence zones or boundary areas between different currents.

3.4 Protected Species under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA)

This section examines the interaction between protected species and Atlantic HMS fisheries, including the BFT commercial handgear fisheries, managed under the Consolidated HMS FMP. The following is a brief review of the Marine Mammal Protection Act and the Endangered Species Act, the interactions between HMS gears and each species is examined.

3.4.1 Interactions and the Marine Mammal Protection Act (MMPA)

The Marine Mammal Protection Act of 1972, as amended, is one of the principal Federal statutes guiding marine mammal species protection and conservation policy. In the 1994 amendments, section 118 established the goal that the incidental mortality or serious injury of marine mammals occurring during the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality rate goal (ZMRG) and serious injury rate within seven years of enactment (i.e., April 30, 2001). In addition, the amendments established a three-part strategy to govern interactions between marine mammals and commercial fishing operations. These include the preparation of marine mammal stock assessment reports, a registration and marine mammal mortality monitoring program for certain commercial fisheries (Category I and II), and the preparation and implementation of take reduction plans (TRP).

NMFS relies on both fishery-dependent and fishery-independent data to produce stock assessments for marine mammals in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. Draft stock assessment reports are typically published around January and final reports are typically published in the fall. Stock assessment reports can be obtained on the web at: http://www.nmfs.noaa.gov/pr/sars/.

The following marine mammal species occur off the Atlantic and Gulf Coasts that are, or could be, of concern with respect to potential interactions with HMS fisheries.

Common Name	Scientific Name
Atlantic spotted dolphin	*Stenella frontalis*
Blue whale	*Balaenoptera musculus*
Bottlenose dolphin	*Tursiops truncatus*
Common dolphin	*Delphinis delphis*
Fin whale	*Balaenoptera physalus*
Harbor porpoise	*Phocoena phocoena*
Humpback whale	*Megaptera novaeangliae*
Killer whale	*Orcinus orca*
Long-finned pilot whale	*Globicephela melas*
Minke whale	*Balaenoptera acutorostrata*
Northern bottlenose whale	*Hyperoodon ampullatus*
Northern right whale	*Eubalaena glacialis*
Pantropical spotted dolphin	*Stenella attenuata*
Pygmy sperm whale	*Kogia breviceps*
Risso's dolphin	*Grampus griseus*
Sei whale	*Balaenoptera borealis*
Short-beaked spinner dolphin	*Stenella clymene*
Short-finned pilot whale	*Globicephela macrorhynchus*
Sperm whale	*Physeter macrocephalus*
Spinner dolphin	*Stenella longirostris*
Striped dolphin	*Stenella coeruleoalba*
White-sided dolphin	*Lagenorhynchus acutus*

Under MMPA requirements, NMFS produces an annual List of Fisheries (LOF) that classifies domestic commercial fisheries, by gear type, relative to their rates of incidental mortality or serious injury of marine mammals. The LOF includes three classifications:

1. Category I fisheries are those with frequent serious injury or mortality to marine mammals;

2. Category II fisheries are those with occasional serious injury or mortality; and

3. Category III fisheries are those with remote likelihood of serious injury or mortality to marine mammals.

The final 2011 MMPA LOF was published on November 8, 2010 (75 FR 68468). With regard to Atlantic tuna fishing, the Atlantic Ocean, Caribbean, and Gulf of Mexico pelagic longline fishery is classified as Category I (frequent serious injuries and mortalities incidental to commercial fishing). The following Atlantic HMS fisheries are classified as Category III (remote likelihood or no known serious injuries or mortalities): Atlantic tuna purse seine; Gulf of Maine and Mid-Atlantic tuna, hook-and-line/harpoon; and Mid-Atlantic, southeastern Atlantic, and Gulf of Mexico pelagic hook-and-line/harpoon fisheries. Commercial passenger fishing vessel (charter/headboat) fisheries are subject to Section 118 and are listed as a Category III fishery. Recreational vessels are not categorized since they are not considered commercial fishing vessels. For additional information on the fisheries categories and how fisheries are classified, see http://www.nmfs.noaa.gov/pr/interactions/lof/.

Fishermen participating in Category I or II fisheries are required to register under the MMPA and to accommodate an observer aboard their vessels if requested. Vessel owners or operators, or fishermen, in Category I, II, or III fisheries must report all incidental mortalities and serious injuries of marine mammals during the course of commercial fishing operations to NMFS. There are currently no regulations requiring recreational fishermen to report takes, nor are they authorized to have incidental takes (i.e., they are illegal).

3.4.2 Interactions and the Endangered Species Act (ESA)

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), provides for the conservation and recovery of endangered and threatened species of fish, wildlife, and plants. The listing of a species is based on the status of the species throughout its range or in a specific portion of its range in some instances. Threatened species are those likely to become endangered in the foreseeable future [16 U.S.C. §1532(20)] if no action is taken to stop the decline of the species. Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range [16 U.S.C. §1532(20)]. Species can be listed as endangered without first being listed as threatened. The Secretary of Commerce, acting through NMFS, is authorized to list marine and anadromous fish species, marine mammals (except for walrus and sea otter), marine reptiles (such as sea turtles), and marine plants. The Secretary of the Interior, acting through the U.S. Fish and Wildlife Service (USFWS), is authorized to list walrus and sea otter, seabirds, terrestrial plants and wildlife, and freshwater fish and plant species.

In addition to listing species under the ESA, the service agency (NMFS or USFWS) generally must designate critical habitat for listed species concurrently with the listing decision to the "maximum extent prudent and determinable" [16 U.S.C. §1533(a)(3)]. The ESA defines critical habitat as those specific areas that are occupied by the species at the time it is listed that are essential to the conservation of a listed species and that may be in need of special consideration, as well as those specific areas that are not occupied by the species that are essential to their conservation.

Federal agencies are prohibited from undertaking actions that are likely to destroy or adversely modify designated critical habitat.

Marine Mammals	Status
Blue whale *(Balaenoptera musculus)*	Endangered
Fin whale *(Balaenoptera physalus)*	Endangered
Humpback whale *(Megaptera novaeangliae)*	Endangered
Northern right whale *(Eubalaena glacialis)*	Endangered
Sei whale *(Balaenoptera borealis)*	Endangered
Sperm whale *(Physeter macrocephalus)*	Endangered
Sea Turtles	
Green turtle *(Chelonia mydas)*	Endangered/Threatened*
Hawksbill sea turtle *(Eretmochelys imbricata)*	Endangered
Kemp's ridley sea turtle *(Lepidochelys kempii)*	Endangered
Leatherback sea turtle *(Dermochelys coriacea)*	Endangered
Loggerhead sea turtle *(Caretta caretta)*	Threatened
Olive ridley sea turtle *(Lepidochelys olivacea)*	Threatened
Critical Habitat	
Northern right whale	Endangered
Finfish	
Smalltooth sawfish *(Pristis pectinata)*	Endangered

*Green sea turtles in U.S. waters are listed as threatened except for the Florida breeding population, which is listed as endangered. Due to the inability to distinguish between the populations away from the nesting beaches, green sea turtles are considered endangered wherever they occur in U.S. waters.

3.5 Measures to Address Protected Species Concerns

NMFS has taken a number of actions designed to reduce interactions with protected species over the last few years. Bycatch reduction measures have been implemented through the 1999 FMP, in Regulatory Amendment 1 to the 1999 FMP (NMFS, 2000), in Regulatory Amendment 2 to the 1999 FMP (NMFS, 2002), in Amendment 1 to the 1999 FMP (NMFS, 2003), and in the June 2004 Final Rule for Reduction of Sea Turtle Bycatch and Bycatch Mortality in the Atlantic Pelagic Longline Fishery (69 FR 40734). NMFS continues to monitor observed interactions with marine mammals and sea turtles on a quarterly basis and reviews data for appropriate action, if any, as necessary.

The focus of this action is the Atlantic Tunas General and Harpoon category fisheries, i.e., hook-and-line/harpoon, which are Category III fisheries under the MMPA. The General category regulations apply to General category participants at all times, and to HMS Charter/Headboat participants, when fishing commercially. NMFS requires reporting and authorizes takes by charter/headboat fishermen (considered "commercial" by the MMPA). No takes have been reported to NMFS to date. Strict control and operations of these fishing gears means these gear types are not

likely to result in mortality or serious injury of marine mammals or sea turtles. There is little or no formal record of interactions between the General and Harpoon category fisheries for Atlantic tunas and protected, endangered, or threatened species.

4.0 ENVIRONMENTAL CONSEQUENCES OF ANALYZED ALTERNATIVES

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 Consolidated HMS FMP. 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).

Impacts of handgear used to fish for Atlantic tunas under the Atlantic Tunas General and Harpoon categories are described in full in the Consolidated HMS FMP (NMFS, 2006). Rod and reel, handline, bandit gear, and harpoon gear are selective gears that are used to capture only one large pelagic fish (primarily BFT but also swordfish) at a time. Bycatch and bycatch mortality of commercial handgear is considered to be low, particularly for harpoons, which are thrown at individual fish determined by the fisherman to be greater than the minimum commercial size. As discussed in Section 3.5, there is no information or evidence of interactions between harpoon users targeting Atlantic tunas and threatened or endangered sea turtles, marine mammals, or other protected resources.

4.1 Issue 1: General category maximum daily retention limit

Ecological Impacts

Alternative A1:
Draft EA Analysis of Alternative A1: (the information in the two paragraphs below is presented as published in the draft EA)

There were 4,721 vessels permitted in the Atlantic Tunas General category and 4,827 vessel permitted in the HMS Charter/Headboat category as of December 31, 2008. Of the 845 trips taken in 2008 in which at least one large medium or giant BFT was harvested under General category quota (i.e., by either General or Charter/Headboat category vessels), there were 699 on which one large medium or giant BFT was retained (83 percent of trips), 109 on which two large medium of giant BFT were retained (13 percent of trips), and 37 on which three large medium or giant BFT were retained (4 percent of trips) (see Figure 6). Under the 2008 ICCAT BFT recommendation, the United States could not carry forward more than 50 percent of the U.S. base quota. In recent years, NMFS has carried forward the allowed amount of BFT underharvest from one year to the next, and distributed that amount after taking several management issues into consideration. This resulted in each quota category receiving a portion of the underharvest, but not equal to that categories' exact underharvest from the prior year. For instance, 2008 General category landings were 230 mt out of 740 mt of available quota, resulting in an underharvest of 510 mt. The amount carried forward to the 2009 fishing year under the 2009 quota specifications was 147.4 mt. The net difference is 362.6 mt of General category quota that was not available for harvest. By maintaining the current incidental limit under Alternative A1, the unharvested BFT may have an additional opportunity to spawn and the intent of the current regulations to protect immature fish would be maintained.

Although discard data regarding commercial sized BFT is not collected from General category and Charter/Headboat category vessels, NMFS estimates that the discard of large medium BFT was relatively low, given that only 37 of 845 trips (4 percent) landed the maximum daily retention limit of BFT in 2008. However, based on information from NMFS' Large Pelagics Survey over the last several years, NMFS anticipates that a large proportion of the BFT available of the U.S. coast in 2010 will be entering the large medium size class (see Figure 7). Under Alternative A1, there is an increasing likelihood of large medium BFT discards due to the growing relative abundance of this size class.

Final EA Analysis of Alternative A1: (the information from the draft EA is updated with available information through 2010)

There were 3,849 vessels permitted in the Atlantic Tunas General category and 4,174 vessel permitted in the HMS Charter/Headboat category during the 2010 season. Of the 1,998 trips taken in which at least one large medium of giant BFT was harvested under General category quota (i.e., by either General or Charter/Headboat category vessels), there were 1,323 on which one large medium or giant BFT was retained (66 percent of trips), 271 on which two large medium or giant BFT were retained (14 percent of trips), and 404 on which three large medium or giant BFT were retained (20 percent of trips) (see Figure 6). Under the current (2010) ICCAT BFT recommendation, the United States may not carry forward more than 10 percent of the U.S. base quota. Taking this and other factors into consideration, in the final 2011 BFT quota specifications, NMFS maintained the directed categories at their baseline subquotas. No underharvested quota was carried forward and added to the 2011 directed category base quotas.

This alternative is expected to have neutral to slightly negative ecological impacts. Although discard data regarding commercial sized BFT is not collected from General category and Charter/Headboat category vessels, NMFS estimates that the discard of large medium BFT was greater than in 2008, given that 404 of 1,998 trips (20 percent) landed the maximum daily retention limit of BFT in 2010. This is consistent with information from NMFS' Large Pelagics Survey over the last several years that showed that a large proportion of the BFT available of the U.S. coast in 2010 would have entered the large medium size class (see Figure 7). Under Alternative A1, there is an increasing likelihood of large medium BFT discards due to the growing relative abundance of this size class in the near future.

Alternative A2:

Under Alternative A2, NMFS estimates that an increase in the maximum daily retention limit per vessel to five large medium or giant BFT may lead to an increase in fishing effort based on the number of trips that may have been constrained by the current maximum daily retention limit of three fish. Based on 2008 data, the draft EA indicated that if the 37 trips that landed three BFT were able to capture and land an additional two fish each, 74 additional large medium or giant fish could be harvested and counted against the General category quota. Based on 2010 data, 808 additional large medium or giant fish (i.e., 404 trips x two fish) potentially could be harvested and counted against the

General category quota over the course of the fishing year, under the assumption that the limit of five fish would apply throughout the fishing year. However, the ability for this additional amount of BFT to be landed would be constrained by the available quota. This action increases only the *maximum* daily retention limit. NMFS would continue to set the daily retention limit via inseason actions based on the determination criteria and other relevant factors provided under §635.27(a)(8), including but not limited to the amount of General category quota taken to date and the amount remaining for the fishing year. For reference, a total of 1,029 and 3,072 BFT were landed against the General category quota in 2008 and 2010, respectively.

This alternative is expected to have neutral to slightly negative ecological impacts. To the extent that large medium and giant BFT that potentially would otherwise be discarded dead could be converted to landings, the impact on fishing mortality would be neutral. Given the increased landings of large medium and giant BFT by General category participants in 2010, which may reflect availability of these size fish to the fishery, it appears there is some increased potential to convert dead discards to landings in the near future. Negative impacts of the preferred alternative could result from increased bycatch and bycatch mortality of small medium BFT (measuring 59 to less than 73 inches), which would have to be discarded as retention of BFT under 73 inches is prohibited in the commercial fisheries. The harvest of large medium and giant BFT is constrained by the annual quota, set consistent with ICCAT recommendations. General category fishing for BFT would be prohibited when the General category fishery is closed. The preferred alternative would provide harvest flexibility, within the existing quota, affecting only when and where the harvest occurs, and does not increase the total amount allowed to be harvested, which is limited by the ICCAT-recommended U.S. quota. Some environmental organizations commented during the ANPR that elimination of the maximum daily retention limit could also result in a substantial proportion of a school of BFT being taken at one time, having widespread age and/or genetic impacts on the stock. However, the limited nature of this action, particularly given the relatively low General category success rate in retaining the current maximum daily retention limit of three fish, is unlikely to have any differential impacts on the life history or overall biological distribution of the western Atlantic BFT stock.

Alternative A3:

Alternative A3, elimination of the maximum daily retention limit, could have greater negative ecological impacts to the stock than Alternative A2 due to the removal of additional large medium and giant BFT. Relative to Alternative A2, similar or greater negative impacts could result from increased bycatch and bycatch mortality of small medium BFT just below 73 inches resulting from increased directed effort on large medium and giant BFT. Again, NMFS would continue to maintain and exercise its authority to increase or decrease the daily retention limit as necessary and appropriate via inseason action.

Regardless of the alternative selected, NMFS would continue to maintain and exercise its authority to increase or decrease the daily retention limit as necessary following consideration of the determination criteria described above. This provision of the regulations provides some safeguard, if needed, to reduce potential negative impacts of fishing effort. Although few data are available, it is believed that the selective nature of hook and line and harpoon gear used by vessels fishing under the

General category quota have minimal impact on discards or interactions with non-target species.

Socioeconomic Impacts

Alternative A1:

The primary potential impact of this alternative is the continued inability of the General category (and Charter/Headboat category, when fishing commercially) to catch the annual General category quota. The draft EA indicated that, although the carrying forward of some amount of quota was possible for 2010, ICCAT would be lowering the overall amount available to be carried forward after 2010, and this would reduce the potential amount carried forward to each quota category. Unharvested General category quota in 2008 unavailable for harvest equaled 362.6 mt with an approximate value of $6.75 million (using an average price for General category landings in 2008 of $8.44/lb round weight) (see Table 4 for landings vs. adjusted quota and Table 10 for ex-vessel average price by category). As indicated above, the 2011 directed category base quotas have not been adjusted for 2010 underharvest, so the issue is currently moot, although NMFS may make adjustments to base quotas in future years. Under Alternative A1, socioeconomic impacts would be expected to be similar to those in 2010. Future potential revenue increases could be estimated using the most recent year's General category average price/lb and any prior year's underharvest that NMFS carries forward.

Alternative A2:

Data from 2010 suggest that 20 percent of the trips were potentially constrained by a three fish maximum daily retention limit (up from 4 percent in 2008), although comment from some Charter/Headboat operators during the ANPR suggests charter vessels that have retained a commercial-sized BFT tend to return to port to sell the fish rather than continuing to fish for additional large medium or giant BFT, notably if a paid party is on board. Net revenues may decrease if search time (e.g., fuel expenditure) increases.

Under Alternative A2, if NMFS increases the maximum daily retention limit from three fish to five fish per vessel and sets the daily retention limit at that level, it could be expected that the number of large medium and giant BFT landed and sold would increase. The draft EA indicated that, given that General category landings were less than one-third of the adjusted General category quota in 2008, the quota would accommodate such an increase. However, that assumes each trip taken could locate and harvest a total of five fish. In 2008, only 37 trips (4 percent) landed three large medium or giant BFT. Using this amount as a proxy for potential trips resulting in landings of five large medium or giant BFT, a total of 74 additional fish may be landed relative to the status quo alternative. Increased revenues would depend on availability of large medium and giant BFT to the fishery, as well as the daily retention limit set by NMFS through inseason action. Using 2010 data, the potential landing of an additional 808 large medium or giant (i.e., 404 trips landing two additional fish) would likely be limited by available quota. It is possible that NMFS may need to close the fishery prior to the end of the fishing year under a higher retention limit, i.e., before December 31 if and when the quota is reached earlier in the year. Nonetheless, this preferred alternative would provide General and Charter/Headboat category vessels a reasonable opportunity to harvest the allocated General category

quota in its designated time frame (June 1 through November 15 of each year) and allow greater fishing efficiency (i.e., by allowing vessels to attain a higher level of landings in a fewer number of trips and by increasing incentives for vessel operators to take multi-day trips). This alternative also would have positive socioeconomic impacts, as it would convert potential dead discards of large medium and giant BFT to landings.

Alternative A3:

Under Alternative A3, with the elimination of the maximum daily retention limit, the number of large medium and giant BFT landed and sold could increase substantially. In the draft EA, NMFS indicated that because only 4 percent of 2008 General category trips landed the current maximum daily retention limit of three fish, NMFS did not anticipate a substantial increase in fish landed even without limit, given the availability of BFT at that time. Using 2010 data, which show that 20 percent of General category trips landed three fish, it appears the potential increase in large medium and giant BFT under no maximum limit could be higher. Again, the total amount of quota available to the General category would limit actual landings, and as stated above, NMFS will continue to make appropriate inseason management decisions regarding retention limit based on the determination criteria. Increased socioeconomic impacts would be similar to or greater than under Alternative A2, depending on availability of large medium and giant BFT to the fishery and the daily retention limit set by NMFS through inseason action. This alternative would provide NMFS the greatest flexibility in selecting the appropriate General category daily retention limit.

4.2 Issue 2: General category season

Ecological Impacts

Minimal, if any, ecological impacts are expected as a result of adjusting the General season, time-periods, and/or associated subquotas because the overall quotas and size-classes of BFT being targeted by the General category would not be changed. These small orders of change, quantified in either numbers of fish or in weight (mt), or time and/or location of harvest, compared to overall U.S. harvest levels as recommended by ICCAT under the 20-year rebuilding program, equate to ecological impacts that are unlikely to be measurable given the variability in the data used to conduct BFT stock assessments. Additionally, the numbers of BFT harvested from each different size-class would remain consistent with the levels of BFT mortality used in the stock assessment. Therefore NMFS does not expect any negative ecological impacts from the following alternatives, as they relate to the ICCAT-recommended rebuilding program for BFT.

Alternative B1:

Alternative B1 (No Action) would maintain the General category season and time period subquota allocation scheme as stated in the Consolidated HMS FMP. The BFT fishery has been managed via these allocations and procedures since 2007. These allocations and procedures are consistent with the ICCAT recommendations; therefore, NMFS does not expect this alternative to result in any negative ecological impacts beyond those previously considered.

Alternative B2 (and B2b):

As analyzed in the draft EA, Alternative B2 would annually allow the General category to remain open at the beginning of the calendar year until the January subquota is determined to be fully harvested. To effect this change, NMFS would adjust the regulation that specifies the time period for which the January subquota is available, such that the period that begins January 1 would end upon the effective date of a closure notice that NMFS would file with the Office of the Federal Register when the quota apportioned to the period that begins January 1 has been reached (or is projected to be reached), or May 31, whichever happens first. Under Alternative B2b, NMFS would establish this period as January 1 until the General category subquota is reached (or is projected to be reached), or March 31, whichever happens first. NMFS would continue to carry forward unharvested General category quota from one time period to the next time period. NMFS expects that this action likely would lengthen the General category season by only a few weeks, but the duration of the extension would depend on weather conditions and availability of large medium and giant BFT to the fishery during the winter months.

Alternative B2 and B2b may result in a shift in BFT landings, both temporally (to later in the season) and geographically to the South (i.e., off the mid- and south Atlantic states of North Carolina, South Carolina, Georgia, and the Florida East Coast). However, the number of BFT harvested from the large medium and giant size classes would remain consistent with the levels of BFT mortality used in the stock assessment. These temporal and spatial shifts in landings could result in a slight decrease or increase in protected resource interactions, discards, and incidental catch of other finfish. However, given the limited nature of this alternative, which would likely effectively extend the winter fishery by less than a few weeks, NMFS does not expect any adverse ecological impacts.

In 2009, the General category January base subquota was 25.2 mt, the adjusted subquota was 33 mt, and landings totaled 27.8 mt (5.2 mt less than the adjusted January subquota, which was announced in the final 2009 specifications later in the fishing year). In 2010, the General category January landings of 2.7 mt were 21.1 mt and 25.9 mt less, respectively, than the base subquota of 23.8 mt and the adjusted quota of 28.6 mt (which was announced in the final 2010 specifications later in the fishing year). In 2011, the January landings totaled 7.9 mt out of an available 23.1 mt. Although it would depend greatly on weather conditions and BFT availability, NMFS estimates that the 2009 General category fishery could have remained open approximately one more week if the closure on January 31, 2009, had not automatically applied, based on remaining available January subquota and expected BFT harvest rates.

NMFS developed Alternative B2b following consideration of public comment on this issue, including the comment that the proposed action would potentially extend fishing effort over a four-month period that is currently unfished and potentially could have negative impacts on pre-spawning aggregations of BFT. The alternative falls within the scope of alternatives analyzed in the draft EA, reduces the amount of time the General category would potentially remain open by 2 months (half the proposed amount of time) and can be expected to have less ecological impact (on BFT, other fish species, and protected species) than under the originally considered alternative. For further information/analyses regarding commercial handgear interactions with protected resources, see

Section 3.5 of this EA and Sections 3.8 and 3.9.9 of the Consolidated HMS FMP. Alternative B2 and B2b would be expected to broaden the range of data available for scientific research, although the scope by which data would broaden for Alternative B2 (and B2b) may be relatively small, depending on availability of large medium and giant BFT beyond January 31 of each year.

Alternative B3:

Alternative B3 would allow the General category to remain open year-round and would revise subquotas so that they are evenly distributed throughout the year. NMFS would continue to carry forward unharvested General category quota from one time period to the next time period. Alternative B3 may result in a shift in BFT landings, both temporally (to later in the season) and geographically to the South (i.e., off the mid- and south Atlantic states of North Carolina, South Carolina, Georgia, and the Florida East Coast). Specifically, the time-period subquota percentage for January would be increased (from 5.3 percent to 8.3 percent) and the time-period subquota for September would be decreased (from 26.5 percent to 8.3 percent). As a result, there might be increased harvest in the earlier portions of the General category BFT season, but there would also be a corresponding decrease in harvest in the later portions of the season. The number of BFT harvested from the large medium and giant size classes would remain consistent with the levels of BFT mortality used in the stock assessment. These temporal and spatial shifts in landings could decrease or increase protected resource interactions, discards, and incidental catch of other finfish. However, given the limited nature of this alternative, which would likely extend the winter fishery by less than a few weeks, NMFS does not expect any adverse ecological impacts. For further information/analyses regarding commercial handgear interactions with protected resources, see Section 3.5. Alternative B3 would be expected to broaden the range of data available for scientific research, although the scope by which data would broaden for Alternative B3 is relatively small. Because there would be a dedicated quota for each month of the year, Alternative B3 could provide commercial fisheries data for times (i.e., February through May) when the fishery was traditionally closed or closed when quotas have been reached, as described in Alternatives A1 and A2, respectively.

Socioeconomic Impacts

Alternative B1:

Alternative B1 would maintain the General category time periods and subquota allocation scheme established in the Consolidated HMS FMP. This alternative may have both positive and negative social and economic impacts. The positive impacts could be attributed to the General category time-periods and associated subquota allocation percentages remaining consistent with those of prior years, i.e., they would continue to have the potential to harvest the same percentage of the quota and earn the equivalent share of total ex-vessel revenues. Although the General category season length and subquota allocations were adjusted in the Consolidated HMS FMP to provide additional fishing opportunities during the winter fishery, it is possible that the status quo alternative would have some adverse social and economic impacts on fishermen, dealers, and the support industries located in the mid- and south Atlantic region. Under the No Action alternative, winter General category fishery participants have not filled the full January subquota in the last few years. During seasons where BFT are not available in the area off the mid- and south Atlantic states until

January, the automatic closure of the General category fishery on January 31 may have negative economic impacts for General category and Charter/Headboat category participants. These adverse impacts could be mitigated if BFT were available during December when quota is typically available due to the carrying forward of underharvest from the prior time periods, or if mid- and south Atlantic General category participants were to travel north in the summer and fall portions of the season. Overall, the adverse social and economic impacts associated with this alternative outweigh the positive impacts.

The potential General category gross revenues generated under the No Action alternative were calculated for each specific time-period by using the status quo time-period subquota allocation percentages, the whole weight equivalent (in metric tons and pounds), and the average ex-vessel prices (whole weight) for 2008, inclusive. Potential annual General category gross revenue information under the 2011-2012 base quotas has been added using price information from 2010 (the most recent year for which complete price information is available (see Table 11).

Alternative B2 (and B2b):

Alternative B2 from the draft EA and B2b, the preferred alternative, would increase the likelihood of winter General category participants and Charter/Headboat participants, when fishing commercially, being able to harvest the full January subquota, particularly if the adjusted January quota is established during the winter portion of the season. An increase in optimum yield may result from a potential increase in the geographic and temporal distribution of landings. Increases in positive socioeconomic impacts would depend on the availability of BFT to the fishery from the beginning of February until the BFT January subquota (base or adjusted, as applicable) is reached. Price/lb is also influenced by the amount of BFT on the market. In the draft EA, NMFS estimated the value of the unused 5.2 mt of adjusted January 2009 subquota, using the January 2008 average price/lb of $11.20, at $128,395. For 2010, the value of the unused 25.9 mt of adjusted January 2010 subquota, using the January 2010 average price/lb of $14.93, is estimated at $852,490. As shown in Table 11, the value of the 2011-2012 January base subquota is estimated at $760,329, assuming full harvest.

Alternative B3:

Alternative B3, which would create a year-round fishery and divide the General category quota into 12 equal allocations of 8.3 percent each, would have both positive and negative social and economic impacts as it would provide some stability to the constituency by establishing a known amount of quota that would be available at the first of each month. However, if catch rates are high in the early portion of the month, these quotas could be harvested rapidly and may lead to derby style fisheries on the first of each month, which is contrary to NMFS' intent. This alternative would extend winter fishery opportunities, but would do little to recognize historical General category BFT allocations, thereby potentially excluding a group of long-time participants. Positive social and economic impacts for those General category and Charter/Headboat category participants located in, or traveling to, the mid/south Atlantic region would likely result from an increase in allocation (from a total of 10.5 percent to 33.2 percent total over the months of December through March of the following year, when large medium and giant BFT are generally available to the southern area

fishery). In the draft EA, NMFS estimated the value of this increase, using 2008 base quotas and an estimated $12/lb for December and January, at approximately $2.8 million. Using the 2011-2012 base quotas and an estimated $12/lb for December and January, NMFS estimates the value of this increase at approximately $2.6 million.

General category and Charter/Headboat category participants in the New England area, or those participants that pursue BFT in the summer months, might experience some adverse social and economic impacts due to the shift in quota to the earlier portion of the season. For instance under this alternative, the status quo September time-period subquota allocation would be reduced by approximately 69 percent, resulting in decreased gross revenues of approximately $1.5 million (draft EA estimate for 2009); for 2011-2012, the estimated decrease would be $987,500. However, to the extent that unused quota would roll forward from one period to the next within the fishing year, negative impacts on northern area participants would be reduced. This alternative would assist in distributing the General category BFT catch, temporally and geographically, which is beneficial for the collection of commercial fishery data and may assist in avoiding large scale landings in a constrained time frame, thus reducing market gluts.

4.3 Issue 3: Harpoon category daily incidental retention limit

Ecological Impacts

Alternative C1:
Draft EA Analysis of Alternative C1: (the information in the paragraph below is presented as published in the draft EA)

There were 26 vessels permitted in the Harpoon category as of December 2008. Of the 135 BFT taken by Harpoon vessels in 2008, 66 were large medium BFT. Of the 87 successful trips taken by Harpoon category vessels in 2008 (i.e., trips on which at least one BFT was landed), there were 33 trips on which no large medium BFT were landed, 42 trips on which one large medium BFT was landed, and 12 trips on which two large medium BFT were landed. In 2008, the Harpoon category landings were 22 mt out of 61.2 mt of available quota, resulting in an underharvest of 39.2 mt. As described above, underharvest carried forward to each quota category is limited by the ICCAT recommendation and other domestic management considerations. The amount carried forward to the 2009 fishing year under the 2009 quota specifications was 12.2 mt. The net difference is 27 mt of Harpoon quota that was not available for harvest and will not be harvested. By maintaining the current incidental limit under Alternative C1, the unharvested BFT may have an additional opportunity to spawn and the intent of the current regulations to protect immature fish would be maintained.

Final EA Analysis of Alternative C1: (the information from the draft EA is updated with available information through 2010)

There were 29 vessels permitted in the Harpoon category in 2010. Of the 156 BFT taken by

Harpoon vessels in 2010, 103 were large medium BFT. Of the 104 successful trips taken by Harpoon category vessels in 2010 (i.e., trips on which at least one BFT was landed), there were 33 trips on which no large medium BFT were landed, 39 trips on which one large medium BFT was landed, and 32 trips on which two large medium BFT were landed. In 2010, the Harpoon category landings were 18.4 mt out of 44.6 mt of available quota, resulting in an underharvest of 26.2 mt. As described above, underharvest carried forward to each quota category is limited by the ICCAT recommendation and other domestic management considerations, and no underharvest was applied to directed fishing categories in 2011.

Although discard data is not collected from Harpoon category vessels, NMFS estimates that the discard of large medium BFT was greater in 2010 than in 2008, given that 12 of 87 trips (14 percent) landed the incidental limit in 2008 and 32 of 104 trips (31 percent) landed the incidental limit in 2010. This is consistent with information from NMFS' Large Pelagics Survey over the last several years that showed that a large proportion of the BFT available off the U.S. coast in 2010 would have entered the large medium size class (see Figure 7). Harpoon participants have commented over the years that it is common for schools to be comprised of BFT of different size classes, so fishing on schools of giant BFT exclusively is difficult. Under Alternative C1, there is an increasing likelihood of large medium BFT discards while targeting giant BFT due to the growing relative abundance of this size class.

Alternative C2:

Under Alternative C2, the draft EA indicated that with an increase in the daily incidental retention limit to four large medium BFT, Harpoon category landings of large medium BFT in 2008 could be expected to double landings relative to the status quo to approximately 132 large medium BFT. However, only 12 Harpoon category trips resulted in landings of two large medium BFT in 2008. This suggests that an anticipated increase would be much lower, i.e., 24 fish (12 trips x 2 fish per trip). Using 2010 data, Harpoon category landings of large medium BFT could be expected to double landings relative to the status quo to approximately 206 large medium BFT. However, only 32 Harpoon category trips resulted in landings of two large medium BFT in 2010. This suggests that an anticipated increase would be much lower, i.e., 64 fish (32 trips x 2 fish per trip). This alternative is expected to have neutral to slightly negative impacts with regard to large medium BFT. To the extent that large medium BFT discards could be converted to landings, the impact would be neutral. Given the increase in landings of large medium and giant BFT by Harpoon category participants in 2010, which may reflect availability of these size fish to the fishery, it appears there is some increased potential to convert dead discards to landings in the near future. Negative impacts of the preferred alternative could result from increased bycatch and bycatch mortality of small medium BFT (measuring 59 to less than 73 inches) and large medium BFT in excess of the incidental limit while attempting to catch giant BFT. The removal of a greater number of large medium BFT than the status quo alternative (C1) may decrease spawning potential and subsequently have negative ecological impacts on the stock. Although few data are available, it is believed that the selective nature of harpoon gear has minimal impact on discards or interactions with non-target species. Increasing the daily retention limit may have the unintended effect of increasing incentive to target large medium BFT. However, only 31 percent of Harpoon category trips in 2010 landed the incidental limit of two

large medium BFT, and NMFS does not expect changes in fishing behavior as a result of these Harpoon category alternatives.

Alternative C3:

Under Alternative C3, elimination of the incidental limit would have the effect of dropping the target size from 81 inches to 73 inches and provide incentive to target large medium BFT. It would be possible for the entire Harpoon category quota to be attained with large medium BFT. In the draft EA, NMFS estimated that this could result in a mortality increase of approximately 75 to125 fish, relative to the entire quota being harvested with giant BFT landings, depending on future average fish weight and assuming a similar quota to the adjusted 2009 quota of 51.6 mt. For 2011, with a quota of 36 mt, this could result in a mortality increase of approximately 90 fish, relative to the entire quota being harvested with giant BFT landings. This alternative could have greater negative ecological impacts to the stock than Alternative C2 due to the removal of additional large medium fish as well as overall number of fish from the BFT stock. Negative impacts could result from increased bycatch and bycatch mortality of small medium BFT just below 73 inches resulting from increased directed effort on large medium BFT. These fish would have to be discarded as fish under 73 inches are prohibited in the commercial fisheries.

Socioeconomic Impacts

Alternative C1:

The primary potential socioeconomic impact of this Alternative C1 is the continued inability of the Harpoon category to catch its annual quota. The draft EA indicated that, although the carrying forward of some amount of quota was possible for 2010, ICCAT would be lowering the overall amount available to be carried forward after 2010, and this would reduce the potential amount carried forward to each quota category. Unharvested quota in the Harpoon category fishery in 2008 equaled 39.2 mt with an approximate value of $550,000 (using an average price for Harpoon category landings in 2008 of $6.36/lb) (see Table 4 for landings vs. adjusted quota and Table 10 for ex-vessel average price by category). As indicated above, the 2011 directed category base quotas have not been adjusted for 2010 underharvest, so the issue is currently moot, although NMFS may make adjustments to base quotas in future years. Future potential revenue increases could be estimated using the most recent year's Harpoon category average price/lb and any prior year's underharvest that NMFS carries forward. Increased revenues under Alternatives C2 and C3 would depend greatly on availability of large medium and giant BFT to the fishery. In addition, net revenues may decrease if search time (e.g., fuel expenditures) increases.

Alternative C2:

Under Alternative C2, NMFS expects that the number of large medium BFT landed and sold may double to 206 fish. Given that the Harpoon category harvested only about one third of its adjusted quota in 2008, and landed in 2010 about half of the current 2011 quota, the quota would likely accommodate such an increase. This preferred alternative would provide Harpoon category vessels a reasonable opportunity to harvest the allocated Harpoon category quota in its designated time frame and convert potential dead discards to landings, thus increasing ex-vessel revenues per trip

and optimum yield. Increased socioeconomic impacts would depend on availability of large medium BFT to the fishery. It is possible the Harpoon category quota would be filled prior to the end of the season (November 15 of each year), depending on availability of large medium BFT to the fishery, and that NMFS would need to close the fishery. Negative socioeconomic impacts could result for some vessels that may not participate early in the Harpoon category season, but NMFS estimates that would affect very few of the 29 permitted vessels.

Alternative C3:

Under Alternative C3, Harpoon category participants would have the flexibility of attaining the Harpoon quota without specific incidental limits on large medium BFT. This alternative would have positive impacts in that it would convert potential dead discards of large medium BFT to landings and allow greater fishing efficiency (i.e., allow vessels to attain a given level of landings in a fewer number of trips), thus increasing optimum yield. It is possible the Harpoon category quota would be filled prior to the end of the season (November 15 of each year), depending on availability of large medium BFT to the fishery, and that NMFS would need to close the fishery. Negative socioeconomic impacts could result for some vessels that may not participate early in the Harpoon category season, but NMFS estimates that would affect very few of the 29 permitted vessels.

Conclusion

Alternatives A2 and B2b are the preferred alternatives for the General category maximum possible daily retention limit and General category season, respectively. Alternative C2 is the preferred alternative for the Harpoon category daily incidental retention limit. These alternatives are preferred because they would provide additional opportunities to harvest the General and Harpoon category quotas and overall U.S. quota, which has been established consistent with ICCAT's western BFT rebuilding program, while balancing concerns regarding BFT stock health.

4.4 Impacts on Essential Fish Habitat

The Magnuson-Stevens Act established a program to promote the protection of EFH in the review of projects conducted by Federal agencies, or under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat. After the Secretary has identified EFH, Federal agencies are obligated to consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any EFH. The analysis in the 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. Bottom longline gear is one of the only gear types that could have a detrimental effect on the benthic environment, especially if placed in coral reef, hard bottom or submerged aquatic vegetation habitats. Because this action 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 the Consolidated HMS FMP is still applicable, so further consultation is not necessary.

4.5 Impacts on Protected Species

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under Section 7 of the ESA. A BiOp issued June 14, 2001, concluded that continued operation of the Atlantic PLL fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. This BiOp also concluded that the continued operation of the purse seine and handgear fisheries may adversely affect, but are not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. NMFS has implemented the reasonable and prudent alternatives (RPAs) required by this BiOp.

Section 3.4 of this document and Chapter 7 of the 2010 SAFE Report lists the 22 marine mammal species, including six endangered whale species, that are or could be of concern with respect to potential interactions with HMS fisheries.

The preferred alternatives in this action are not expected to alter current fishing practices or increase fishing effort significantly, would not be expected to change previously analyzed endangered species or marine mammal interaction rates or magnitudes, or substantially alter bycatch mortality rates. Therefore, the preferred alternatives in this EA/RIR/FRFA should not have adverse impacts on protected species, or have any further impacts on endangered species, marine mammals, or critical habitat beyond those considered in the 2001 BiOp and in the Consolidated HMS FMP. Thus, no further consultation is necessary.

4.6 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 positive in the long-term, and are anticipated to affect the fishing sectors and communities equally. This is anticipated because the action would provide additional fishing opportunities to harvest established fishing quotas.

4.7 Coastal Zone Management Act (CZMA) Concerns

NMFS determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states and U.S. territories on the Atlantic including the Gulf of Mexico and the Caribbean Sea. On November 4, 2009, NMFS provided all coastal states along the eastern seaboard and the Gulf of Mexico (19 states and U.S. territories), including Puerto Rico and the U.S. Virgin Islands with a copy of the proposed rule and draft EA that would modify BFT baseline quotas and adjust management measures regarding the Atlantic tuna fisheries and requested their concurrence. Under 15 C.F.R. § 930.41, states and/or

U.S. territories have 60 days to respond after the receipt of the consistency determination and supporting materials. States and U.S. territories can request an extension of up to 15 days. If a response is not received within those time limits, NMFS can presume concurrence (15 C.F.R. § 930.41(a)).

Eleven states replied within the response time period that the proposed regulations were consistent, to the extent practicable, with the enforceable policies of their CMPs (New Hampshire, Rhode Island, Connecticut, New Jersey, Delaware, Virginia, North Carolina, Georgia, Florida, Alabama, and Mississippi). Another eight states and U.S. territories (Maine, Massachusetts, New York, Maryland, South Carolina, Louisiana, Puerto Rico and the U.S. Virgin Islands) did not respond within the response time period, nor did they request an extension in the comment period; therefore, NMFS presumes their concurrence.

4.8 Comparison of Alternatives

Table 6 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 (EJ) or CZMA issues were identified.

4.9 Cumulative Impacts

Cumulative impacts are the impacts on the environment which result from the incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions. Cumulative impacts include the total effect on a natural resource, ecosystem, or human community due to past, present, and reasonably foreseeable future activities or actions of federal, non–federal, public, and private entities. Cumulative impacts may also include the effects of natural processes and events, depending on the specific resource. Cumulative impacts include the total of all impacts to a particular resource that have occurred, are occurring, and would likely occur as a result of any action or influence, including the direct and reasonably foreseeable indirect impacts of a federal activity. The goal of this section is to describe the cumulative ecological, economic and social impacts of past, present and reasonably foreseeable future actions with regard to the management measures presented in this document.

Since 1999, management actions pertaining to BFT have had minor positive ecological impacts by continuing to limit BFT mortality by U.S. fishermen in accordance with the strict quota limits set by ICCAT. The 1999 FMP adopted ICCAT's 20-year stock rebuilding program for western Atlantic BFT, which includes, among other things, authority for NMFS to implement ICCAT's BFT quota allocation on a yearly basis through a framework procedure. The FEIS for the Consolidated HMS FMP (NMFS 2006) concluded that the cumulative long-term impact of the final implementing actions, including the ICCAT BFT rebuilding program and annual quota allocation process, would be to establish sustainable fisheries for Atlantic HMS.

In October 2009, Monaco submitted a proposal to list Atlantic bluefin tuna in Appendix I of the Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES), which would prohibit international trade of the species. At the March 2010 CITES 15th Conference of Parties meeting in Doha, Qatar, the proposal was not adopted. The U.S. Department of the Interior, which is the lead Federal agency on CITES issues, subsequently issued a press release indicating that the United States will continue to work with ICCAT parties to conserve and recover BFT.

On May 24, 2010, NMFS received a petition from the Center for Biological Diversity (CBD) to list BFT as threatened or endangered under the ESA and designate critical habitat concurrently with its listing. On September 21, 2010, NMFS announced a 90-day finding (75 FR 57431) that the petition presents substantial scientific information indicating the petitioned action may be warranted. NMFS conducted a species status review of BFT to determine if the petitioned action is warranted. On May 27, 2011, NOAA announced that listing BFT as endangered or threatened is not warranted at this time. NOAA has committed to revisit this decision by early 2013, when more information will be available about the effects of the Deepwater Horizon BP oil spill, the 2012 BFT stock assessment, and the 2012 ICCAT BFT recommendations. NOAA also announced on May 27, 2011, that it is formally designating both the western Atlantic and eastern Atlantic and Mediterranean stocks of BFT as "species of concern" under the ESA. This places the species on a watchlist for concerns about its status and threats to the species.

In April 2011, NMFS published a final rule requiring the use of weak hooks on pelagic longline vessels in the Gulf of Mexico (76 FR 18653, April 5, 2011). The purpose of that action is to reduce pelagic longline catch of BFT in the Gulf of Mexico, the only known spawning area for the western Atlantic BFT stock.

In July 2011, NMFS published a final rule to: (1) implement and allocate the ICCAT-recommended U.S. base quotas for 2011 and 2012, the 2011 and 2012; (2) adjust the 2011 U.S. quota and subquotas to account for unharvested 2010 quota allowed by ICCAT to be carried forward to 2011, and to account for a portion of the estimated 2011 dead discards up front; (3) reinstate pelagic longline target catch requirements for retaining BFT in the Northeast Distant Gear Restricted Area (NED); (4) amend the Atlantic tunas possession-at-sea and landing regulations to allow removal of tail lobes; and (5) clarify the transfer-at-sea regulations for Atlantic tunas. Both the weak hook action and the NED action are intended to address BFT bycatch issues in pelagic longline fisheries, including managing BFT catch and landings within available quotas. In early 2012, NMFS expects to publish proposed and final quota specifications to adjust the 2012 BFT base quota as necessary.

ICCAT is next scheduled to review the status of Atlantic BFT stocks in 2012 and to renegotiate the western Atlantic BFT TAC at the November 2012 ICCAT meeting. The 2012 stock assessment may result in recommended changes to the ICCAT BFT rebuilding program in the foreseeable future, which 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.

The cumulative impacts of increasing the General category maximum possible daily retention limit, allowing the General category season to remain open until the January subquota is reached or March 31, whichever happens first, and increasing the Harpoon category daily incidental retention limit are expected to be minimal. These regulatory changes would be consistent with the Consolidated HMS FMP and with rulemaking completed in 2003 to address aspects of the General and Harpoon category fisheries, in particular extending the General category through January and increasing the daily incidental retention limit for the Harpoon category (68 FR 74504, December 24, 2003), and are expected to have positive social and economic impacts. Existing regulations, such as commercial fish size limits, would continue to be in effect. Economic benefits may be realized through continued, and possibly increased, harvest of BFT.

NMFS' goal for HMS management has been to provide sustainable harvests that will provide the greatest economic benefits to the largest number of individuals. While certain actions have resulted in negative socio-economic impacts, all of the past, present, and reasonably foreseeable future actions are expected to ensure the long-term sustainability and continued economic viability of U.S. Atlantic HMS fisheries consistent with applicable law. Thus, NMFS considers that this action is consistent with past and current actions, and anticipates that it also will be consistent with future actions with no substantial adverse, cumulative impacts on the environment. Table 12 summarizes the determinations made above regarding impacts of the alternatives considered in this action.

5.0 MITIGATION AND UNAVOIDABLE ADVERSE IMPACT

5.1 Mitigating Measures

The preferred alternatives are not likely to have significant long-term adverse ecological or socioeconomic impacts, and no additional mitigation measures were identified nor considered necessary associated with the General category preferred alternatives A2 and B2b and the Harpoon category preferred alternative C2. The preferred alternatives are designed to provide additional opportunities for fishermen to harvest Atlantic tunas within quotas, size limits, and other established limitations. The U.S. domestic BFT management program includes numerous management measures to implement ICCAT quota and management recommendations and for consistency with the Consolidated HMS FMP. 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" as commercial data are submitted within 24 hours to NMFS through required landings reports for each fish. 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 following consideration of the determination criteria and other relevant factors provided under §635.27(a)(8).

5.2 Unavoidable Adverse Impacts

The action would be consistent with ICCAT Recommendation 10-03, the Consolidated HMS FMP, ATCA, and the Magnuson-Stevens Act. Although there is a potential for increased BFT landings under Alternatives A2, B2b, and C2, landings will continue to be constrained by the established General and Harpoon category quotas. NMFS does not expect a significant change in current fishing patterns or an increase in fishing effort as compared to current levels. The action would not alter current impacts on threatened or endangered species which have been previously analyzed in the 2001 BiOp, and thus would not be expected to change previously analyzed endangered species or marine mammal interaction rates or magnitudes, or substantially alter current fishing practices or bycatch mortality rates. Therefore, no unavoidable adverse impacts are expected to result from the action.

5.3 Irreversible and Irretrievable Commitment of Resources

No irreversible or irretrievable commitments of resources are expected from this action.

6.0 ECONOMIC EVALUATION

Note that all dollars are reported in nominal dollars, consistent with methods used in the Consolidated HMS FMP. The following background is provided on the prices and markets and other economic factors to help evaluate the potential economic impact of the rulemaking.

6.1 Prices and Markets

Over the past two and a half decades, the ex-vessel average price of BFT in the United States has increased substantially, from roughly $0.20 per pound up to nearly $9.00 per pound round weight in the late 1990s. This increase over time is largely attributed to increased demand for fresh BFT in Japan, the principal consumer of U.S. BFT. 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 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 rapid growth of the Mediterranean BFT farming industry may influence prices, with over-supply of the market leading to reduced ex-vessel prices for U.S. fishermen. Table 13 gives the average ex-vessel price of BFT 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 2010 were lower for the General category and higher for the Harpoon and Longline categories relative to prices during 2009.

6.2 Ex-vessel Gross Revenues

Ex-vessel gross revenues (nominal values) from recorded sales of BFT in all commercial categories for the last 13 years are presented in Table 13. The draft EA indicated that revenues for the General and Harpoon quota categories in 2008 were 75 and 95 percent higher, respectively, than in 2007, but were still very low compared to most of the time series. Data from 2010 indicate that revenues for the General category were 55 percent higher and 245 percent higher than in 2009 and 2007 respectively, and were at the highest level since 2002. Harpoon quota revenues in 2010 were 59 percent lower and 26 percent higher than in 2009 and 2007 respectively, and were the second lowest in the time series. The combination of stable or reduced ex-vessel prices (Table 10) and reduced commercial landings (Table 8) had a severe impact on ex-vessel gross revenues in 2006 and 2007, but increased overall ex-vessel prices and landings, particularly in the General category, led to a modest total increase in ex-vessel gross revenues in 2008 through 2010. All categories have generally shown declines since 2001, with the exception of the incidental Longline category.

Before drawing conclusions on trends in gross revenues, it should be emphasized that this discussion focuses on gross revenues only, and not net revenues. Currently, only selected pelagic longline sector vessels are required to report cost-earnings data. Given the lack of cost information and the fact that pelagic longline vessels do not target BFT, it is difficult to draw conclusions concerning net revenues (or profits) to BFT fishermen, many of whom do not use pelagic longline

gear. Individual vessels may have experienced an increase in net revenue even with lower gross revenues reported for their fishing category. For example, an owner may have been forced to perform major repairs on a vessel in 2010, or could have landed fish in a month when market conditions were relatively poor. Thus, trends in gross revenues can only indicate the average trends in gross income and the effect on fishermen's net revenues if their costs remained relatively steady over the period examined. The Consolidated HMS FMP highlights the need for further social and economic studies of HMS industries and fishing communities to assist in the calculation of adequate cost information. The more frequently and thoroughly this can be conducted, the better the estimates of the current net revenues.

In a common property fishery, commercial fishermen individually act to maximize profits. Without clearly defined and enforceable property rights for fish in the sea, fishing effort levels expand until the rents (net revenue in excess of a normal return) generated by the fishery are dissipated. That is, fishermen enter the fishery until the last fisherman is just earning a normal return. This open-access equilibrium results in excess fishing effort directed at the fish stock. Stock sizes may well decline below the optimal level, and biological as well as economic overfishing may occur.

The imposition of a TAC may maintain harvest at levels below that which is sustainable by the BFT stock. If the TAC is designed to rebuild the stock and is not exceeded, the stock size increases. This increase in stock size causes catch per unit effort to increase. Total net revenues in the fishery increase and positive economic rents are generated. Without limited access, these rents will attract new entrants and the length of the fishing season will decline. In short, a race for fish or "derby" is continued. In the derby fishery, the most productive gear types will harvest the greater percentage of the TAC. For BFT, setting quotas by gear type eliminates the cross-gear race for the fish, although derby fishing conditions continue within the gear category.

Even if stocks improve as a result of restrictive quotas and rebuilding programs, derby fishery conditions continue. Society bears the costs of increased capital investment in the BFT fishery, increased idle capacity, and possibly a poorer quality product. In addition, short run supply overages in local markets can result in declines in ex-vessel price as dealers reach the limits of their storage capacity. Also, in the case of BFT which receives higher prices when marketed fresh on the Japanese market, further declines in ex-vessel prices may result because fresh inventory cannot be diverted to a frozen market without decreases in quality and price. To the extent that dealers might have to handle sudden increases in supply due to seasonal availability of BFT, processors may have to invest in refrigeration equipment to store supplies until markets can absorb the excess. After the season ends, this excess storage capacity may remain unused. Processors may also have to hire additional laborers during the season who are laid off after the landings season ends. This seasonal employment may have to be augmented by unemployment compensation and social welfare programs. However, insufficient information exists with which to estimate the magnitude of this problem.

Alternative management measures could improve net benefits in the BFT fishery. A control date was implemented on September 1, 1994, and limited access workshops were commenced to consider management regulations that create quasi-property rights in the fishery. The 1996 final rule

established freely transferable purse seine quota, in whole or in part, among the seiners. Future amendments to the Consolidated HMS FMP may consider individual transferable quotas for the General and/or Harpoon category fisheries. Even without additional limited access management in the U.S. fishery, restrictive quotas set internationally by ICCAT, as part of the ICCAT Rebuilding Program recommended in 1998, as modified, should conserve the BFT stock and allow for its recovery.

6.3 Angling and Charter Boat Revenues

NMFS has taken several steps to define and distinguish commercial, recreational, and charter/headboat fisheries. In 1992, a final rule prohibited the sale of BFT under 73 inches (57 FR 32905, July 24, 1992). A separate rulemaking (62 FR 30741, June 5, 1997) prohibited persons aboard vessels permitted in the General category from retaining BFT less than the large medium size class. Until 2002, anglers in the General category were allowed to land and sell a BFT 73 inches or above and recreationally fish on other HMS species. In fact, the large number of permit holders in the General category used to be explained by the purchase of permits by recreational anglers "in case" they landed a commercial size BFT. However, in December 2002, a final rule required recreational vessels that do not sell their catch to obtain an HMS Angling category permit (67 FR 77434, December 18, 2002). A minor exception was made in a final rule published on December 24, 2003 (68 FR 74504), which allows vessels that are permitted in the General category to participate in recreational HMS fisheries, so long as they are a participant in a registered HMS tournament, thus acknowledging their historical participation in HMS tournaments. These actions effectively separated the commercial and recreational fisheries and left the HMS Charter/Headboat category as the one permit under which both recreational and commercial HMS activities could take place, at any time, given the inherent dual nature of charter/headboat vessel operations. The same final rule that separated the commercial and recreational handgear operations in the tuna fishery also clarified and defined when HMS charter/headboat operations would be considered to be "fishing" under commercial and/or recreational regulations.

Given the prohibition on the sale of BFT under 73 inches in length, any direct income associated with the Angling category is limited to charter/headboat vessel operations. As with the commercial fishing categories, the ideal analysis would include calculation of costs and revenues to charter vessels such that producer surplus could be estimated. The economic importance of the recreational fisheries for Atlantic tunas is not limited to charter vessel producer surplus, however, nor does it necessarily depend upon the value of the landings which are sold, but rather the participants' willingness to pay for recreational fishing. These non-market values are difficult to estimate, and are collected via either direct questioning (contingent valuation) or indirect survey techniques such as the travel cost method, as a basis for estimating demand (and thus consumer surplus) for recreational fishing.

Indirect income is also an important factor in understanding the economic impact of recreational fisheries to regional economies. This type of income could include shoreside facilities, marinas, gas, and fishing tackle expenditures. The economic value of the recreational Atlantic tuna

fisheries, including non-market benefits, should thus be kept in mind when examining the gross revenue figures from other categories, despite the difficulty in attaching a dollar value to recreational fisheries.

The 1999 FMP estimated that in 1997 there were approximately 6,612 charterboat trips targeting BFT from Maine to North Carolina. Of these trips, 2,527 targeted commercial-sized BFT. A survey of daily charter rates advertised by Atlantic HMS Charter/Headboat permit holders which was included in the Consolidated HMS FMP estimated that the average rate for an all day trip in 2004 was $1,053. Assuming that the total number of trips in 2004 were the same as 1997, and applying the 2004 average to the total number of trips from 1997 results in a rough estimate of gross revenues for BFT charters in 2004 of about $7.0 million. These estimated direct revenues exceeded the total gross revenues of all other commercial BFT categories combined for 2005 through 2009 (Table 8), and could be an underestimate of revenues accruing to charterboats because some of the BFT landed are probably sold (only large mediums and giants after the 1992 rule). Additionally, tips which are typically given to the mate (about $100 per trip) are not included. The producer surplus component of the value of the recreational fishery would thus be these gross revenues minus costs incurred in providing the charterboat services. Charter/headboat cost information has not been updated since preparation of the 1999 FMP, in which variable costs were estimated at $392 per trip. Producer surplus for operations targeting BFT was estimated at $408 per trip ($800 minus $392).

According to the 1999 FMP, preliminary estimates of angler consumer surplus in the private BFT fishery were $1,132 per fishing trip. It should be emphasized that these net revenues would be only a part of the value of the recreational fishery, since angler consumer surplus is another important component as well. Angler consumer surplus is generated from charter/headboat vessel services as well as from private vessel participation in the recreational fisheries.

6.4 Bluefin Tuna Fishery Participation

A complete description of participation rates in the BFT fishery is provided in the Consolidated HMS FMP and the 2010 SAFE Report and is not repeated here. However, Table 9 provides a summary of patterns of fishing activities and Table 7 indicates the number of vessels permitted during the 2008 and 2010 fishing seasons, by category, to participate in the BFT fishery.

6.5 Bluefin Tuna Processing and Export

The Consolidated HMS FMP and the 2010 SAFE Report include a detailed discussion regarding the export, import, and re-export trade program and market for BFT. Over the last 7 years, total landings of BFT have generally declined, U.S. ex-vessel prices have fluctuated, and generally, ex-vessel gross revenues have declined. Although the proportion of BFT exported has shown a decreasing pattern since 1996, the majority of domestically harvested commercial BFT (i.e., 75 percent or greater) was exported until 2004. The reduction in amount of exports and decrease in the ex-vessel value of landings since 2003 indicates a corresponding decrease in the value of exports, although these figures are not available for only Atlantic product. According to the HMS BFT

Landings Database, approximately one half of the 510 mt of commercial BFT harvested domestically in 2009 were exported. In 2009, the United States imported approximately 362 mt of BFT harvested in the Atlantic Ocean, including the Mediterranean and Gulf of Mexico.

6.6 Expected Economic Impacts of the Alternatives

General category maximum possible daily retention limit

The economic value of effort controls are difficult to quantify and even more difficult to predict because of the unpredictable nature of fish availability and participant behavior. In addition, the economic value of effort controls may vary depending upon whether the fishery is commercial, recreational, or charter/headboat in nature. Despite the lack of quantitative economic data, particularly for recreational fisheries, effort controls are considered to be generally useful in achieving positive economic benefits for the BFT fishery.

One economic benefit of effort controls which regulate the pace of commercial fishing activity (e.g., for the General category fishery) is to maximize product price by avoiding over-supplying the market. Another benefit could result from focusing fisheries seasonally when BFT are of the best quality. Maximizing these benefits must be balanced with other economic considerations such as providing economic benefits to all regions of the fishery, and the effect of fishing expenses such as gas and dockage fees on net revenues.

For recreational fisheries, economic benefits provided by effort controls include consideration of providing the greatest number of participants with sufficient access (temporal and geographic) to the fishery without exceeding available quota. Similar to commercial fisheries, maximizing economic benefits for recreational fisheries in specific areas must be balanced with the consideration of providing economic benefits over the entire regional range of the fishery.

The economics of effort controls for charter/headboat fisheries are a hybrid of those for recreational and commercial fisheries, and include the considerations discussed above. In addition, the ability to plan is an important part of the charter/headboat business, because booking clients for charters may be affected by the ability of a charter/headboat business to advertise assurance of specific effort controls, such as open seasons and adequate retention limits in advance of the fishery. Demand for charter/headboat trips could fall without assurance of adequate retention limits.

Alternative A2 would set the General category maximum possible daily retention limit at five large medium or giant BFT per vessel. This alternative provides the potential for increased economic impacts by creating additional opportunities to harvest BFT within the General category quota. If NMFS were to take inseason action to set the General category daily retention limit at five fish per vessel, positive economic benefits would accrue. As described in Section 4.1, to the extent that the potential for two additional fish per vessel per day would allow additional landings (i.e., for vessels that may have been constrained by the current three-fish limit), there would be positive economic impacts for General and Charter/Headboat category participants. The draft EA indicated that at

$6.74/lb round weight (the average ex-vessel price for June through August 2008) and an average fish weight of 504 lb for 2008 General category landings, the estimated value of a BFT landed under the General category quota is $3,400. Using 2010 data ($7.14/lb and average weight of 379 lb), the estimated value of a BFT landed under the General category quota is $2,700. Note that these estimates may be high because price/lb values tend to be lower at the beginning of the summer relative to late summer and fall prices. Average General category monthly prices from 1998 to 2010 are shown in Table 14. The draft EA indicated that if 74 additional fish were taken under Alternative A2 over the 2008 level, the total increase in ex-vessel revenues would be approximately $250,000. Using 2010 data, ex-vessel revenues associated with a potential increase of 808 fish under Alternative A2 over the 2010 level, *if* the quota would accommodate that additional amount, would be associated with of would be approximately $2.2 million.

NMFS would maintain the ability to adjust the daily retention limit with an inseason action, if warranted, during the fishing year. Situations that may warrant an inseason adjustment of daily retention limit include slow landings rates, which could warrant an increase in order to increase gross revenues, or high landings rates which could warrant a reduction in order to prevent early closure of the fishery or market gluts.

General category season

Alternative B2 would allow the General category to remain open until the date NMFS determines that the available January subquota has been reached (or is projected to be reached) or March 31, whichever happens first. As described in Section 4.2, increases in positive socioeconomic impacts to winter fishery participants would depend on the availability of BFT to the fishery from the beginning of February until the BFT January subquota is reached (or until March 31), and on NMFS' ability to announce adjusted quotas in advance of the January fishery given ICCAT timing constraints. In the draft EA, NMFS estimated the value of the unused 5.2 mt of adjusted January 2009 subquota, using the January 2008 average price/lb of $11.20, at $128,395. The value of the unused 25.9 mt of adjusted January 2010 subquota, with a January 2010 average price/lb of $14.93 would be $852,490.

Harpoon category daily incidental retention limit

Alternative C2 would increase the daily incidental retention limit to four large medium BFT. As described in Section 4.3, increases in positive socioeconomic impacts would depend on availability of large medium BFT to the fishery. The draft EA indicated that at $6.36/lb round weight (the average ex-vessel price for Harpoon category landings in 2008) and an average fish weight of 359 lb for 2008 Harpoon category landings, the estimated value of a BFT landed under the Harpoon category quota is $2,300. If 24 additional fish were taken under Alternative C2 over the 2008 level (based on the number of trips that may have been constrained by the current maximum of two large medium BFT), the total increase in ex-vessel revenues would be approximately $55,000. Using 2010 data ($5.75/lb and a 260-lb averages), the estimated value of a BFT landed under the Harpoon category quota is $1,495. If 64 additional fish were taken under Alternative C2 over the 2010 level (based on the number of trips that may have been constrained by the current maximum of two large

medium BFT), the total increase in ex-vessel revenues would be approximately $96,000. These value and ex-vessel revenue figures are likely overestimates given that the average weight of large medium BFT would be lower than the average of BFT landed by the Harpoon category.

7.0 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 E.O. 13563 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.

7.1 Description of the Management Objectives

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

7.2 Description of the Fishery

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

7.3 Statement of the Problem

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

7.4 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.

7.5 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 under this action is expected to provide net positive economic impacts, depending on fish availability. Table 12 indicates the possible net economic benefits and costs of each alternative.

7.6 Conclusion

Under E.O. 12866, **a** regulation is a "significant regulatory action" if it is likely to: 1) 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, the environment, public health or safety, or State, local, or tribal governments or communities; 2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; 3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights, and obligation of recipients thereof; or 4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. 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 modifies existing regulations to allow increased opportunities to harvest the existing U.S. quota and General and Harpoon quotas, which have been set consistent with international and domestic law and policy and which have been underharvested in recent years. It is not expected to result in any inconsistency with other agency actions. 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 12.

8.0 FINAL REGULATORY FLEXIBILITY ANALYSIS

The Final Regulatory Flexibility Analysis (FRFA) is conducted to comply with the Regulatory Flexibility Act (5 USC 601 et. seq.) (RFA). The goal of the RFA is to minimize the economic burden of federal regulations on small entities. To that end, the RFA directs federal agencies to assess whether the proposed regulation is likely to result in significant economic impacts to a substantial number of small entities, and identify and analyze any significant alternatives to the proposed rule that accomplish the objectives of applicable statutes and minimize any significant effects on small entities. Certain data and analysis required in a FRFA are also included in other chapters of this EA. Therefore, the FRFA incorporates the economic impacts identified in the EA by reference as supporting data for this analysis.

8.1 Statement of the Need for and Objectives of this Final Rule

In compliance with section 604(a)(1) of the RFA, the purpose of this rulemaking is, consistent with the Consolidated HMS FMP objectives, the Magnuson-Stevens Act, ATCA, and other applicable law, to adjust the regulations for the BFT commercial handgear fisheries. This action is intended to enable more thorough utilization of the available U.S. BFT quota for the General and Harpoon categories; minimize bycatch and bycatch mortality to the extent practicable; expand fishing opportunities for participants in the commercial winter General category fishery; and increase NMFS' flexibility for setting the General category retention limit depending on available quota.

8.2 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 numerous comments on the proposed rule (74 FR 57128, November 4, 2009) during the comment period. A summary of these comments and the Agency's responses are included in Chapter 14 and are included in the final rule. Although NMFS did not receive comment specifically on the IRFA, NMFS received some comments expressing concern that increasing the General category daily retention limit could have negative economic consequences from oversupplying the market, which could result in lower ex-vessel prices.

8.3 Description and Estimate of the Number of Small Entities to Which the Final 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 implementation of the ICCAT-recommended baseline annual U.S. BFT quota would apply to all participants in the Atlantic BFT fisheries, all of which are

considered small entities, because they either had average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5 million for charter/party boats, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. These are the Small Business Administration (SBA) size standards for defining a small versus large business entity in this industry. As shown in Table 7, for 2008 there were 9,871 vessels permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels), with 4,721 vessels in the General category, 4,827 in the Charter/Headboat category, and 26 in the Harpoon category. For 2010, 8,052 vessels were permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels), with 3,849 vessels in the General category, 4,174 in the Charter/Headboat category, and 29 in the Harpoon category.

8.4 Description of the Projected Reporting, Record-Keeping, and other Compliance Requirements of the Final 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. The action does not contain any new collection of information, reporting, record keeping, or other compliance requirements.

8.5 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 RFA, agencies are required to describe any alternatives to the rule which accomplish the stated objectives and which minimize any significant economic impacts. These 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:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and
4. 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 establish differing compliance requirements for small entities or exempt small entities from compliance requirements. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently,

complying with the Magnuson-Stevens Act. As described below, NMFS analyzed several different alternatives in this rulemaking and provides rationale for identifying the preferred alternatives to achieve the desired objective. The FRFA assumes that each vessel within a category will have similar catch and gross revenues to show the relative impact of the action on vessels.

The alternatives considered and analyzed are described below. The IRFA indicated that in 2008, the annual gross revenues from the commercial BFT fishery were approximately $5.0 million. The commercial quota categories and their 2008 gross revenues were General ($4.0 million), Harpoon ($313,781), Purse Seine ($0), and Longline ($722,016). Using data from 2010, the year for which the most recent, complete revenue data are available, the annual gross revenues from the commercial BFT fishery were approximately $8.9 million. The commercial categories and their 2010 gross revenues are General ($7.8 million), Harpoon ($202,643), Purse Seine ($0), and Longline ($878,908).

General category maximum possible daily retention limit

Alternative A1, the status quo alternative, would maintain the current maximum possible daily retention limit of three large medium BFT. The status quo alternative could result in negative economic impacts to the extent that the daily retention limit may constrain large medium and giant BFT landings. The inability of the General category to land and sell its full allotted quota results in decreased optimum yield.

Alternative A2, an increase in the maximum possible daily retention limit to five fish per vessel, could have positive economic impacts if NMFS sets the daily retention limit to four or five fish via inseason action, due to the increased potential to land additional large medium and giant BFT rather than discarding fish in excess of the current maximum possible daily retention limit (e.g., if a fourth commercial size BFT is caught in one day). The IRFA indicated that, based on 2008 data, ex-vessel revenues per trip could increase on average by approximately $8,500 per active vessel (2 fish x the 2008 average fish weight of 500 lb x $8.44 General category ex-vessel average price/lb), depending on availability of large medium and giant BFT to the fishery. Using 2010 data, ex-vessel revenues per trip could increase on average by approximately $5,250 per active vessel (2 fish x the 2010 average fish weight of 379 lb x $6.93 General category ex-vessel average price/lb), depending on availability of large medium and giant BFT to the fishery. Allowing a higher maximum daily retention limit could also reduce the trip costs per fish landed, and thus improve profitability of trips when additional fish are available. Alternative A2 is the preferred alternative, as it would increase opportunities for General and Charter/Headboat category vessels within the General category quota, which is set consistent with ICCAT recommendations and the Consolidated HMS FMP.

Alternative A3, elimination of the maximum daily retention limit, would have positive economic impacts associated with the increased potential to land all large medium and giant BFT in excess of the current maximum daily retention limit rather than discarding them. Although this alternative would provide the most positive economic impacts, it is not preferred because of the potential negative ecological impact of a relatively large potential increase in BFT mortality, including undersized fish.

General category season

Under Alternative B1, the status quo alternative, the General category season would end on January 31 of each fishing year or when the General category January subquota is harvested, whichever happens first. Under this alternative, NMFS anticipates neutral impacts on General and Charter/Headboat category vessels.

Under both Alternative B2, as proposed, and preferred Alternative B2b, which would allow the General category to remain open until the date NMFS determines that the available January subquota has been reached (or is projected to be reached) or March 31, whichever happens first, NMFS anticipates that overall economic impacts of this alternative to the General category and Charter/Headboat BFT fishery as a whole would be neutral since the same overall amount of the General category quota would be landed and the value of the General category quota would not be changed. However, General category fishermen in the southern region (more than 1,000 vessels) would be positively affected by this alternative as it would allow increased opportunities to land and sell BFT commercially and increased utilization of existing investment in gear and equipment, especially if quota is still available for harvest after January 31.

Under Alternative B3, which would establish a January through December General category season and establish 12 equal monthly General category time periods and subquotas (of 8.3 percent each), resulting impacts would be mixed, but positive overall. Winter fishery participants would benefit from increased opportunities to harvest large medium and giant BFT, if available, during the months of February through March. General category and Charter/Headboat category participants in the New England area, or those participants that pursue BFT in the summer months, might experience some adverse economic impacts due to the shift in quota to the earlier (winter) portion of the season. However, these effects would be mitigated by the effects of the carrying forward of unharvested quota from one time period to the next. This is not the preferred alternative at this time as NMFS believes the topic of quota allocation merits further consideration and analyses.

Harpoon category daily incidental retention limit

Alternative C1, the status quo alternative, would maintain the current incidental daily retention limit of two large medium BFT. The status quo alternative could result in negative economic impacts to the extent that the incidental limit constrains large medium BFT landings. The inability of the Harpoon category to land and sell its full allotted quota results in decreased optimum yield.

Alternative C2, an increase in the incidental daily retention limit to four large medium BFT, would have positive economic impacts associated with the increased potential to land additional large medium BFT rather than discarding fish in excess of the current incidental limit (e.g., if a third large medium is caught while pursuing giant BFT). The IRFA indicated that, based on 2008 data, ex-vessel revenues per trip could increase on average by approximately $4,600 per active vessel (2 fish x the

2008 average Harpoon category fish weight of 360 lb x $6.36 Harpoon category ex-vessel average price/lb), depending on availability of large medium BFT to the fishery. Using 2010 data, ex-vessel revenues per trip could increase on average by approximately $3,000 per active vessel (2 fish x the 2010 average Harpoon category fish weight of 260 lb x $5.75 Harpoon category ex-vessel average price/lb), depending on availability of large medium BFT to the fishery. Allowing a higher daily incidental retention limit could also reduce the trip costs per fish landed, and thus improve profitability of trips when additional fish are available. Alternative C2 is the preferred alternative as it would increase opportunities for Harpoon category vessels to land the Harpoon category quota while balancing concerns regarding BFT stock health.

Alternative C3, elimination of the incidental limit, would have positive economic impacts associated with the increased potential to land all large medium BFT in excess of the current incidental limit rather than discarding them. Although this alternative would provide the most positive economic impacts, it is not preferred because of the potential negative ecological impact of a relatively large potential increase in large medium BFT mortality.

9.0 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 Chapter 9 of the Consolidated HMS FMP and updated in Chapter 6 of the 2010 SAFE Report. These communities are analyzed for social impacts in this action due to the importance of BFT fishing to the community: Gloucester, MA; New Bedford, MA; Barnegat Light and Brielle/Point Pleasant, NJ; Hatteras, NC; Wanchese, NC; and Venice and Dulac, LA.

The action is expected to increase fishing opportunities, with related potential increase in positive economic impacts, within the existing U.S. BFT quota and General and Harpoon category subquotas. Providing the alternatives for consideration allows increased public participation in the management process.

10.0 OTHER CONSIDERATIONS

10.1 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. This action is consistent with ICCAT recommendations, including Recommendation 10-03, which established a total allowable catch (in weight) and assumes that the pattern of fishing mortality (e.g., fish caught at each age) will not change dramatically. This action, which is intended to enable more thorough utilization of the available quota, would provide flexibility to affect only when and where BFT mortality occurs, and does not increase the total amount allowed to be harvested, which is limited by the ICCAT-recommended U.S. quota. Because the action is based on the results of the 2008 ICCAT recommendation and 2008 landings data, as updated by the 2010 ICCAT recommendation and 2010 landings data, it is 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).

This 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, 5, and 6 of this document. The action would minimize BFT bycatch to the extent practicable by reducing potential dead discards (NS 9). Finally, the action would not require fishermen to fish in an unsafe manner (NS 10).

10.2 Paperwork Reduction Act

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

10.3 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.

11.0 LIST OF PREPARERS

This EA/RIR/FRFA was prepared by Sarah McLaughlin, Brad McHale, Thomas Warren, Michael Clark, 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.

Highly Migratory Species Management Division
NMFS -Northeast Regional Office
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12.0 LIST OF AGENCIES AND PERSONS CONSULTED

Discussions relevant to the formulation of the preferred alternatives and the analyses for 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, 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.

13.0 REFERENCES

NMFS. 1999. Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2004. Final Supplemental Environmental Impact Statement for a Final Rule to Implement Management Measures to Reduce Bycatch and Bycatch Mortality of Atlantic Sea Turtles in the Atlantic Pelagic Longline Fishery. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2006. Final Consolidated Atlantic HMS FMP. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2008. Stock Assessment and Fishery Evaluation (SAFE) Report for Atlantic HMS Species. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2009a. Final Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis for a Final Rule to Establish Atlantic Bluefin Tuna Quota Specifications and Effort Controls for the 2009 Fishing Year. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2009b. Final Environmental Impact Statement Amendment 1 of the Consolidated HMS FMP FMP. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2010a. Supplemental Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis for the Final 2010 Atlantic Bluefin Tuna Quota Specifications. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2010b. Stock Assessment and Fishery Evaluation (SAFE) Report for Atlantic HMS Species. NOAA, NMFS, Highly Migratory Species Management Division.

NMFS. 2011. Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis of Final Atlantic Bluefin Tuna Quotas and Atlantic Tuna Fisheries Management Measures. NOAA, NMFS, Highly Migratory Species Management Division.

SCRS. 2008. Report on the Standing Committee on Research and Statistics, ICCAT Standing Committee on Research and Statistics, September 29-October 3, 2008.

SCRS. 2010. Report on the Standing Committee on Research and Statistics, ICCAT Standing Committee on Research and Statistics, October 4-October 8, 2010.

14.0 PUBLIC COMMENT AND AGENCY RESPONSES

NMFS received approximately 6,000 written comments, the majority of which were sent through a campaign by a non-governmental organization (NGO) representing environmental interests. Fifteen letters were sent by individuals or organizations (including fishing industry, fishery management council, state, and NGOs), and oral comments were received from the approximately 15 attendees of public hearings in Gloucester, Massachusetts, and Silver Spring, Maryland. NMFS considered all comments received, and below, responds to comments made on the proposed rule. Comments from multiple individuals are summarized by subject. In addition, NMFS received comments on issues that were not part of this rulemaking. These comments are summarized under "Other Issues" below.

Comment 1: The justification and rationale for an increase in the Harpoon category daily retention limit of large medium BFT is not valid (i.e., the premise that catch has consistently been under the quota is not correct). In 2009, the Harpoon category BFT landings exceeded the baseline quota, and even with the 2009 adjustment to the baseline quota, 25 mt had to be transferred from the Reserve category in August 2009 to ensure that the harpooners did not exceed their quota. We take issue with NMFS' statement that "While the recreational Angling category and the commercial Longline category have been able to fill their subquotas in recent years, the commercial handgear categories (General and Harpoon) have not." Furthermore, the 2010 quota is the lowest in nearly three decades, and starting next year, roll-over of underage will be limited to 10 percent of the baseline quota.

Response: 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. For the General and Harpoon categories, on average, recent landings have been less than either the base or adjusted quotas. Over the last three years, the General category landed an average of 77 percent of its base quota and 60 percent of its adjusted quota, while the Harpoon category landed an average of 68 percent of its base quota and 44 percent of its adjusted quota. This action provides NMFS the option to implement a wider range of daily retention limits to facilitate the harvest of the available U.S. BFT quota, if conditions warrant. Use of such flexibility through the implementation of the higher daily retention limits for the General category will be contingent upon the availability of quota and subject to the determination criteria and other relevant factors outlined in § 635.27 (a)(8). The August 28, 2009, transfer to the Harpoon category (74 FR 44298) was conducted in accordance with the criteria mentioned above.

Comment 2: The reasoning underlying the proposed rule is flawed, as evidenced by NMFS' statement that "These three effort controlling actions would affect only when and where BFT mortality occurs, and not the magnitude." The measures are intended to facilitate the utilization of the U.S. quota, and will increase BFT fishing mortality in addition to affecting the timing and location of catch, and therefore NMFS should not implement the proposed measures.

Response: NMFS has determined that, when evaluating the effect of management measures, it is important to consider the time scales as they relate to the action under consideration. Relevant scientific information, ICCAT recommendations (e.g., quotas), and the Consolidated HMS FMP are structured principally on an annual basis. Although on a particular fishing day, a vessel may catch more or fewer BFT, the maximum fishing mortality is capped by the annual quota. This rule modifies neither the annual quota, nor the fishing mortality associated with that quota. Given the variability of the location of BFT, a higher daily retention limit may enable better alignment of catch with fish availability, while not increasing overall catch.

Comment 3: Even if catch is within the ICCAT established quota, that level of catch could lead to accelerated stock declines and further compromise the rebuilding program. NMFS should end overfishing and

minimize bycatch. Limiting fishing mortality is even more important now that the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) opted not to prohibit international trade of BFT.

Response: NMFS agrees that limiting fishing mortality is important. NMFS does so within the limits of the ICCAT-recommended quota and in implementing its Magnuson-Stevens Act and ATCA obligations. The 2011 U.S. quota is consistent with the current ICCAT recommended total allowable catch, which 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). NMFS implements numerous regulatory measures and collects commercial landings data on a daily basis to ensure available quotas are not exceeded. Using its inseason management authority, NMFS will be able to monitor and make adjustments to the commercial fishery in a timely manner (close to 'real time'), as commercial data are required to be submitted within 24 hours of landing. Although BFT was not listed under CITES in 2010, international trade is highly regulated consistent with ICCAT requirements.

Comment 4: Increasing the daily retention limit could have negative economic consequences as the flood of fish on the market would likely lower the ex-vessel price of the fish.

Response: NMFS believes it is unlikely that any potentially implemented increase in the BFT daily retention limit would have significant, negative economic impacts on the ex-vessel price. The price for BFT exported to Japan is dependent on a number of factors, including: quality, size, and global supply of BFT at the time. Increased revenues would depend on availability of large medium and giant BFT to the fishery, as well as the daily retention limit set by NMFS through inseason action. In 2010, 404 trips (20 percent of successful trips) landed three large medium or giant BFT. If each of these 404 trips landed five large medium or giant BFT instead of three, a total of 808 additional fish would have been landed (over the course of the fishing year under a limit of five fish). If the General category retention limit were increased to five for any portion of the fishing year, this action also could have positive socioeconomic impacts by allowing vessels to extend their range while remaining profitable.

Comment 5: The General category should not have a retention limit. NMFS should implement Alternative A3 (elimination of the maximum daily retention limit).

Response: Retention limits for the General category are necessary to ensure that the General category landings do not exceed their allocated proportion of the U.S. quota established in the Consolidated HMS FMP. Furthermore, retention limits allow NMFS to distribute fishing opportunities both temporally and geographically, thereby ensuring fishing in one area does not preclude opportunities in other areas..

Comment 6: Increasing the General category trip limit to five large medium or giants would allow vessels capable of fishing further offshore to take advantage of the opportunity to do so if market conditions and weather permit. The increase in maximum daily retention limit should allow additional flexibility and a more reasonable opportunity for the General category to catch its share of the U.S. quota. NMFS should also increase the daily retention of large medium BFT in the Harpoon category to four per vessel.

Response: NMFS agrees. This action is intended to enable more thorough utilization of the available U.S. BFT quota for the General and Harpoon categories, minimize bycatch and bycatch mortality to the extent practicable, expand fishing opportunities for participants in the commercial winter General category fishery, and increase NMFS' flexibility for setting the General category retention limit depending on available quota.

Comment 7: The North Carolina Division of Marine Fisheries supports the proposed action to allow full access to the January subquota. The BFT fishery is very important to coastal North Carolina fishing communities during the winter months.

Response: The Agency is aware of the importance of the winter BFT fishery. NMFS agrees that enhanced access to the January subquota is warranted. Increasing access to the January subquota through March 31 will allow additional opportunities to harvest the available January subquota, reduce the potential for late spring gear conflict between fishery participants, and mitigate the potential impacts of any additional fishing effort during months previously unfished. This measure will provide participants in this region with an interest in harvesting BFT a reasonable opportunity to harvest the available quota consistent with the goals of the Consolidated HMS FMP.

Comment 8: NMFS should establish equal monthly General category time periods and subquotas (Alternative B3) rather than increasing the maximum retention limit to 5 fish (Alternative A2). The expanded seasonal opportunities of Alternative B3 far outweigh the benefits of high retention limits that often result in lower product quality and shorter seasons. Fishermen from all states would be equal and capable of traveling to wherever the BFT are. Alternative B3 does not discriminate between residents of different states, is fair and equitable to all such fishermen, is reasonably calculated to promote conservation, and does not allow any individuals, entities, or states to acquire an excessive share of BFT fishing privileges, as required by the Magnuson-Stevens Act.

Response: Alternative B3 (dividing the General category allocations equally between months) was not selected because the potential negative social and economic impacts outweigh the positive impacts and because NMFS believes the topic of quota allocation merits further consideration and analyses. The negative aspects of this alternative are the potential for gear conflicts and a derby fishery, as well as the potential for the historical geographic distribution of the fishery to be dramatically altered. Although this alternative would provide some stability to the fishery by establishing a known amount of quota that would be available at the first of each month, if catch rates are high in the early portion of the month, these quotas could be harvested rapidly and may lead to derby style fisheries on the first of each month. The preferred alternative (B2b) provides additional fishing opportunities within available quotas while acknowledging the traditional fishery. Current regulations do not preclude General category vessels from traveling from one area to another.

Comment 9: The characteristics of BFT foraging aggregations make them susceptible to high levels of fishing mortality. In some instances, the majority of an entire cohort can be taken in a spatially and temporally discrete region and period, respectively. A large number of General category vessels with an increased limit in the middle of a large and aggressively feeding group of BFT could result in near elimination of that group, potentially having widespread age and/or genetic impacts on the stock.

Response: NMFS manages the General category BFT fishery principally through the overall General category quota and time period subquotas. Assuming there is no significant change in the selectivity of the fishery, the action would be consistent with ICCAT recommendations and stock assessments.

Comment 10: Although allowing the General category January subquota to be fished through May 31 will likely extend the season by a month or less, based on recent mortality information and available quota, concerns remain that this action would infringe on the de facto time-area closure that currently exists from February 1 through May 31. The majority of fish available to the fishery during this period are off the coast of the mid-Atlantic, and recent research has shown that these fish are primarily adolescents, interspersed with mature western BFT on their way to the Gulf of Mexico to breed. This aggregation therefore has a high reproductive value because the fish are within a year or two of spawning, or even more importantly, are in the middle of their migration to the spawning ground, and warrant heightened protection. As immigration of eastern BFT has decreased due to overfishing in the Mediterranean Sea, there has likely been a shift in frequency of the mid-Atlantic aggregation towards more fish of western origin. Increasing mortality in the region would therefore counter rebuilding of the western population.

Response: NMFS agrees with the commenter that the action likely would lengthen the General category season by only a few weeks. The duration of the actual extension would depend on weather conditions and availability of large medium and giant BFT to the fishery during the winter months. NMFS has taken this comment into consideration and has modified the duration of access to the January subquota to March 31. As indicated above, this is expected to mitigate any potential impacts of any additional fishing effort during months previously unfished, as well as reduce the potential for late spring gear conflict between fishery.

Other Issues

NMFS received comments on the issues outlined under the six subheadings below. These suggestions are beyond the scope of this rulemaking. However, NMFS is undertaking a comprehensive review of BFT management to determine whether existing management measures need to be adjusted more broadly to meet the multiple goals for the BFT fishery and these issues may be considered through future actions.

(1) Reduction of minimum size

NMFS should consider lowering the minimum fish size to 65 inches for the General and Harpoon categories. Lowering of the minimum size could be achieved in a resource neutral fashion with a modest transfer/sacrifice (possibly temporary, possibly permanent) of giant BFT quota to the medium category. It would still leave the United States with the largest minimum size of any ICCAT Contracting Party. Another commenter noted that the majority of available fish are currently 65 to 73 inches (curved fork length) and suggested that management should be modified to reflect this availability of smaller fish.

(2) Modification of pelagic longline trip limits

NMFS should have increased the incidental pelagic longline trip limits to a maximum of five fish with a directed catch of 12,000 lb. As interactions with BFT increase over the next several years, NMFS needs a plan for dealing with increased interactions in light of efforts to revitalize the pelagic longline fishery for swordfish.

(3) Modification of permit category restrictions and quota use

NMFS should allow vessels in the General and Charter Headboat categories the opportunity to participate in both the Angling category and General category on the same trip or fishing day. The conservative U.S. quotas protect the resource and providing maximum opportunities to catch these quotas is the mandate of the Magnuson-Stevens Act and ATCA. NMFS also received comment that because of the current inactivity of at least two of the purse seine vessels, the associated purse seine quota should be used to account for pelagic longline discards and NMFS should allow increased incidental landings of BFT by longlines. NMFS should authorize the use of harpoon gear by Charter/Headboat category vessels when they do not have paying passengers onboard.

(4) General category season

NMFS should reopen the General category fishery in May instead of June.

(5) Elimination or curtailment of the BFT fishery

NMFS received comment that the entire BFT fishery should be closed, that pelagic longlining in the Gulf of Mexico should be prohibited at all times, or that pelagic longlining in the Gulf of Mexico should be prohibited during the spawning period (last week of April through first week of June), or from March to

September.

(6) Validity of current quota

NMFS received comment that evaluation of the proposed measures with respect to the current quotas would result in an incorrect conclusion, due to an underlying concern that the current quota is not valid, due to a retrospective pattern in the stock assessment. Specifically, the comment states that if the United States had been catching its quota in recent years, the western BFT biomass would be approximately 30 percent lower than its already depleted current level. It follows that this rule could lead to accelerated declines and compromise the ICCAT rebuilding program even more than it has already been compromised.

15.0 FINDING OF NO SIGNIFICANT IMPACT

Rule to Adjust the Atlantic bluefin tuna (BFT) General and Harpoon category regulations.

National Marine Fisheries Service

The Highly Migratory Species (HMS) Management Division of the Office of Sustainable Fisheries submits this Environmental Assessment (EA) for Secretarial review under the procedures of the Magnuson-Stevens Fishery Conservation and Management Act. This EA considers information contained in the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and the 2011 Fishing Year BFT Quota Specifications and Effort Controls EA, particularly with regard to the impacts of domestic quotas and subquotas implemented under the ICCAT BFT Rebuilding Program and of handgear (i.e., rod and reel, handline, harpoon, and bandit gear) on the BFT fishery, non-target and protected species, and the physical and human environment. All of that information is herein incorporated by reference, and the EA is consistent with the analyses and conclusions contained in those documents. The EA was developed as an integrated document that includes a Regulatory Impact Review (RIR) and Final Regulatory Flexibility Analysis (FRFA). 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/RIR/FRFA 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:
(1) Increase the Atlantic bluefin tuna (BFT) General category maximum daily retention limit from three to five BFT measuring 73 inches or greater;
(2) Allow the BFT General category season to remain open until the January subquota is reached or March 31 (whichever happens first); and
(3) Increase the Harpoon category daily incidental retention limit of large medium BFT (measuring 73 to less than 81 inches) from two fish to four fish.

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 proposed 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. Fishing patterns and behavior are not expected to change significantly as a result of this action.

In order to enable more thorough utilization of the available U.S. quota, which was established consistent with ICCAT recommendations, including the recommendation by ICCAT concerning the western Atlantic BFT rebuilding program (ICCAT Recommendation 10-03), NMFS would increase the maximum daily retention limits for the General category; allow the BFT General category season to remain open until the January subquota is reached or March 31 (whichever happens first), and increase the daily incidental limit for the Harpoon category. However, these three effort controlling actions would affect only when and where BFT mortality occurs, and not increase the magnitude of mortality overall beyond the level that has been defined by finite quotas and fish size limits established through ICCAT recommendations, including ICCAT Recommendation 10-03, which was made after consideration of scientific and statistical information, including the 2010 BFT stock assessment. 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 scenarios, it is not expected to jeopardize the sustainability of BFT. The projected BFT rebuilding program is based on total allowable catch (in weight) and assumes that the pattern of fishing mortality (e.g., fish caught at each age) will not change dramatically. As long as the U.S. quota is not exceeded and there is no significant change in the selectivity of the fisheries, the actions would not be expected to impact the rebuilding program.

Other than prohibiting directed fishing in the Gulf of Mexico, time period subquotas are used in the General category to regulate effort, which helps achieve optimum yield by considering the social and economic interests of the participants, but are not needed or used for biological reasons. The limited nature of these actions is therefore unlikely to have any differential impacts on the life history or overall biological distribution of the western Atlantic BFT stock. Generally, it is possible that if too many effort controls are implemented, effort may shift to other species or the pace of the fishery could be slowed. Alternatively, if not enough effort controls are implemented, category quotas could be reached rapidly and these fisheries would close prematurely. Fishermen may then turn to other stocks to target, particularly other HMS species, with corresponding impacts to other elements of the ecosystem. Neither of these scenarios is expected to result from action, because the changes are moderate in nature and can be adjusted during the BFT season by inseason action, which fall within the scope of the Consolidated HMS FMP Environmental Impact Statement, to avoid jeopardizing the sustainability of the BFT resource.

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

No. The action is not expected to jeopardize the sustainability of any non-target fish species. Primary non-target fish species caught by vessels targeting BFT include yellowfin tuna, bigeye tuna, and other large pelagic species. Impacts of handgear used to fish for Atlantic tunas under the Atlantic Tunas General category and Harpoon categories are described in full in the Consolidated HMS FMP (NMFS, 2006). The primary fishing gears used to target BFT in the General category (i.e., rod and reel and handline) allow for the live release of non-target species to a great degree. Harpoon gear (the only gear used on Harpoon category permitted vessels and a gear used by a small proportion of General category vessels) is selective gear that is used to capture only one large pelagic fish (primarily BFT but also swordfish) at a time. Bycatch and bycatch mortality of commercial handgear is considered to be low, particularly for harpoons, which are thrown individually at a fish, determined by the fisherman to be greater than the minimum commercial size.

Handgear 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. The BiOp indicated that turtles have been known to be captured in rod-and-reel fisheries at relatively

low rates and that since potential for take in other HMS fisheries is low, NMFS anticipates that continued operation of additional HMS fisheries (*i.e.,* tuna purse seine, harpoon/hand gear fisheries, hook-and-line, *etc.*) will result in documented takes of no more than three sea turtles, of any species, in combination, per calendar year. NMFS does not consider such level of interaction to jeopardize the sustainability of sea turtles.

NMFS has already implemented rebuilding plans, as appropriate, and fishing controls for non-target species. Goals of the Consolidated HMS FMP 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 Consolidated HMS FMP). Section 3.4 of this document and Chapter 7 of the 2010 SAFE Report lists the 22 marine mammal species, including six endangered whale species, that are or could be of concern with respect to potential interactions with HMS fisheries. The response to Question 5, below, summarizes the finding that marine mammals and ESA-listed species' sustainability would not be jeopardized by the action.

Although, this action would increase opportunities to harvest established fishing quotas, it is not expected to significantly alter fishing patterns and/or behavior, and therefore should not have adverse impacts on non-target species beyond those considered in the 2001 BiOp (regarding turtle mortality) and in the Consolidated HMS FMP. In the last several few years, commercial effort greatly declined because of decreased availability of BFT from 2004 through 2008 and other factors.

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. This action is not expected to change BFT fishing patterns or impacts on EFH significantly, or to allow substantial damage to ocean and coastal habitats and/or EFH. The primary fishing gears used in the General and Harpoon categories (hook and line and harpoon) are pelagic in nature and have little impact on coastal resources or bottom substrate. As discussed in Chapter 10 of the Consolidated HMS FMP, 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. The action would not require fishermen to fish in an unsafe manner. The action would provide the potential for handgear fishermen to retain a small amount of additional fish per day. Fishing practices (i.e., how fishermen deploy their handgear) or behavior would not change significantly, although the amount of fishing effort may increase slightly as a result of this action. The action also has the potential to make fishing trips more efficient (i.e., allow vessels to attain a given level of landings in a fewer number of trips). Because the proposed action would not change the current fishery practices, no significant effects to public health and safety are anticipated from its implementation action.

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

No. As summarized in Question 2, the 2001 BiOp concluded that handgear fisheries actions, were not likely to jeopardize the continued existence of endangered or threatened species, including sea turtles (and would be expected to result in documented takes of no more than three sea turtles, of any species, in combination, per calendar year). There has been no reason since 2001 for NMFS to reinitiate consultation on Atlantic HMS handgear fisheries. The data and assumptions considered in the 2001 BiOp remain valid.

Relative to the status quo, a slight increase in overall effort is likely. However, relative to the effort level at the time of the 2001 consultation, fishery participation is lower due to the recent pattern of reduced availability of commercial sized BFT to the fishery. Generally, increases in effort have the potential to increase interactions and have adverse impacts on non-target species. However, the measures in this action are not expected to significantly alter current fishing practices or bycatch mortality rates, and therefore should not have adverse impacts on protected species, or have any further impacts on endangered species, marine mammals, or critical habitat beyond those considered in the 2001 BiOp and analyzed in the Consolidated HMS FMP.

6. Can the final 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 positive socioeconomic impacts for vessel owners and operators due to the increase in fishing opportunities relative to the status quo (i.e., via the potential to retain and sell additional fish per day) although actual impacts are not likely to be significant and will depend on BFT availability to the fishing gears. In the long-term (i.e., over the course of years), positive social and economic impacts can be expected as the fishery rebuilds. See Section 6 of the EA 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 action is expected to increase opportunities for vessels to reach the established General and Harpoon category quotas. It affects only when and where the harvest occurs, and does not increase the total amount allowed to be harvested, which is defined by the finite U.S. BFT quota and subquotas and other regulations such as minimum fish size. The regulations regarding the General category January subquota and the General and Harpoon category daily retention limit have been in place for several years, and NMFS does not consider the changes in this action to represent a substantial change from the existing regulations.

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. The actions considered here modify existing daily retention limit and season regulations established in the Consolidated HMS FMP and/or implemented in recent years and allow for a modest increase in fishing opportunities. The effects of the action are not likely to be highly uncertain or involve unique or unknown risks because the effects of BFT fisheries affected by this action are well known and have been monitored for years. Regulations have been established to control harvest levels and collect landings information which aids in monitoring.

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

There are no significant cumulative impacts associated with this action in combination with other past, present, or reasonable foreseeable future actions. This action would provide for increased fishing opportunities within the existing U.S. BFT quota, and specifically the General and Harpoon category subquotas, which NMFS establishes annually consistent ICCAT recommendations and the Consolidated HMS FMP.

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 requirement for weak use by pelagic longline vessels in the Gulf of Mexico), and the 2011 BFT quota rule have been consistent with ICCAT recommendations and the Consolidated HMS FMP. Any future domestic actions taken in regard to the BFT fishery would remain within the scope of ICCAT recommendations and the Consolidated HMS FMP. Likewise, all actions in this rule are consistent with those proposed and consulted over in previous Biological Opinions issued under the Endangered Species Act.

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 would not 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 provide for increased fishing opportunities within the existing U.S. BFT quota. The action does not involve ballast water exchange or travel between ecologically different bodies of water.

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. The action is intended to enable more thorough utilization of the available U.S. BFT quota for the General and Harpoon categories; minimize bycatch and bycatch mortality to the extent practicable; expand fishing opportunities for participants in the commercial winter General category fishery; and increase NMFS' flexibility for setting the General category retention limit depending on available quota. NMFS considers these decisions limited in nature and unlikely to set precedent or represent a decision in principle about future considerations. This action does not obligate the agency to take similar or related actions in the future or otherwise influence or preclude future decisions.

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, the Atlantic Tunas Convention Act, and the regulations at 50 CFR 635, and is not expected to violate any Federal, state, or local law or requirement imposed for the protection of the environment. NMFS determined that the action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states and U.S. territories on the Atlantic including the Gulf of Mexico and the Caribbean Sea. This determination was submitted on November 4, 2009, for review by the responsible state agencies under Section 307 of the CZMA. The following states have concurred with the consistency determination: New Hampshire, Rhode Island, Connecticut, New Jersey, Delaware, Virginia, North Carolina, Georgia, Florida, Alabama, and Mississippi. The remaining states and U.S. territories did not respond; therefore, consistency is inferred.

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 allow for a limited increase in fishing opportunities within the existing General and Harpoon category subquotas and other regulations. It would be consistent with ongoing implementation of ICCAT's rebuilding program for western Atlantic BFT and the objectives of the Consolidated HMS FMP as analyzed in the Consolidated HMS FMP FEIS. The 2010 ICCAT recommendation was made after consideration of scientific and statistical information, including the 2010 BFT stock assessment, and to guide cumulative future management actions of member countries. A slight increase in fishing effort may occur relative to recent fishing years, but changes in current fishing practices are not anticipated. Handgear such as rod and reel, handline, and harpoon are efficient gears with low bycatch rates and have been used for years in Atlantic tuna fisheries. Fishermen would continue to be bound by subquotas and regulations such as size limits.

DETERMINATION

In view of the information presented in this document and the analysis contained in the attached EA prepared for a Rule to Adjust the Atlantic Bluefin Tuna General and Harpoon Category Regulations (and in the FEIS for the Consolidated HMS FMP), 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.

FOR Alan D. Risenhoover
Director, Office of Sustainable Fisheries, NOAA

11/08/11
Date

16.0 TABLES AND FIGURES

Table 1. Atlantic Bluefin Tuna Final Quota Specifications (in metric tons) for the 2009 Fishing Year (January 1-December 31, 2009)

Category (% share of baseline quota)	Baseline Allocation	Dead Discard Deduction	Adjustment to Baseline Quota[1]	Final 2009 Fishing Year Quota
Angling (19.7)	199.0 SUBQUOTAS: School 103.5 Reserve 19.1 North 39.8 South 44.5 Lg. Sch/Sm. Med 90.9 North 42.9 South 48.0 Trophy 4.6 North 1.5 South 3.1		61.6	260.6 SUBQUOTAS: School 103.5 Reserve 19.1 North 39.8 South 44.5 Lg. Sch/Sm. Med 151.1 North 71.3 South 79.8 Trophy 6.0 North 2.0 South 4.0
General (47.1)	Total: 475.7 SUBQUOTAS: Jan 25.2 Jun-Aug 237.8 Sept 126.1 Oct-Nov 61.8 Dec 24.7		147.4	623.1 SUBQUOTAS: Jan 33.0 Jun-Aug 311.5 Sept 165.1 Oct-Nov 81.0 Dec 32.4
Harpoon (3.9)	39.4		12.2	51.6
Purse Seine (18.6)	187.8		58.2	246.0
Longline (8.1)	81.8 SUBQUOTAS: North (-NED) 32.7 NED 25.0[3] South 49.1	-90.0	82.5[2]	74.3 SUBQUOTAS: North (-NED) 29.7 NED 25.0[3] South 44.6
Trap (0.1)	1.0		0.3	1.3
Reserve (2.5)	25.2		155.2[4]	180.4
Total (100)[5]	1,009.9	-90.0	517.5	1,437.4

(1) The distribution of 517.5 mt of underharvest (per ICCAT recommendation) to the quota categories is consistent with Consolidated HMS FMP allocations, after considerations as calculated below for the Longline category and the Reserve.
(2) Adjustment to Longline category quota is intended to provide sufficient quota for the 2009 fishing year.
Longline category quota=81.8-90.0+82.5=74.3. Dead discard deduction consistent with § 635.27(a)(10).
(3) 25 mt to account for bycatch of BFT in directed longline fisheries in the NED. Not included in total baseline allocation, which is allocated according to the category percentages contained in the Consolidated HMS FMP.
(4) Allocation of 15 percent of the U.S. quota (155.2 mt) to the Reserve for potential ICCAT transfer and other domestic management objectives.
(5) Totals are subject to rounding error.

Table 2. Atlantic bluefin tuna final quota specifications (in metric tons) for the 2010 fishing year (January 1-December 31, 2010)

Category (% share of baseline quota)	Baseline Allocation	Dead Discard Deduction	Adjustment to Baseline Quota[1]	Final 2010 Fishing Year Quota
Angling (19.7)	187.6 SUBQUOTAS: School 97.7 Reserve 18.1 North 37.6 South 42.1 Lg. Sch/Sm. Med 85.6 North 40.4 South 45.2 Trophy 4.3 North 1.4 South 2.9		37.8	225.4 SUBQUOTAS: School 97.7 Reserve 18.1 North 37.6 South 42.1 Lg. Sch/Sm. Med 122.5 North 57.8 South 64.7 Trophy 5.2 North 1.7 South 3.5
General (47.1)	Total: 448.6 SUBQUOTAS: Jan 23.8 Jun-Aug 224.3 Sept 118.9 Oct-Nov 58.3 Dec 23.3		90.3	538.9 SUBQUOTAS: Jan 28.6 Jun-Aug 269.4 Sept 142.8 Oct-Nov 70.1 Dec 28.0
Harpoon (3.9)	37.1		7.5	44.6
Purse Seine (18.6)	177.2		35.6	212.8
Longline (8.1)	77.1 SUBQUOTAS: North (-NED) 30.9 NED 25.0[3] South 46.2	-172.8	170.7[2]	75.0 SUBQUOTAS: North (-NED) 30.0 NED 25.0[3] South 45.0
Trap (0.1)	1.0		0.2	1.1
Reserve (2.5)	23.8		46.5[4]	70.3
Total (100)[5]	952.4	-172.8	388.6	1,168.2

(1) The distribution of 388.6 mt of underharvest (per ICCAT recommendation) to the quota categories is consistent with Consolidated HMS FMP allocations, after considerations as calculated below for the Longline category and the Reserve.
(2) Adjustment to Longline category quota is intended to provide sufficient quota for the 2010 fishing year. Longline category quota=77.1-172.8+170.7=75 mt. Dead discard deduction consistent with § 635.27(a)(10).
(3) 25 mt to account for bycatch of BFT in pelagic longline fisheries in the NED. Not included in total baseline allocation, which is allocated according to the category percentages contained in the Consolidated HMS FMP.
(4) Allocation of 46.5 mt to the Reserve for potential ICCAT transfer and other domestic management objectives.
(5) Totals are subject to rounding error.

Table 3. Atlantic bluefin tuna quotas and quota specifications (in metric tons) for the 2011 fishing year (January 1-December 31, 2011).

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

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

Table 4. Atlantic Bluefin Tuna Adjusted Quotas and Landings (metric tons) by Category for the 2008 through 2010 Fishing Years (January 1- December 31).

Category	2008			2009			2010		
	Base Quota	Adjusted Quota	Landings	Base Quota	Adjusted Quota[1]	Landings	Base Quota	Adjusted Quota[2]	Landings
General	548.8	740	235.3	475.7	623.1	326.5	448.6	538.9	528.3
Harpoon	45.4	61.2	22	39.4	76.6	41.4	37.1	44.6	18.4
Longline (includes NED)	119.4	81.7	75	106.8	99.3	130.6	102.1	100	88.5
Trap	1.2	1.6	0.3	1	1.3	0.0	1	1.1	0.0
Purse Seine	216.7	292.2	0	187.8	246.0	11.4	177.2	212.8	0.0
Angling	229.5	309.5	437.6	199	260.6	565.9	187.6	225.4	178.5
Reserve	29.1	207.6	0	25.2	155.4	0	23.8	70.3	0.0
Total	**1,190.1**	**1,693.9**	**770.2**	**1,034.9**	**1,462.3**	**1,075.8**	**977.4**	**1,193.1**	**813.7**

1 Includes transfer of 25 mt from the Reserve category to the Harpoon category in 2009 (74 FR 44298, August 28, 2009)
2 Includes transfer of 1.7 mt from the Reserve category to the Angling category northern area trophy subcategory in 2010 (75 FR 44451, June 14, 2010).

Table 5. Percentage of Baseline and Adjusted BFT Quota Harvested by the General and Harpoon Categories, 2008-2010.

	2008		2009		2010	
	Base	Adjusted	Base	Adjusted	Base	Adjusted
General	43%	31%	69%	52%	118%	98%
Harpoon	48%	36%	105%	54%	50%	41%

Table 6: Comparison of Impacts of Alternatives

Alternative	Ecological Impacts on BFT	Ecological Impacts on other fish species	Protected Species	Economic Impacts	Social Impacts	Administrative/ Legal/EJ/CZMA Considerations
Issue 1: GENERAL CATEGORY MAXIMUM DAILY RETENTION LIMIT						
A1. No Action. Maintain maximum daily retention limit of three large medium or giant BFT.	Neutral to slightly negative. No significant change in fishing patterns or increase in effort but anticipated increased dead discards of large medium BFT due to the growing relative abundance of this size class.	Neutral. No significant change in fishing patterns or increase in effort	Neutral. No significant change in fishing patterns or increase in effort	Neutral. Continued unused quota.	Neutral. No changes in the fishery are expected.	
A2. Increase maximum daily retention limit to five large medium or giant BFT **(PREFERRED)**	Neutral to slightly negative. BFT fishing effort and mortality may increase slightly.	Slightly negative. Increases in BFT effort may increase bycatch mortality, but gear is highly selective.	Slightly negative. Increases in BFT effort may increase protect species interactions, but gear is highly selective.	Positive. Would allow greater access to BFT and turn some discards into landings. Revenue increase would depend on BFT availability to the fishery.	Positive. Would allow greater access to BFT and turn some discards into landings.	Daily retention limit can be increased or decreased using inseason action(s), if necessary.
A3. Eliminate maximum daily retention limit for large medium and giant BFT.	Negative. BFT fishing effort and mortality may increase	Slightly negative. Increases in BFT effort may increase bycatch mortality, but gear is highly selective.	Slightly negative. Increases in BFT effort may increase protect species interactions, but gear is highly selective.	More positive than A2. Would allow greater access to BFT and turn discards into landings. Revenue increase would depend on BFT availability to the fishery.	More positive than A2. Would allow greater access to BFT and turn discards into landings.	Would provide NMFS greatest flexibility in setting daily retention limit. Daily retention limit can be increased or decreased using inseason action(s), if necessary.
A4. Allow daily retention limit to apply for each day of a multi-day trip.	Not analyzed	Not analyzed	Not analyzed	Not analyzed	Not analyzed	Not analyzed

Alternative	Ecological Impacts on BFT	Ecological Impacts on other fish species	Protected Species	Economic Impacts	Social Impacts	Administrative/ Legal/EJ/CZMA Considerations
Issue 2: GENERAL CATEGORY SEASON						
B1. No Action: Maintain current General category season.	Neutral. No significant change in fishing patterns or increase in effort.	Neutral. No significant change in fishing patterns or increase in effort.	Neutral. No significant change in fishing patterns or increase in effort.	Neutral. Continued unused quota.	Neutral. No changes in the fishery are expected.	
B2. Leave the General category open until the January subquota is determined to be fully harvested.	Neutral. BFT mortality levels would stay consistent with levels used in the stock assessment.	Neutral. Slight to moderate changes (spatial and temporal) in BFT effort may increase bycatch mortality, but gear is highly selective.	Neutral. Slight changes (spatial and temporal) in BFT effort may increase protected species interactions, but gear is highly selective.	More positive than B1 (could increase gross revenues), particularly for winter fishery participants.	More positive than B1 because of economic impacts, particularly for winter fishery participants.	
B2b. Leave the General category open until the January subquota is determined to be fully harvested, or March 31, whichever happens first. **(PREFERRED)**	Neutral. BFT mortality levels would stay consistent with levels used in the stock assessment. However, potentially less impact than B2 as B2b reduces the amount of time the General category would potentially remain open by 2 months.	Neutral. Slight to moderate changes (spatial and temporal) in BFT effort may increase bycatch mortality, but gear is highly selective. However, potentially less impact than B2 as B2b reduces the amount of time the General category would potentially remain open by 2 months.	Neutral. Slight changes (spatial and temporal) in BFT effort may increase protected species interactions, but gear is highly selective. However, potentially less impact than B2 as B2b reduces the amount of time the General category would potentially remain open by 2 months.	More positive than B1 (could increase gross revenues), particularly for winter fishery participants.	More positive than B1 because of economic impacts, particularly for winter fishery participants.	
B3. Establish a year-round General category season and equal monthly subquotas.	Neutral. BFT mortality levels would stay consistent with levels used in the stock assessment.	Neutral. Changes (spatial and temporal) in BFT effort may increase bycatch mortality, but gear is highly selective	Neutral. Changes (spatial and temporal) in BFT effort may increase protected species interactions, but gear is highly selective	Mixed. More positive than B2 for winter fishery participants (most likely to increase gross revenues). Negative for northern area participants (most likely to decreased gross revenues), but mitigated by unused quota rolling forward to later periods of fishing year.	Mixed. More positive than B1 for winter participants because of economic impacts. Negative for northern area participants because of economic impacts. Positive in that would provide some stability to the constituency by establishing a known amount of quota that would be available at the first of each month.	Merits further consideration and analysis, particularly regarding quota reallocation.

Alternative	Ecological Impacts on BFT	Ecological Impacts on other fish species	Protected Species	Economic Impacts	Social Impacts	Administrative/ Legal/EJ/CZMA Considerations
Issue 3: HARPOON CATEGORY DAILY INCIDENTAL RETENTION LIMIT						
C1. No Action: Maintain current Harpoon category daily incidental retention limit of two large medium BFT.	Neutral to negative, depending on availability of large medium BFT to fishery.	Neutral.	Neutral.	Neutral. No changes in revenues are expected.		
C2. Increase the Harpoon category daily incidental retention limit to four large medium BFT. **(PREFERRED)**	Neutral if convert discards to landings. Slightly negative due to potential increase in bycatch mortality of small medium BFT and BFT in excess of incidental limit.	Minimal. Gear highly selective.	Neutral.	Generally positive (could increase gross revenues).	Positive because of economic impacts. Negative socioeconomic impacts could result for few vessels that may not participate early in the Harpoon category season, particularly if NMFS needs to close fishery prior to November 15.	
C3. Eliminate the Harpoon category daily incidental retention limit.	More negative than C2 due to increased mortality of large medium BFT and potential bycatch mortality of small medium BFT.	Minimal. Gear highly selective.	Neutral.	More positive than C2.	More positive than C2.. Negative socioeconomic impacts could result for few vessels that may not participate early in the Harpoon category season particularly if NMFS needs to close fishery prior to November 15.	

Table 7: 2008 and 2010 Atlantic HMS and Atlantic tunas permits.

Category	Number of Permits	
	2008*	2010
General	4,721	3,849
Harpoon	26	29
Purse Seine	5	5
Incidental Longline/Trap	292	248
HMS Angling (Recreational)	32,938	24,479
HMS Charter/Headboat	4,827	4,174
Total	42,809	32,790

*Due to the change to a calendar year fishing year that started on January 1, 2008, permits issued for the 2007 fishing year (June 1 –December 31, 2007) were effective through December 31, 2008.

Data Source: Atlantic HMS/Tunas Permit Database. 2010 permits presented as of October 2010.

Table 8: BFT landings (metric tons) by year and category, 1998 through 2010.

Category	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
General	706	714	725	933	898	595	344	234	160	122	235	327	528
Harpoon	60	59	53	68	41	53	30	23	22	12	22	41	18
Purse Seine	248	247	275	196	208	265	32	178	4	28	0	11	0
Longline North & NED	23	17	12	8	8	25	34	29	28	26	33	77	45
Longline South	24	51	51	28	48	69	58	28	38	9	42	54	44
Trap	1	0	0	0	0	0	0	0	0	0	0.3	0	0
Angling	184	100	50	241	619	392	355	199	187	507	438	566	179
Total	**1,246**	**1,188**	**1,166**	**1,484**	**1,822**	**1,399**	**853**	**691**	**439**	**704**	**773**	**1,076**	**814**

The BFT fishery was managed on a fishing year basis (June through May) versus a calendar year basis (January through December) starting with the implementation of the 1999 FMP in 2000 until January 2008, when management reverted to a calendar year basis. Landings are presented on a calendar year (versus fishing year) basis for 1998 through 1999, and for 2008 through 2010. The 2007 fishing year was June 1, 2007-December 31, 2007.

Commercial landings information is from the NERO dealer report database.
Recreational landings information is from Large Pelagics Survey estimates, NC catch card data, and the NMFS Automated Landings Reporting System.
Totals are subject to rounding error.

Table 9. Summary of patterns of fishing activities directed at BFT in the United States

Gear	**Area**	**Size of fish**	***Season***
Handline, Harpoon, and Rod and Reel	Cape Cod Bay and Gulf of Maine	Giant	*June-November*
		Medium	*August-October*
		School	*Summer (unpredictable)*
	Cape Lookout to Cape Cod	School	*June-October*
		Medium	*June-October*
		Large Medium and Giant	*December-March*
	Gulf of Mexico	Giant	*January-June*
Purse Seine	Cape Hatteras to Cape Cod	Large Medium and Giant	*July-October*
	Cape Cod Bay	Large Medium and Giant	*July-October*

Table 10: Ex-vessel average price (per lb, round weight) for BFT by commercial fishing category, 1998-2010

Category	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
General	5.01	6.53	8.62	6.78	6.12	5.17	6.77	7.40	7.60	7.82	8.44	7.60	6.93
Harpoon	5.70	8.57	6.42	6.57	5.97	5.88	6.04	5.51	5.45	5.98	6.36	5.50	5.75
Incidental (Longline/Trap)	4.85	5.15	5.36	5.08	4.40	4.52	4.27	3.80	4.84	4.98	4.78	4.48	4.96
Purse Seine	5.78	6.36	6.58	6.17	5.79	4.01	4.73	2.73	4.28	7.31	n/a	5.96	n/a

Prices contained in the table reflect calendar year averages. The BFT fishery was managed on an offset fishing year basis (June through May) versus a calendar year basis (January through December) starting with the implementation of the 1999 FMP in 2000 until January 2008, when management reverted to a calendar year basis. Prices are presented on a calendar year (versus offset fishing year) basis for 1996 through 1999, and for 2008 through 2010. The 2007 fishing year was June 1, 2007-December 31, 2007.

Prior to the 2007 BFT specifications, NMFS reported values as converted to 1996 dollars (using the Consumer Price Index Conversion Factors). In this table, all prices are presented as nominal dollars, consistent with methods used in the Consolidated HMS FMP.

There were no Purse Seine category landings in 2008 or 2010.

Data Source: BFT Dealer Report Database, as summarized in the 2011 BFT Quota Rule EA (NMFS, 2011)

Table 11: Potential General Category Gross Revenues from Base Quotas under Current Subquota Allocation Percentages.

2008:

Time Period	Percentage	2009 Base Quota Equivalent in mt*	2009 Approx. Equivalent in lb*	Average Ex-Vessel $ (2008)	Potential 2009 Gross Revenues
January	5.3	25.2	55,556	$11.20	$622,227
June-Aug	50.0	237.8	524,254	$6.74	$3,533,471
September	26.5	126.1	278,000	$7.96	$2,212,880
October-November	13.0	61.8	137,082	$6.97	$949,621
December	5.2	24.7	54,454	$14.24	$775,424
TOTAL	100.0	475.7			$8,093,623

*Totals subject to rounding error

Time Period	Percentage	2011-2012 Annual Base Quota Equivalent in mt*	2011-2012 Annual Approx. Equivalent in lb*	Average Ex-Vessel $ (2010)	Potential 2011-2012 Annual Gross Revenues
January	5.3	23.1	50,926	$14.93	$760,329
June-Aug	50.0	217.6	479,721	$7.14	$3,425,208
September	26.5	115.3	254,190	$5.63	$1,431,089
October-November	13.0	56.6	124,780	$8.49	$1,059,382
December	5.2	22.6	49,824	$9.61	$478,809
TOTAL	100.0	435.2			$7,129,350

*Totals subject to rounding error

Table 12: Summary of expected net economic benefits and costs of alternatives.

Alternative	Net Economic Benefits	Net Economic Costs
Issue 1: GENERAL CATEGORY MAXIMUM DAILY RETENTION LIMIT		
A1. No Action. Maintain maximum daily retention limit of three large medium or giant BFT.	Positive economic impacts on a scale similar to 2010.	Opportunity cost of revenue foregone due to unused quota; would restrain ex-vessel revenues, depending on BFT availability.
A2. Increase maximum daily retention limit to five large medium or giant BFT **(PREFERRED)**	Positive, by increasing ex-vessel gross revenues.	Potential costs resulting from oversupply of market if catch rates high, absent NMFS action to reduce retention limit.
A3. Eliminate maximum daily retention limit for large medium and giant BFT.	Most positive, by increasing ex-vessel gross revenues.	Highest potential costs resulting from oversupply of market if catch rates high, absent NMFS action to reduce retention limit.
A4. Allow daily retention limit to apply for each day of a multi-day trip.	Not analyzed.	Not analyzed.
Issue 2: GENERAL CATEGORY SEASON		
B1. No Action: Maintain current General category season.	Neutral. Negative economic impacts from unused quota on a scale similar to 2010.	Opportunity cost of revenue foregone due to unused quota; would restrain ex-vessel revenues, depending on BFT availability.
B2. Leave the General category open until the January subquota is determined to be fully harvested.	Positive, by increasing ex-vessel gross revenues, particularly for winter fishery participants.	None.
B2b. Leave the General category open until the January subquota is determined to be fully harvested, or March 31, whichever happens first. **(PREFERRED)**	Positive, by increasing ex-vessel gross revenues, particularly for winter fishery participants.	None.
B3. Establish a year-round General category season and equal monthly subquotas.	Most positive winter fishery participants, by increasing ex-vessel gross revenues.	Highest costs for northern area participants due to decreased quota allocations, mitigated by unused quota rolling forward.
Issue 3: HARPOON CATEGORY DAILY INCIDENTAL RETENTION LIMIT		
C1. No Action: Maintain current Harpoon category daily incidental retention limit of two large medium BFT.	Neutral. Negative economic impacts from unused quota on a scale similar to 2010.	Opportunity cost of revenue foregone due to unused quota; would restrain ex-vessel revenues, depending on BFT availability.
C2. Increase the Harpoon category daily incidental retention limit to four large medium BFT. **(PREFERRED)**	Positive, by increasing ex-vessel gross revenues.	Potential costs resulting from oversupply of market if catch rates high. Potential costs for a low number of vessels that may not participate early in the Harpoon category season, if season closes early due to quota attainment.
C3. Eliminate the Harpoon category daily incidental retention limit.	Most positive, by increasing ex-vessel gross revenues.	Potential costs resulting from oversupply of market if catch rates high. Potential costs for a low number of vessels that may not participate early in the Harpoon category season, if season closes early due to quota attainment.

Table 13: Ex-vessel gross revenues in the U.S. Atlantic bluefin tuna fishery by commercial fishing category, 1998-2010

Year	General	Harpoon	Incidental (Longline/Trap)	Purse Seine	Total
2010	$7,814,366	$202,643	$878,908	--	$8,895,917
2009	$5,040,772	$498,877	$1,247,600	$149,934	$6,937,183
2008	$3,975,244	$313,781	$722,016	--	$5,011,041
2007	$2,259,194	$160,845	$807,954	$451,390	$3,679,383
2006	$2,526,052	$265,951	$558,022	$33,819	$3,383,844
2005	$3,815,068	$268,815	$675,297	$1,124,305	$5,883,484
2004	$5,444,735	$381,593	$998,201	$333,066	$7,157,595
2003	$6,027,760	$658,832	$691,496	$2,346,137	$9,724,224
2002	$12,199,803	$518,822	$486,793	$2,673,090	$15,878,508
2001	$14,070,209	$964,945	$398,401	$2,667,004	$18,100,558
2000	$13,686,456	$751,034	$731,340	$3,992,422	$19,161,253
1999	$9,858,771	$1,116,712	$758,650	$3,457,119	$15,191,252
1998	$7,462,669	$715,752	$474,631	$3,161,708	$11,814,759

Revenues contained in the table reflect calendar year summaries. The BFT fishery was managed on a fishing year basis (June through May) versus a calendar year basis (January through December) starting with the implementation of the 1999 FMP in 2000 until January 2008, when management reverted to a calendar year basis. Revenues are presented on a calendar year (versus fishing year) basis for 1996 through 1999, and for 2008. The 2007 fishing year was June 1, 2007-December 31, 2007.

Prior to the 2007 BFT specifications, NMFS reported values as converted to 1996 dollars (using the Consumer Price Index Conversion Factors). In this table, all prices are presented as nominal dollars, consistent with methods used in the Consolidated HMS FMP.

There were no Purse Seine landings in 2008 or 2010.

Data Source: BFT Dealer Report Database, as summarized in the 2011 BFT Quota Rule EA (NMFS, 2011)

Table 14: Average monthly prices (per lb, round weight) for Atlantic bluefin tuna in the General category, 1998-2010.

Year	January	June	July	August	September	October	November	December
2010	$14.93	$5.22	$6.30	$8.15	$5.92	$7.56	$10.06	$9.30
2009	$13.95	$4.40	$7.17	$6.17	$6.30	$5.99	$7.38	$12.76
2008	$11.20	$4.86	$6.63	$7.37	$7.96	$8.87	$6.65	$14.24
2007	$10.01	$5.80	$5.77	$6.54	$7.36	$9.16	$11.57	$8.66
2006	$10.07	$4.15	$7.35	$6.36	$6.17	$7.54	$7.82	$8.27
2005	$9.84	$4.77	$6.28	$6.69	$6.29	$6.75	$7.51	$8.58
2004	$6.89	$6.08	$5.68	$5.00	$6.39	$6.34	$8.01	$7.89
2003	--	$4.36	$6.62	$6.66	$6.13	$3.96	$7.15	$6.15
2002	--	$5.80	$6.54	$6.79	$4.85	$6.85	$4.66	$6.52
2001	--	$4.86	$7.20	$6.67	$7.19	$6.83	$5.52	--
2000	--	$8.44	$11.26	$8.40	$8.32	$7.96	$8.03	$10.65
1999	--	$5.50	$8.05	$6.27	$6.39	$6.12	--	--
1998	--	$7.04	$4.80	$4.62	$4.75	$5.86	$9.99	--

Prior to the 2007 BFT specifications, NMFS reported values as converted to 1996 dollars (using the Consumer Price Index Conversion Factors). In this table, all prices are presented as nominal dollars, consistent with methods used in the Consolidated HMS FMP.

Data Source: BFT Dealer Report Database

Figure 1: General category base subquotas (mt,%) for 2010.

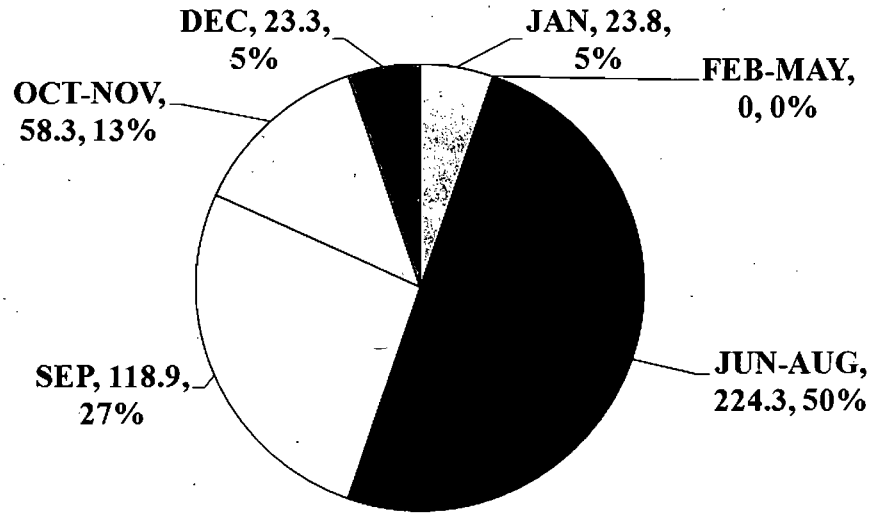
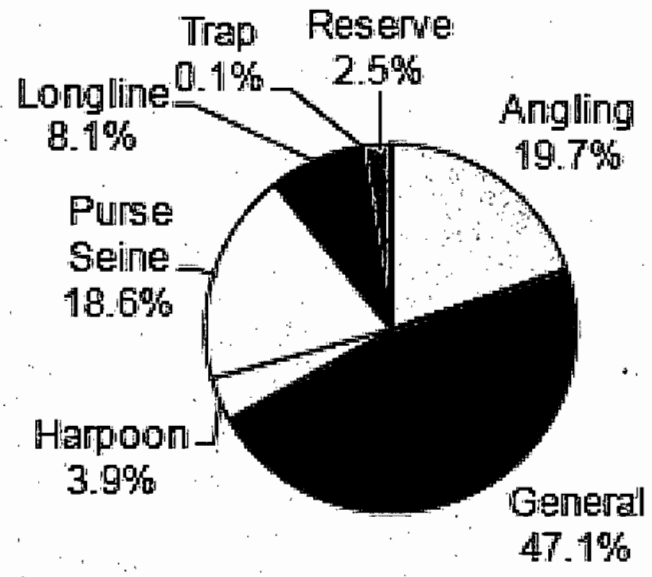
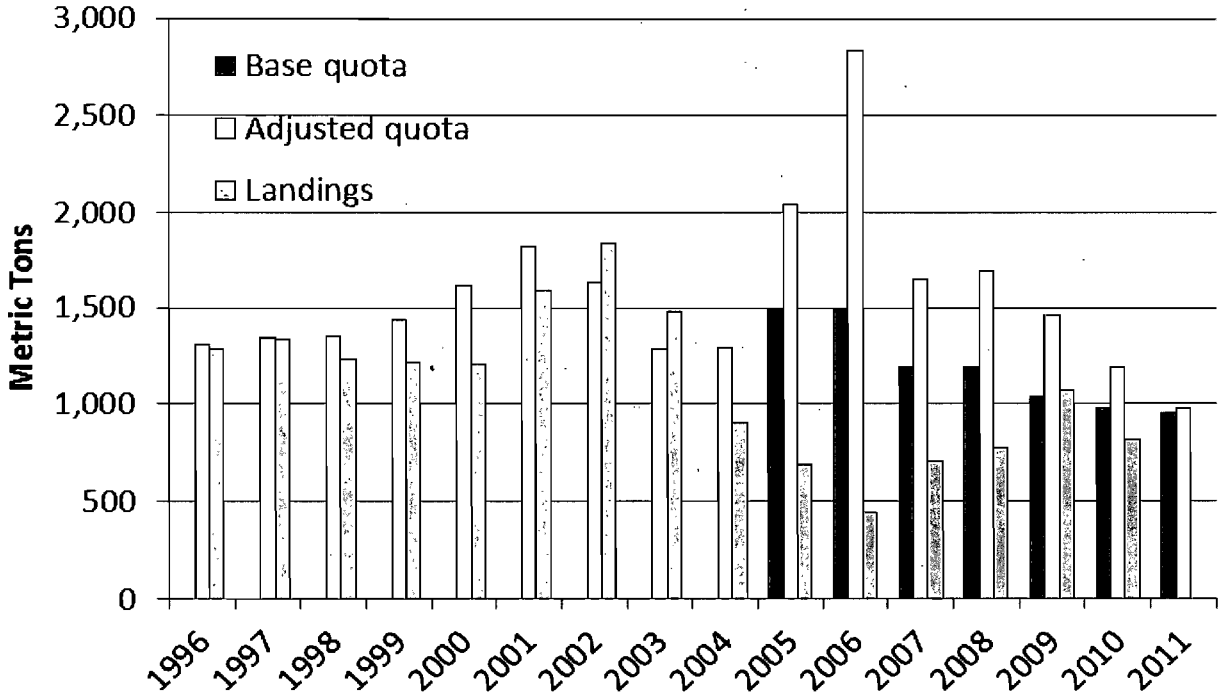


Figure 2: Current Atlantic bluefin tuna quota allocation (%).



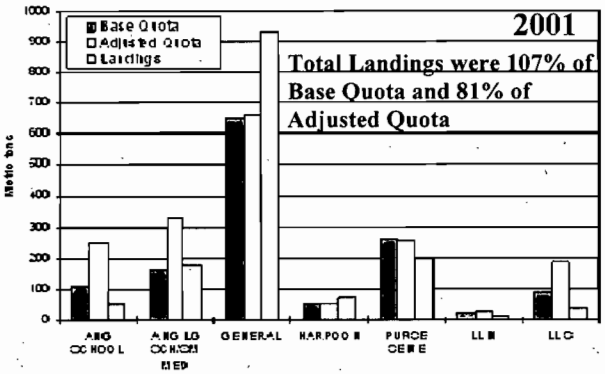
Source: Consolidated HMS FMP

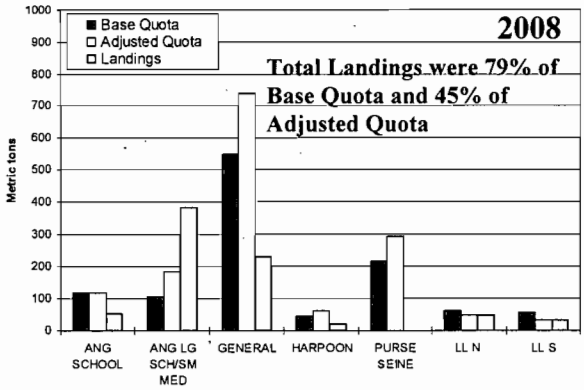
Figure 3. BFT Quota and Landings (mt), 1996-2011

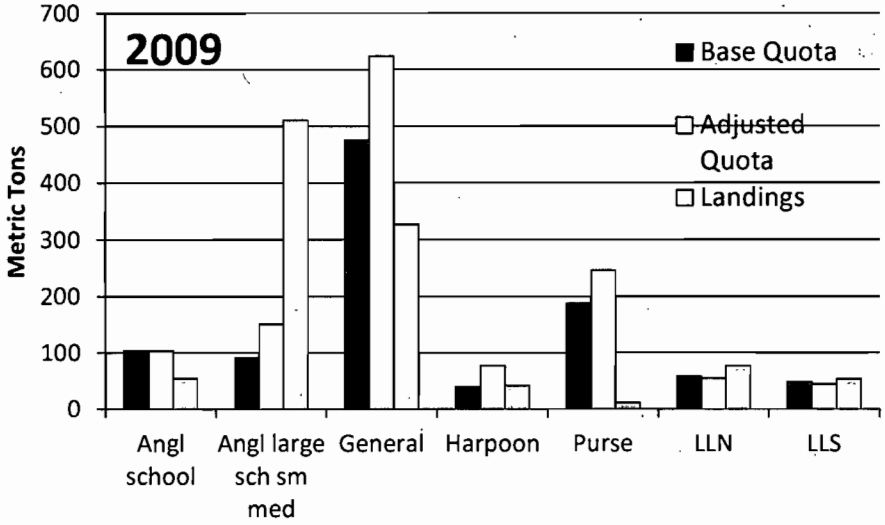


Complete landings information for 2011 not yet available.
Base quotas shown for 2005 through 2011 to illustrate relation of recent landings to base quota.

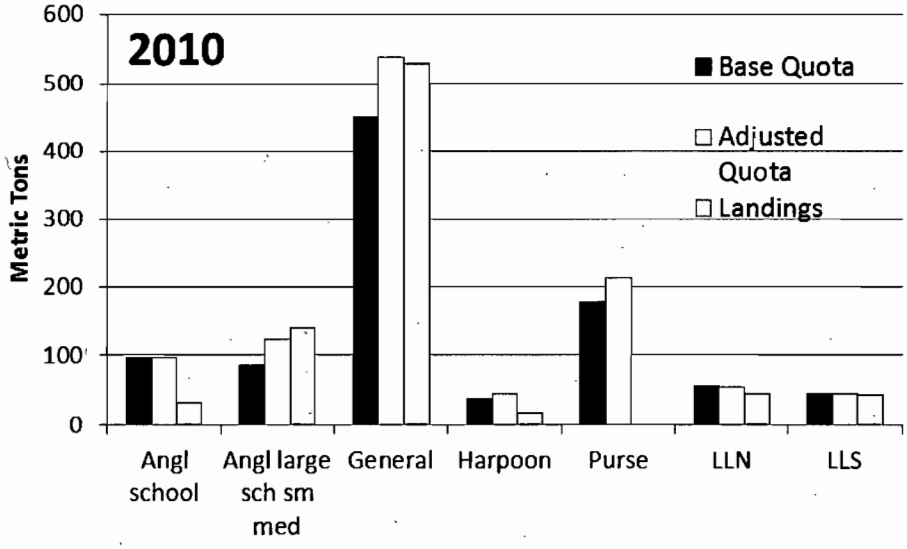
Figure 4: U.S. base quotas, adjusted quotas, and landings (mt) by category, 2001, 2008-2010.





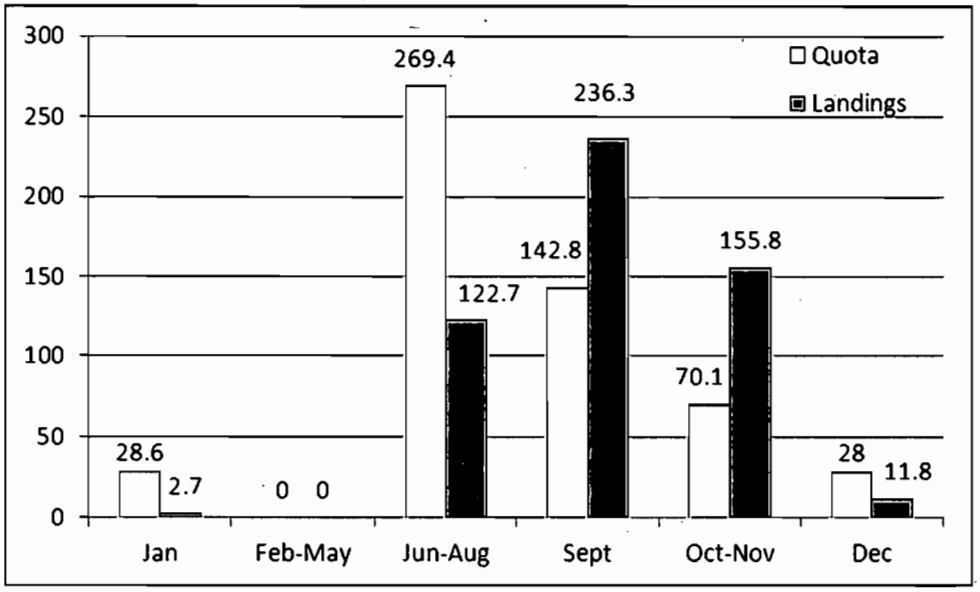


Total Landings were 104% of Base Quota and 74% of Adjusted Quota



Total Landings were 83% of Base Quota and 68% of Adjusted Quota

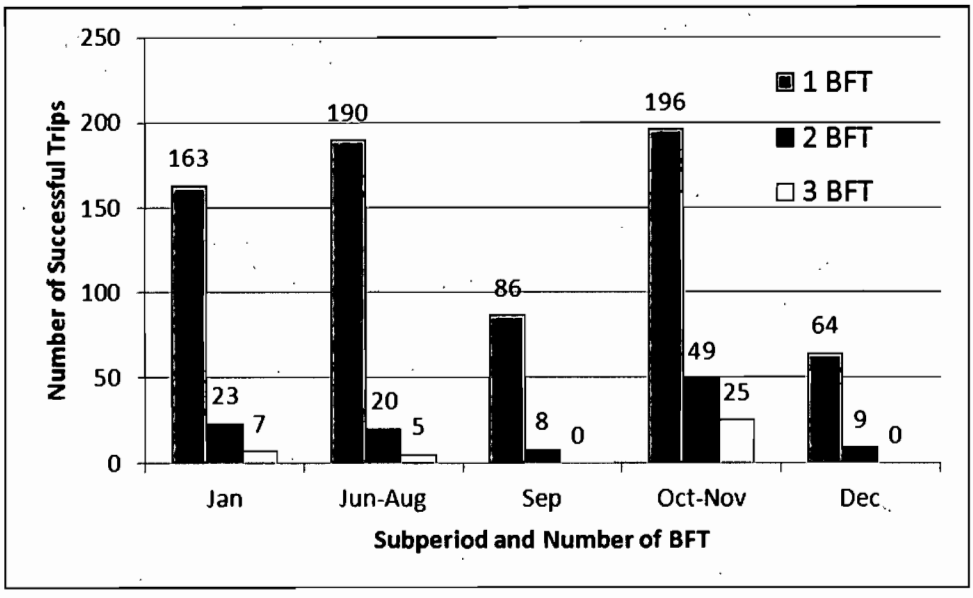
Figure 5: 2010 adjusted General category quota and landings (mt) per quota subperiod.



Source: BFT Landings Database

Figure 6: Successful General category trips per quota subperiod and number of BFT per trip (day) for 2008 and 2010.

2008:



2010:

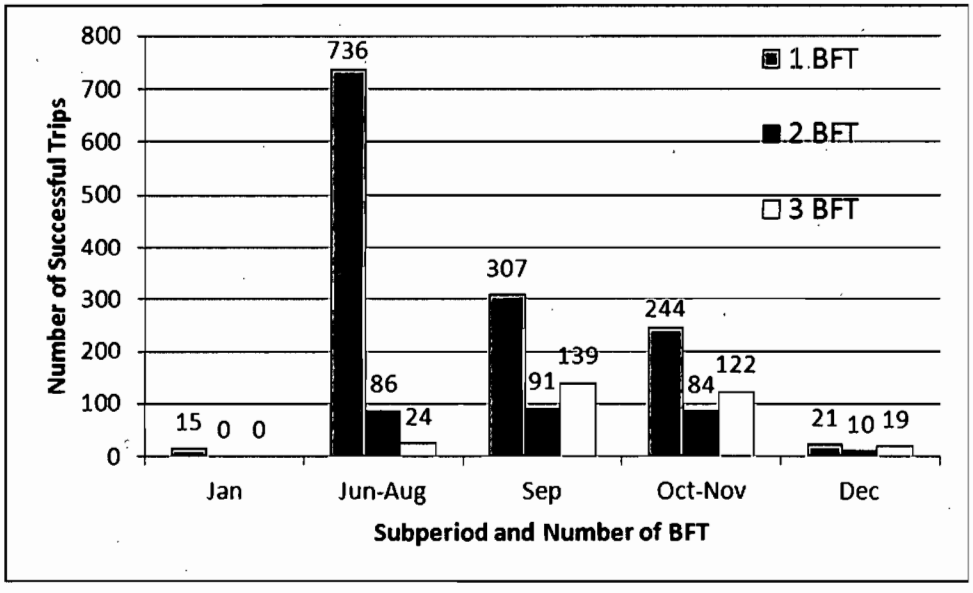
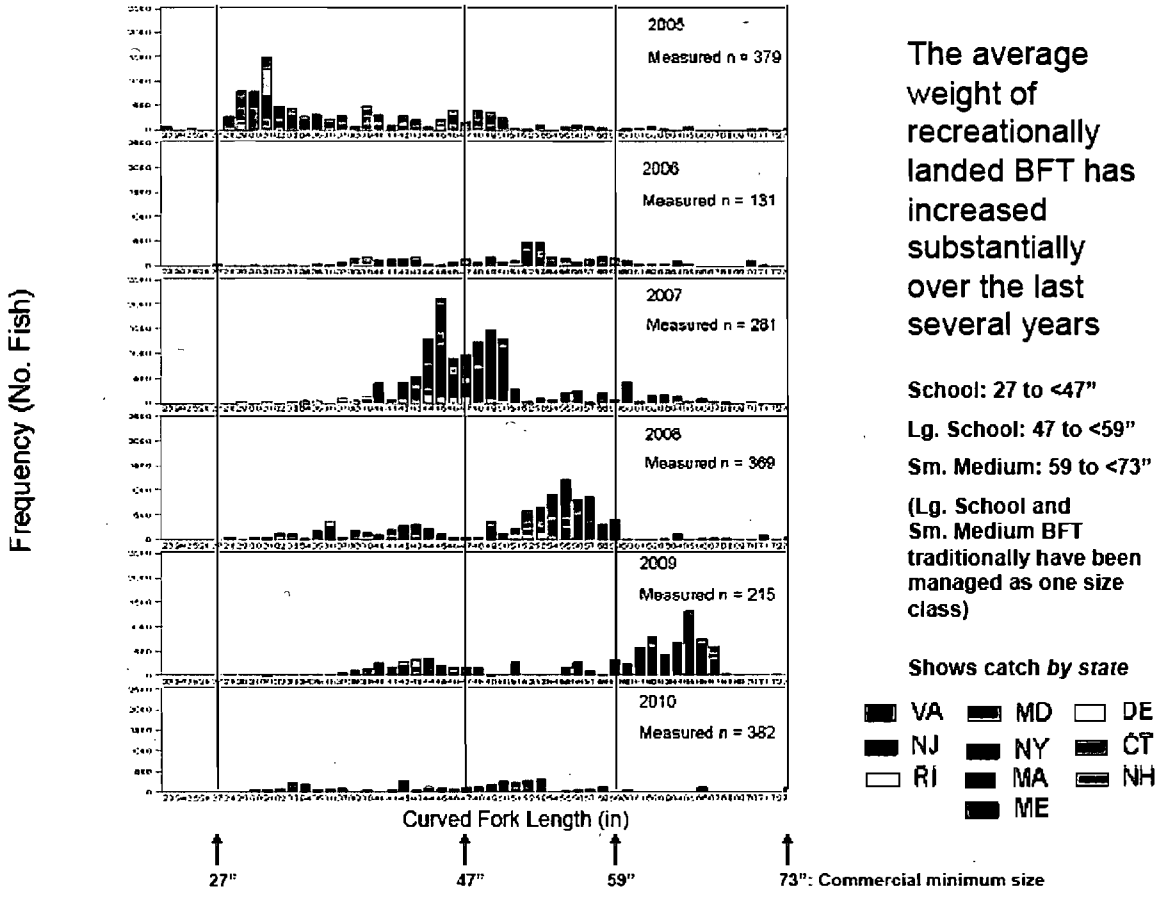


Figure 7: Catch-at-Length Length Distribution of Angling Category BFT, 2005-2010.



Source: NMFS Large Pelagics Intercept Survey (LPIS)